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

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

RESERVATIONS: (202) 741–6008

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 205

[Document Number AMS–NOP–11–0030; NOP–11–07]

National Organic Program; Notice on the Ruminant Slaughter Stock Provision of the Access to Pasture Rule

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; discussion of comments.

SUMMARY: This document informs the general public that no further action will be taken by the National Organic Program (NOP) to amend the provision on ruminant slaughter stock under the NOP regulations. This document provides a summary of the comments received in response to a request for comments on the ruminant slaughter stock requirements as codified by the final rule on access to pasture published on February 17, 2010. Based upon the comments received, the rationale behind the decision to retain the section on livestock living conditions for ruminant slaughter stock as codified under the NOP regulations is discussed.

FOR FURTHER INFORMATION CONTACT: Melissa Bailey, PhD, Director, Standards Division, National Organic Program, USDA–AMS–NOP, 1400 Independence Ave., SW., Room 2646–So., Ag Stop 0268, Washington, DC 20250–0268; *telephone:* (202) 720–3252; facsimile (202) 205–7808; or *electronic mail: Melissa.Bailey@usda.gov.*

SUPPLEMENTARY INFORMATION: The NOP is authorized by the Organic Foods Production Act (OFPA) of 1990, as amended (7 U.S.C. 6501–6522). The Agricultural Marketing Service (AMS) administers the NOP. Under the NOP, the AMS oversees national standards for the production, handling, and labeling of organically produced agricultural products. Final regulations implementing the National Organic Program (NOP) were published December 21, 2000 (65 FR 80548), and became effective on October 21, 2002.

On February 17, 2010, the NOP published a final rule on the access to pasture requirements for livestock (75 FR 7154). This rule established certain conditions that operations raising ruminant slaughter stock (also called "finish feeding" operations) must meet under § 205.239(d) of the NOP regulations. During the finishing period, ruminant slaughter stock are exempt from the minimum 30 percent Dry Matter Intake (DMI) requirement from grazing that other ruminants must meet under the livestock feed requirements at § 205.237 of the NOP regulations. However, producers must maintain slaughter stock on pasture for each day that their finishing period overlaps with the grazing season for the operation's geographical location. Another condition is that the finishing period is limited to one-fifth (1/5) of the animal's total life or 120 days, whichever is shorter.

Although the access to pasture rule was issued as a final rule, the NOP invited public comments on the ruminant slaughter stock provision at § 205.239(d) of the NOP regulations. As discussed in the preamble of the final rule (75 FR 7176), the NOP determined that it would be prudent to accept comment on this provision because the proposed rule for access to pasture (73 FR 63584) did not include an exception for ruminant slaughter stock from the new livestock feed and living condition requirements and, thus, could benefit from additional public comment. In the final rule, the NOP requested comments on three issues related to the ruminant slaughter stock provision: (1) Infrastructural hurdles and regional differences that should be considered, (2) the length of the finishing period, and (3) the use of feedlots for finishing organic slaughter stock. The 60-day comment period closed on April 19, 2010.

The NOP received over 500 individual and 14,000 form letter public comments in response to the request for comments on ruminant slaughter stock. The NOP opted to supplement the analysis of the comments received with two site visits of organic finish feeding operations in December 2010. The comments received addressed all three issues for which we had requested feedback as well as some additional issues (*e.g.* labeling) for which we had not specifically solicited comments. We received comments from organic beef producers, state government agencies, animal welfare organizations, consumer organizations, certifying agents, retailers, and a trade association.

Based upon the comments received, the NOP does not believe that action is warranted to amend the provision on ruminant slaughter stock at § 205.239(d) of the NOP regulations. We are issuing this document to inform certified operations, certifying agents, and the general public that further rulemaking will not be pursued by the NOP at this time. Furthermore, we are issuing this document to provide a discussion of the comments received and the rationale behind our decision to retain § 205.239(d) as codified by the access to pasture final rule published on February 17, 2010. The NOP would like to reiterate that operations certified as of February 17, 2010 (the publication date of the rule) need to be in full compliance with the rule, including the provision on ruminant slaughter stock at § 205.239(d) of the NOP regulations, by June 17, 2011. New organic livestock operations must be in full compliance with the rule now.

Discussion of Comments Received on Infrastructural Challenges

One infrastructural consideration cited in many comments submitted by organic beef producers was their concern over the feasibility of maintaining slaughter stock on pasture without degradation to the environment. Their environmental concerns fell into two areas: (1) The potential disruption to proper nutrient cycling, and (2) soil and water contamination. With regard to nutrient cycling, many comments suggested that if slaughter stock is allowed access to pasture, then their operations would be unable to collect the manure for application to crops, thus, adversely impacting the nutrient cycling on their farms. These commenters asserted that valuable nutrients would be left on pasture, instead of captured and used on cropland, and that this would require

them to purchase off-farm organic fertilizers for their crops. One commenter further explained that their operation had worked with the Natural Resource Conservation Service (NRCS) to invest in a settling basin for the collection of runoff from the finish feeding yard such that it could be used to fertilize their organic crops. They suggested that requiring them to maintain slaughter stock on pasture would eliminate the benefit of that investment.

In consideration of these comments on nutrient cycling, we ascertained how the requirement to maintain slaughter stock on pasture would impact the ability of beef producers to promote nutrient cycling on their farms. We believe that maintaining slaughter stock on pasture will not necessarily be an impediment to proper nutrient cycling. For the period of time that the finishing period corresponds with the grazing season and, thus, when slaughter stock will need to be maintained on pasture, nutrients from manure would be fertilizing the pasture areas instead of captured for use on cropland. While some producers might prefer to capture and use these nutrients on cropland as an alternative to purchasing organic fertilizers, the application of manure nutrients on pasture does not equate to environmental degradation as long as the pasture is appropriately managed as part of an operation's organic system.

We also believe that the provision does not preclude the collection of manure during the non-grazing season and that most producers who have infrastructure to capture runoff will continue to benefit from this infrastructure. With the new provisions at § 205.239(d), the period of time during which producers would collect manure from their feeding area would only decrease by the number of days that the finishing period corresponds to the grazing season (*i.e.* the days when the animals must be maintained on pasture). During the non-grazing season, producers will still be able to collect the majority of the manure from feed areas as they collect now and can continue to apply the manure they collect to their cropland.

With regard to soil and water contamination, some commenters expressed concern over the compaction and runoff issues that could arise by allowing slaughter stock access to pasture areas near their feed yards, especially after inclement weather, or because of the long distances animals would need to travel to reach pasture areas. These comments cited concern over erosion of animal lanes or walkways and suggested that allowing the use of lanes or walkways might conflict with the USDA Natural Resource Conservation Service (NRCS) plans for nutrient and soil management of paddocks. We acknowledge that there can be farm specific conditions (e.g. areas that receive heavy rainfall) under which providing access to pasture areas would present a risk to soil and water quality. However, producers already have the option of including a description in their Organic System Plan (OSP) of conditions under which they anticipate confining livestock in a yard or feeding pad due to a risk to soil and water quality per § 205.239(b)(4) of the NOP regulations. Therefore, we do not agree that a change is warranted to remove the "maintain on pasture" language in the slaughter stock provision at § 205.239(d) since producers already have a mechanism through the NOP to address instances during which soil or water quality may be put at risk by allowing animals on pasture. In addition, if producers need to use lanes or walkways because of their farm layout, then these should be managed accordingly to prevent erosion. We encourage producers to engage NRCS in discussion about how their management approach might need modification so they can maintain slaughter stock on pasture during the period required by the NOP regulations.

Another infrastructural issue raised by producers is that existing feeding yards and areas have not been constructed near pasture areas, making it difficult and cost prohibitive to provide a pasture area to slaughter stock. A few commenters also suggested that putting feed bunks or feeding grains in the pasture would be expensive and could damage pasture by encouraging overuse of the areas that had feed bunks. Additional comments propose that this would also present a challenge with fencing to keep the slaughter stock separate from other groups on pasture (*e.g.,* a bull with cows); one commenter pointed out this would be especially difficult if multiple age groups needed to be managed separately.

As a point of clarification, the provision does not require producers to provide feed rations to slaughter stock on the pasture. The provision at § 205.239(d) states that "yards, feeding pads, or feedlots *may* (emphasis added) be used to provide finish feeding rations" during the period when slaughter stock must be maintained on pasture. For example, a producer with a yard or feeding pad located near a pasture area might choose to install a lane from the yard to the pasture so animals can use the pasture during the day while retaining access to their feed ration provided at the yard or feeding pad. For those with different configurations, we recognize that they will need to make adjustments to make the infrastructure compatible with the requirement to maintain animals on pasture for certain periods. However, we believe that the requirement to maintain slaughter stock on pasture for these periods is consistent with what has always been a requirement of the NOP regulations: Providing ruminants with access to pasture. We received some comments that, in the absence of regulatory action by the NOP, producers have guided their management practices using the 2001 and 2005 National Organic Standards Board (NOSB) recommendations which do not specify a requirement to maintain slaughter stock on pasture during the finishing period. It is critical to remember that NOSB recommendations are not codified and, therefore, are not legally binding. Prior to the access to pasture final rule, the NOP regulations did not have an allowance for the finishing of slaughter stock and, therefore, not providing access to pasture during the finishing period was a violation of the NOP regulations.

Discussion of Comments Received on the Length of the Finishing Period

The majority of comments received voiced support for a finishing period during which slaughter stock would have access to pasture. Several comments received from producers suggested changing the length of the finishing period from a 120-day, or one-fifth of life, (whichever is shorter) maximum, to either a 140-day or 160-day maximum. Their rationale was that the additional time on feed would enable them to obtain choice grade beef. One commenter further explained that the 120-day maximum may not be adequate if the nutritional quality of grain were to decrease in a particular year because of crop conditions. Commenters expressed that this issue of grading choice could be further exacerbated by the fact that slaughter stock must be maintained on pasture during the finishing period. Since slaughter stock on pasture will graze during the finishing period and, thus, may consume less grain, commenters explained that there may be a lower rate of gain and lower carcass grade attained in the final product. There was also uncertainty among commenters about whether the "one-fifth of life" condition in the rule would be sufficient for optimizing carcass quality for bovines that reach slaughter weight earlier than 20 months of age. However, some producers agreed that, on average, a

120-day finishing period for bovines tends to be adequate and supported the rule as written. This position is further supported by both the comments received on the proposed rule for access to pasture and the NOSB recommendations from 2001 and 2005, which included a 120-day maximum finishing period as part of their recommendations.

We believe that the record supports retaining the 120-day/one-fifth of life finishing period language as currently written at § 205.239(d). Many beef producers stated that they were currently complying with the 2001 NOSB recommendation and emphasized their support for this recommendation. The 2001 NOSB recommendation, which was supported by these comments, references a 120-day finishing period. Furthermore, the 2005 NOSB recommendation states that the Board received comments from beef producers who indicated that 120-days is the amount of time needed to achieve "choice" grades of beef. In addition, as discussed in the access to pasture final rule (75 FR 7176), the 120-day period was also based upon the typical time frame for finishing beef cattle at 18–24 months of age. The one-fifth of life language was added to account for livestock who are slaughtered at a much younger age than is typical for beef animals. We believe it is important to retain the one-fifth of life as part of the provision, because, in its absence, there could be cases in which young animals would be denied access to pasture for the majority of their lives. This would not meet the intent of the access to pasture requirements for all ruminants.

Among the animal welfare and environmental organizations who commented, several opposed any finishing period during which livestock are exempt from the 30% DMI from pasture. The comments particularly target the practice of grain finishing that is facilitated by the finish feeding exemption. Some of these comments requested a shorter finishing period if the 30% DMI from pasture exemption is retained. Other comments voiced conditional support for the 120-day finishing period dependent upon the retention and clarification of the requirement to maintain livestock on pasture during the finishing phase. Some comments received from animal welfare organizations suggested that the finishing period is too long, but did not explicitly state their reasoning for suggesting a shorter finishing period. A few comments, both stating their overall support for the ruminant slaughter stock provision, recommended that certifying agents be allowed to determine the length of the finishing period that is appropriate for regional conditions and species-specific differences.

We believe that the new requirement at § 205.239(d) as codified addresses many of these concerns while providing sufficient flexibility to organic livestock producers. It allows producers who feed grain to achieve a certain type of organic product to continue to do so while ensuring that ruminants are maintained on pasture for a period of time that meets the intent of the access to pasture rule, which is, in part, to accommodate the natural grazing behavior of ruminants. However, it would not be reasonable to require that 30% of the animal's DMI come from grazing during the finishing period because of the amount of grain and free choice hay that is typically consumed by slaughter stock, even when these animals are maintained on pasture. We also believe that setting a specific standard of 120 days or one-fifth of life, rather than allowing certifying agents to determine the finishing period, will ensure consistency across certifiers and a level playing field for all producers.

Discussion of Comments Received on the Use of Feedlots

Many comments opposed the exemption of slaughter stock from the 30% DMI requirement during the finishing period and the allowance for providing feed rations in yards, feeding pads, or feedlots. One producer disagreed with allowing slaughter stock to be confined for any period of time and would prefer a provision that requires animals to be maintained on pasture their entire lives, not just the period of time when finishing overlaps with the grazing season. Comments received from animal welfare advocacy groups also emphasized that exempting slaughter stock from being on pasture at all times is unnecessary because they believe that the majority of organic producers do not confine their beef to feedlots at any time. These comments further asserted that allowing the finishing of animals in feed yards is contrary to the requirement under the NOP regulations to accommodate the natural behaviors of the animals. A few comments detailed some of the animal health and welfare drawbacks to grain feeding ruminants in feeding areas and advocated for a complete ban on providing finish rations in feed yards, feeding pads or feedlots. One comment suggested that the entire exemption for ruminant slaughter stock be deleted, arguing that finish feeding operations should have to meet consumer expectations by following all of the access to pasture requirements of the NOP regulations.

While we recognize the concerns raised by commenters about confinement and animal health and welfare issues associated with feedlots, yards, and feeding areas, we believe that these concerns are already addressed throughout the NOP regulations and do not require an amendment to the finish feeding provisions. For example, under § 205.239(a) of the NOP regulations, producers are already required to maintain year-round livestock living conditions which accommodate the health and natural behavior of animals, except when temporary confinement is deemed necessary according to § 205.239(b) and (c). The health and welfare of slaughter stock is also addressed by ensuring that yards, feeding pads, and feedlots are large enough to allow all ruminants occupying the area to feed simultaneously without crowding and without competition for food (§ 205.239(d)). Total confinement of ruminants in yards, feeding pads, and feedlots is prohibited per § 205.239(a)(1). Furthermore, producers are already required to manage their livestock feed to ensure the health of their animals in accordance with § 205.237 and § 205.238(a)(2). We also believe that the requirement at § 205.239(d) to maintain slaughter stock on pasture when the finishing period overlaps with the grazing season ensures that animals will have an opportunity to graze when forage is available.

Discussion of Comments Received on Labeling and Grass-Fed Products

Many commenters suggested that there is a place for both grass finished and grain finished beef in the organic market. One commenter put forth a proposal for a 3-tier labeling system: "Organic—Grass Fed/Grain Finished," "Organic—Grass Fed/Finished on Pasture with Supplemental Grain Feeding," "Organic—100% Grass Fed/Grass Finished." Their recommendation suggested that the "Organic—100% Grass-fed/Grass Finished" label be a hybrid of the organic standards and the Agricultural Marketing Service (AMS) Quality Systems Verification Program standards for "USDA grass-fed." The comments supporting this approach suggested that this labeling scheme would accommodate the diversity of current practices in organic meat production and the diversity in consumer preference by enabling consumers to differentiate among the types of finishing practices.

Some commenters did not recommend that NOP adopt a new labeling scheme, but instead advised that the organic regulations require grass-fed claims on organic meat products to adhere to the AMS grass-fed standard. Furthermore, these commenters requested that the NOP facilitate a means to obtain organic certification and grass-fed verification simultaneously via the certifying agent of the certified operation. Other commenters advised that grass-fed label claims are not and should not be within the purview of NOP. Each producer, they stated, can elect to pursue claims, such as grass-fed, in addition to and separate from organic certification.

We do not believe it is practical for the NOP to undertake the labeling scheme recommended by some commenters. The existing NOP regulations do not preclude producers from consulting with the USDA Food Safety and Inspection Service (FSIS) about the possibility of modeling their labels upon the scheme described by the commenters. It is important to note that organic producers may request verification for a "Grass Fed" label claim through the AMS grass-fed process verified standard at any time. In addition, the NOP identified what would be required for certifying agents who certify organic to offer "Grass Fed" verification under their accreditation scope. The certifying agent would need to be approved under the ISO Guide 65 program for organics, request an expansion of their accreditation to include "Grass Fed" through AMS Audit, Review, and Compliance (ARC) Services, and engage in a review of the process at their next onsite audit with ARC. We encourage certifiers to contact the NOP for additional information if they are interested in pursuing this option.

Dated: April 28, 2011.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. 2011–11013 Filed 5–9–11; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1150

[Document No. DA–11–03: AMS–DA–08–0050]

Dairy Promotion and Research Program; Importer Nominations to the Dairy Promotion and Research Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Rule.

SUMMARY: This action is pursuant to the Dairy Production Stabilization Act of 1983 (Dairy Act), as amended, and the Dairy Promotion and Research Order (Dairy Order), as amended, which require the Secretary of Agriculture to add importer representation, initially two members, to the National Dairy Promotion and Research Board (Dairy Board). USDA is seeking nominations of importers to be considered for appointment to the Dairy Board.

DATES: Nominations must be received on or before June 9, 2011.

FOR FURTHER INFORMATION CONTACT: Whitney Rick, USDA, AMS, Dairy Programs, Promotion and Research Branch, Stop 0233–Room 2958–S, 1400 Independence Avenue, SW., Washington, DC 20250–0233, (202) 720–6909, *Whitney.Rick@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This document is being issued pursuant to the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4501–4514), Public Law 98–180, enacted November 29, 1983, as amended May 13, 2002, by Public Law 107–171 and further amended June 18, 2008, by Public Law 110–246, and the Dairy Order, as amended under the Final Rule [76 FR 14777; published in the **Federal Register** on March 18, 2011].

The Dairy Board was established under the Dairy Production Stabilization Act of 1983 (Dairy Act) to develop and administer a coordinated program of promotion, research, and nutrition education. Importer representation on the Dairy Board was mandated by the 2002 amendments to the Dairy Act. The Dairy Board is authorized to design programs to strengthen the dairy industry's position in domestic and foreign markets. The program is financed by a mandatory 15-cent per hundredweight assessment on all milk produced in the United States and marketed commercially and a 7.5-cent per hundredweight assessment on milk, or equivalent thereof, used to produce dairy products imported into the United States. Assessments on dairy products imported into the United States are effective beginning on August 1, 2011, as published in the March 18, 2011, Final Rule.

The Dairy Order states that, initially, importers will be represented on the Dairy Board by two importer members appointed by the Secretary. Thereafter, importer representation on the Dairy Board will be reviewed at least once every three years, and adjusted to reflect the volume of imports relative to domestic production of milk.

For the initial importer nominations, the Secretary will appoint two individuals from those nominated to serve as importer members on the Board. The length of a member's term will be three years. In order to properly coordinate the terms of importers with those of dairy farmer members and to stagger the two terms, initially one importer member will serve a two-year term ending October 31, 2013, and one importer member will serve a term ending October 31, 2014.

Importer nominees must be importers of dairy products and will be subject to the assessment to fund the National Dairy Promotion and Research Program. Such nominations may be submitted by individual importers of dairy products or by organizations representing dairy importers, as approved by the Secretary. Individual importers submitting nominations to represent importers on the Dairy Board must establish, to the satisfaction of the Secretary that the person submitting the nomination is an importer of dairy products. Importer organizations must adequately represent importers of dairy products under the primary determining considerations of whether its membership consist primarily of importers of dairy products and whether a substantial interest of the organization is in the importation of dairy products. An importer means a person that imports dairy products into the United States as a principal or as an agent, broker, or consignee of any person who produces or handles dairy products outside of the United States for sale in the United States, and who is listed as the importer of record for such dairy products.

For nominating forms and information, interested parties should contact Whitney Rick, USDA, AMS, Dairy Programs, Promotion and Research Branch, Stop 0233–Room 2958–S, 1400 Independence Avenue, SW., Washington, DC 20250–0233, (202) 720–6909, *Whitney.Rick@ams.usda.gov.* The forms also can be accessed online at *http://www.ams.usda.gov/dairyimportassessment.*

USDA welcomes membership on industry boards that reflects the diversity of the individuals served by the programs. In an effort to obtain nominations of diverse candidates, USDA encourages those individuals who represent interests of racial and ethnic minorities, women, and persons with disabilities to seek member nomination for the Dairy Board.

Dated: April 29, 2011.

David R. Shipman,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2011–11015 Filed 5–9–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2011–0143]

RIN 1625–AA00

Safety Zone; Second Annual Space Coast Super Boat Grand Prix, Atlantic Ocean, Cocoa Beach, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the waters of the Atlantic Ocean east of Cocoa Beach, Florida during the Second Annual Space Coast Super Boat Grand Prix. The Second Annual Space Coast Super Boat Grand Prix will consist of a series of high-speed boat races. The event is scheduled to take place on Saturday, May 21, 2011 and Sunday, May 22, 2011. The temporary safety zone is necessary for the safety of race participants, participant vessels, spectators, and the general public during the event. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port Jacksonville or a designated representative.

DATES: This rule is effective from 10 a.m. on May 21, 2011 through 5:30 p.m. on May 22, 2011. This rule will be enforced from 10 a.m. until 4 p.m. on May 21, 2011, and 9 a.m. until 5:30 p.m. on May 22, 2011.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2011–0143 and are available online by going to *http://www.regulations.gov,* inserting USCG–2011–0143 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail Lieutenant John E. Adkins, Sector Jacksonville Prevention Department, Coast Guard; telephone 904–564–7563, e-mail *John.E.Adkins@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the Coast Guard did not receive notice of the event with sufficient time to publish an NPRM and to receive public comments prior to the event. Any delay in the effective date of this rule would be contrary to the public interest because immediate action is needed to minimize the potential danger to race participants, participant vessels, spectators, and the general public.

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

Background and Purpose

Super Boat International Productions, Inc., is hosting the Second Annual Space Coast Super Boat Grand Prix, a series of high-speed boat races. The event will commence on May 21, 2011 and conclude on May 22, 2011. The event will be held on the waters of the Atlantic Ocean east of Cocoa Beach, Florida. Approximately 30 high-speed power boats will be participating in the races, and it is expected that 100 spectator vessels will be present in the area during the races. The high speed of the participant vessels poses a safety hazard to race participants, participant vessels, spectators, and the general public. The temporary safety zone is necessary to protect race participants, participant vessels, spectators, and the general public from the hazards associated with the event.

Discussion of Rule

The safety zone encompasses certain navigable waters of the Atlantic Ocean in the vicinity of Cocoa Beach, Florida. The safety zone will be enforced from 10 a.m. until 4 p.m. on Saturday, May 21, 2011, and from 9 a.m. until 5:30 p.m. on Sunday, May 22, 2011. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port Jacksonville or a designated representative. Persons and vessels desiring to enter, transit through, anchor in, or remain within the safety zone may contact the Captain of the Port Jacksonville by telephone at 904–564–7511, or his designated representative via VHF radio on channel 16, to request authorization. The Coast Guard will be providing notice of the safety zone via Local Notice to Mariners and Broadcast Notice to Mariners. On-scene notice will also be provided by the Coast Guard or local law enforcement.

Regulatory Analyses

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

Regulatory Planning and Review

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

The economic impact of this rule is not significant for the following reasons: (1) The safety zone will be enforced for only 14.5 hours; (2) although persons and vessels will not be able to enter, transit through, anchor in, or remain within the safety zone without authorization from the Captain of the Port Jacksonville or a designated representative, they may operate in the surrounding area during the effective period; (3) persons and vessels may still enter, transit through, anchor in, or remain within the safety zone if authorized by the Captain of the Port

Jacksonville or a designated representative; and (4) advance notification will be made to the local maritime community via Local Notice to Mariners and Broadcast Notice to Mariners.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to enter, transit through, anchor in, or remain within that portion of the Atlantic Ocean encompassed within the safety zone from 10 a.m. until 4 p.m. on May 21, 2011, and 9 a.m. until 5:30 p.m. on May 22, 2011. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

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

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a temporary safety zone on the waters of Atlantic Ocean that will be enforced for a total of 14.5 hours. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping

requirements, Security measures, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a temporary § 165.T07–0143 to read as follows:

§ 165.T07–0143 Safety Zone; Second Annual Space Coast Super Boat Grand Prix, Atlantic Ocean, Cocoa Beach, FL.

(a) *Regulated area.* The following regulated area is a safety zone: all waters of the Atlantic Ocean located east of Cocoa Beach, FL and encompassed within an imaginary line connecting the following points: Starting at Point 1 in position 28°22′16″ N, 80°36′04″ W; thence west to Point 2 in position 28°22′15″ N, 80°35′39″ W; thence south to Point 3 in position 28°19′47″ N, 80°35′55″ W; thence east to Point 4 in position 28°19′47″ N, 80°36′22″ W; thence north back to origin. All coordinates are North American Datum 1983.

(b) *Definition.* The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Jacksonville in the enforcement of the regulated area.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Jacksonville or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Jacksonville by telephone at 904–564–7511, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Jacksonville or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Jacksonville or his designated representative.

(3) The Coast Guard will provide notice of the regulated area through advanced notice via Local Notice to Mariners, Broadcast Notice to Mariners, and by on-scene designated representatives.

(d) *Effective date and enforcement period.* This rule is effective from 10 a.m. on May 21, 2011 through 5:30 p.m. on May 22, 2011. The regulated area will be enforced from 10 a.m. until 4 p.m. on May 21, 2011, and 9 a.m. until 5:30 p.m. on May 22, 2011.

Dated: April 29, 2011.

C.A. Blomme,

Captain, U.S. Coast Guard, Captain of the Port Jacksonville.

[FR Doc. 2011–11341 Filed 5–9–11; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2010–0996, A–1–FRL9286–4]

Approval and Promulgation of Implementation Plans; Connecticut: Prevention of Significant Deterioration; Greenhouse Gas Permitting Authority and Tailoring Rule Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve a revision to the State Implementation Plan (SIP), submitted by Connecticut Department of Environmental Protection (DEP) to EPA on December 9, 2010, for parallel processing. DEP submitted the final version of this SIP revision on February 9, 2011. The SIP revision, which incorporates updates to DEP's air quality regulations, includes two significant changes impacting the regulation of greenhouse gases (GHG) under Connecticut's New Source Review (NSR) Prevention of Significant Deterioration (PSD) program. First, the revision provides Connecticut with authority to issue PSD permits governing GHG. Second, the SIP revision establishes appropriate emission thresholds for determining which new stationary sources and modification projects become subject to Connecticut's PSD permitting requirements for their GHG emissions. The first change is necessary because Connecticut is required to apply its PSD program to GHG-emitting sources, and unless it does so (or unless EPA promulgates a federal implementation plan (FIP) to do so), such sources will be unable to receive preconstruction permits and therefore may not be able to construct or modify. The second change is necessary, because without it, PSD requirements would apply at the 100 or 250 ton per year (tpy) levels otherwise provided under the Clean Air Act (CAA or Act), which would overwhelm Connecticut's permitting resources. EPA is approving Connecticut's February 9, 2011, SIP revision because the Agency has made the determination that this SIP revision is in accordance with the CAA and EPA regulations, including regulations pertaining to PSD permitting for GHG. Additionally, EPA is responding to adverse comments received on EPA's January 6, 2011, proposed approval of Connecticut's December 9, 2010, SIP revision.

DATES: *Effective Date:* This rule will be effective May 10, 2011.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2010–0996. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Permits, Toxics, and Indoor Air Programs Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section for further information. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: For information regarding the Connecticut SIP, contact Donald Dahl, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Permits, Toxics, and Indoor Programs Unit, 5 Post Office Square—Suite 100, (mail code OEP05–2), Boston, MA 02109–3912. Mr. Dahl's telephone number is (617) 918–1657; *e-mail address: dahl.donald@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. What is the background for this final action?

EPA has recently undertaken a series of actions pertaining to the regulation of GHG that, although for the most part distinct from one another, establish the overall framework for today's final action for the Connecticut SIP. The first four of these actions include, as they are commonly called, the "Endangerment Finding" and "Cause or Contribute Finding," which EPA issued in a single final action,[1] the "Johnson Memo Reconsideration," [2] the "Light-Duty Vehicle Rule," [3] and the "Tailoring Rule." [4] Taken together, these actions established regulatory requirements for GHG emitted from new motor vehicles and new motor vehicle engines; determined that such regulations, when they took effect on January 2, 2011, will subject GHG emitted from stationary sources to PSD requirements; and limited the applicability of PSD requirements to GHG sources on a phased-in basis. In a separate action, EPA called on the State of Connecticut and 12 other states with SIPs that do not provide authority to issue PSD permits governing GHG to revise their SIPs to provide such authority (the "GHG PSD SIP Call").[5] EPA established a deadline of March 1, 2011, for Connecticut to submit its GHG PSD SIP. Finally, in the most recent action, EPA proposed to implement a FIP authorizing PSD permitting for GHG for those states that are unable to revise their SIPs to provide that authority by the applicable deadline (the "GHG PSD FIP").[6] By a notice signed December 23, 2010, EPA finalized the FIP for seven states: Arizona, Arkansas, Florida, Idaho, Kansas, Oregon, and Wyoming.

On December 9, 2010, in response to the Tailoring Rule and earlier GHG-related EPA rules, and in anticipation of the GHG PSD SIP Call rulemaking, DEP submitted a draft revision to EPA for approval into the Connecticut SIP to: (1) Provide the State with the authority to regulate GHG under its PSD program; and (2) establish appropriate emission thresholds for determining which new or modified stationary sources become subject to Connecticut's PSD permitting requirements for GHG emissions. Subsequently, on January 6, 2011, EPA published a proposed rulemaking to approve Connecticut's December 9, 2010, draft SIP revision under parallel processing. 76 FR 752. Specifically, Connecticut's December 9, 2010 draft SIP revision includes changes to Sections 22a–174–1 and 22a–174–3a of the Regulations of Connecticut State Agencies.[7] The changes include adopting definitions of greenhouse gases and carbon dioxide equivalent and applying the Tailoring Rule's thresholds for GHG permitting applicability. Detailed background information and EPA's rationale for the proposed approval are provided in EPA's January 6, 2011, **Federal Register** notice.

EPA's January 6, 2011, proposed approval was contingent upon the State of Connecticut providing a final SIP revision that was substantively the same as the revision proposed for approval by EPA in the January 6, 2011, proposed rulemaking. 76 FR 752. Connecticut provided its final SIP revision on February 9, 2011. While there are minor differences between the draft and final regulations, mainly to the format of internal references, EPA has determined that these differences do not warrant re-proposal of this action. The changes are mostly edits to the format for internal references within the regulation, e.g. changing "Table 3a(k)(1)" to "Table 3a(k)(1) of this subsection," plus one minor edit designed to clarify the original intent of the formula for calculating "carbon dioxide equivalent emissions." See Memorandum from the Connecticut Commissioners' Office to the Connecticut Legislative Regulation Review Committee at 2 (Jan. 25, 2011).

II. Analysis of Connecticut's SIP Revision

Section 110(k)(3) of the CAA provides that EPA shall approve a SIP revision as a whole if it meets all of the applicable requirements of the CAA. Connecticut received a SIP call because its PSD program does not apply to GHG. As a result, Connecticut is required to submit a SIP revision that applies PSD to GHG and do so either at the Tailoring Rule thresholds or at lower thresholds. Connecticut is required to demonstrate that it has adequate resources for implementation if the state establishes lower thresholds.

Connecticut has submitted a SIP revision that provides this authority. Connecticut's SIP revision adopts new definitions for "carbon dioxide equivalent emissions" and "greenhouse gases" into section 22a–174–1. These new definitions were necessary because the state's definition of air pollutant excluded carbon dioxide except for certain state rules. Connecticut's PSD regulation, found in section 22a–174–3a, is not one of the excepted rules.

To fully implement EPA's Tailoring Rule, Connecticut amended several subsections in section 22a–174–3a. Section 22a–174–3a contains the state's permitting requirements for minor new source review, PSD, and nonattainment new source review. Subsections amended were subsection (1) which adds GHG emission thresholds to the general applicability section, subsection (d)(3)(H) which requires the applicant to incorporate best available control technology (BACT) for GHG emissions, subsection (j) which establishes the thresholds for GHG emissions for applying BACT, and subsection (k) which establishes GHG emission thresholds for PSD permitting. Connecticut has adopted the thresholds contained in EPA's Tailoring Rule for all of the thresholds established in the individual subsections. Connecticut did not choose to establish a lower threshold than required by the Tailoring Rule.

EPA has determined these changes to Connecticut's regulations meet the requirements of the SIP call. Thus these changes are consistent with the CAA and its implementing regulations regarding PSD permit requirements for GHG emissions. The thresholds for permitting GHG emissions established in this submittal are the same as EPA's Tailoring Rule, and therefore comply with the requirements of the SIP call.

[1] "Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act." 74 FR 66496 (December 15, 2009).

[2] "Interpretation of Regulations that Determine Pollutants Covered by Clean Air Act Permitting Programs." 75 FR 17004 (April 2, 2010).

[3] "Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards; Final Rule." 75 FR 25324 (May 7, 2010).

[4] Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule; Final Rule." 75 FR 31514 (June 3, 2010).

[5] "Action to Ensure Authority to Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Substantial Inadequacy and SIP Call: Final Rule." 75 FR 77698 (December 13, 2010).

[6] "Action to Ensure Authority to Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Federal Implementation Plan: Proposed Rule." 75 FR 53883 (September 2, 2010).

[7] Connecticut's submittal also revises Section 22a–174–33; however, this section relates to the state's title V operating permit program and it is not the state's intention to incorporate any provision of this program into the SIP. As such, EPA is not taking final action to approve Connecticut's changes to Section 22a–174–33 in this rulemaking.

III. What is EPA's response to comments received on this action?

EPA received two sets of comments on the January 6, 2011, proposed rulemaking to approve revisions to Connecticut's SIP. One set of comments, provided by the Sierra Club, was in favor of EPA's January 6, 2011 proposed action. The other set of comments, provided by the Air Permitting Forum, raised concerns with final action on EPA's January 6, 2011 proposed action. A full set of the comments provided by both the Sierra Club and Air Permitting Forum (hereinafter referred to as "the Commenter") is provided in the docket for today's final action. A summary of the adverse comments and EPA's responses are provided below.

Generally, the adverse comments fall into five categories. First, the Commenter asserts that EPA's SIP Call was unauthorized and imposed too short a deadline for Connecticut to act to revise its SIP. Second, the Commenter asserts that PSD requirements cannot be triggered by GHG. Third, the Commenter expresses concerns regarding EPA's previously announced intention to narrow its prior approval of some SIPs to ensure that sources with GHG emissions that are less than the Tailoring Rule's thresholds will not be obligated under federal law to obtain PSD permits prior to a SIP revision incorporating those thresholds. The Commenter explains that the planned SIP approval narrowing action is inapplicable to this action and, if applicable, is illegal. Fourth, the Commenter states that EPA has failed to meet applicable statutory and executive order review requirements. Lastly, the Commenter states: "EPA should explicitly state in any final rule that the continued enforceability of these provisions in the Connecticut SIP is limited to the extent to which the federal requirements remain enforceable." EPA's response to these five categories of comments is provided below.

Comment 1: The first comment asserts that EPA's SIP Call was unauthorized and imposed too short a deadline for Connecticut to act to revise its SIP. This is because, according to the Commenter, the recent *Cinergy* decision allows sources in the State to rely on the provisions of the currently approved PSD SIP to obtain permits for construction or modification. *United States* v. *Cinergy Corp.,* 623 F.3d 455 (7th Cir. 2010).

Response 1: EPA established the requirement that Connecticut submit a corrective SIP revision to provide for the authority to issue PSD permits for GHG emissions in the GHG PSD SIP call rulemaking. As part of that rulemaking, EPA allowed states to choose not to object to a short timeframe for amending their SIPs, and the deadline established for submitting Connecticut's PSD SIP revision is the date requested by the State. EPA has not reopened either of these issues in the current rulemaking. The only issues relevant to this rulemaking concern whether Connecticut's SIP submission meets the requirements of the SIP call and therefore should be approved. Issues concerning the validity of the SIP call and the deadlines it established, including the comments raised by the commenter, may have been relevant for the SIP call rulemaking but are not relevant for this rulemaking. Accordingly, these comments are not relevant for this rulemaking.

In any event, EPA disagrees with the comment and the Commenter's interpretation of the *Cinergy* decision. EPA specifically discussed the *Cinergy* decision in the SIP call itself, 75 FR 77705–06 n.16. As we stated in the SIP call, EPA has long interpreted the PSD applicability provisions in the CAA to be self-executing,[8] that is, they apply by their terms so that a source that emits any air pollutant subject to regulation becomes subject to PSD—and, therefore, cannot construct or modify without obtaining a PSD permit—and these provisions apply by their terms in this manner regardless of whether the state has an approved SIP PSD program. What's more, until an applicable implementation plan is in place—either an approved SIP or a FIP—no permitting authority is authorized to issue a permit to the source. In the recent *Cinergy* decision, the 7th Circuit confronted a case that, at the district court level, involved both nonattainment NSR and PSD claims, with the appeal involving substantive nonattainment NSR issues and evidentiary PSD issues. However, in its opinion, the 7th Circuit described the substantive nonattainment NSR issue as if it applied to both nonattainment NSR and PSD. On that issue, the Court held that sources could continue to abide by permitting requirements in an existing SIP until amended, even if that SIP does not comport with the law. Again, notwithstanding the Court's broader description of the case, that holding applied only to the nonattainment NSR claims because, again, only those claims were before it on that issue. *United States* v. *Cinergy Corp.,* 623 F.3d 455 (7th Cir. 2010). In stark contrast to the nonattainment provisions actually at issue in Cinergy—which are not self-executing and must therefore be enforced through a SIP—PSD is self-executing; it is the statute (CAA section 165), not just the SIP, that prohibits a source from constructing a project without a permit issued in accordance with the Clean Air Act. Because the PSD provisions were simply not before the *Cinergy* Court in the appeal on this issue, the commenter's reading of that portion of the opinion to apply to PSD is in error. As the commenter noted, in a petition for rehearing that was primarily devoted to other issues, EPA asked the Court to revise its opinion to make clear that its holding on the relevant issue was limited to the nonattainment provisions in play on that issue. The Court denied the petition for rehearing and, accordingly, did not revise its opinion. However, the Court did not explain its reasons for denying the petition for rehearing, and therefore did not address why it would not revise its opinion. We note that Cinergy, in its response to EPA's petition for reconsideration, did not contest that the relevant issue concerned only the nonattainment provisions, and not the PSD provisions. Accordingly, we do not read the Court's denial of the petition for rehearing as any kind of affirmation that in the Court's view, its decision on the relevant issue extends beyond the nonattainment provisions in play on that issue. Further, we believe that the fact that all of the parties to the case recognized that only the nonattainment provisions were in play on the relevant issue could explain the Court's denial of EPA's request to revise the opinion.

Comment 2: The Commenter asserts that PSD requirements cannot be triggered by GHG. In its letter, the Commenter states: "[n]o area in the State of Connecticut has been designated attainment or unclassifiable for greenhouse gases (GHGs), as there is no national ambient air quality standard (NAAQS) for GHGs. Therefore, GHGs cannot trigger PSD permitting requirements." The Commenter notes that it made this argument in detail in comments submitted to EPA on the Tailoring Rule and other related GHG rulemakings.[9] Finally, the Commenter states that "EPA should immediately provide notice that it is now interpreting the Act not to require that GHGs trigger PSD and allow

[8] EPA is likewise also not reopening this issue in this rulemaking.

[9] The Commenter recited that it had attached those previously submitted comments to its comments on the proposed rulemaking related to this action, although it appears they were neither attached nor forwarded to the docket for this action. Nevertheless, EPA is aware of the Commenter's prior comments and, as explained below, does not find them persuasive.

Connecticut to rescind that portion of its rules and implement the program consistent with the proper interpretation such that GHGs do not trigger PSD permitting * * *"

Response 2: EPA established the requirement that PSD applies to all pollutants newly subject to regulation, including non-NAAQS pollutants, in earlier national rulemakings concerning the PSD program, and EPA has not re-opened that issue in this rulemaking. Accordingly, these comments are not relevant to this rulemaking and are time-barred as to the earlier national rulemakings. In addition, EPA has explained in detail, in recent rulemakings concerning GHG PSD requirements, its reasons for disagreeing with these comments.

In an August 7, 1980, rulemaking at 45 FR 52676, 45 FR 52710–52712, and 45 FR 52735, EPA stated that a "major stationary source" was one that emitted "any air pollutant subject to regulation under the Act" at or above the specified numerical thresholds, and defined a "major modification," in general, as a physical or operational change that increased emissions of "any pollutant subject to regulation under the Act" by more than an amount that EPA variously termed as *de minimis* or significant. In addition, in EPA's NSR Reform rule at 67 FR 80186 and 67 FR 80240 (December 31, 2002), EPA added to the PSD regulations the new definition of "regulated NSR pollutant" (currently codified at 40 CFR 52.21(b)(50) and 40 CFR 51.166(a)(49)), noted that EPA added this term based on a request from a commenter to "clarify which pollutants are covered under the PSD program," and explained that in addition to criteria pollutants for which a NAAQS has been established, "[t]he PSD program applies automatically to newly regulated NSR pollutants, which would include final promulgation of an NSPS [new source performance standard] applicable to a previously unregulated pollutant." *Id.* at 67 FR 80240 and 67 FR 80264. Among other things, the definition of "regulated NSR pollutant" includes "[a]ny pollutant that otherwise is subject to regulation under the Act." *See* 40 CFR 52.21(b)(50)(d)(iv); *see also* 40 CFR 51.166(a)(49)(iv).

In any event, EPA disagrees with the Commenter's underlying premise that PSD requirements are not triggered for GHG when GHG became subject to regulation as of January 2, 2011. As just noted, this has been well-established and discussed in connection with prior EPA actions, including, most recently, the Johnson Memo Reconsideration and the Tailoring Rule. In addition, EPA's November 18, 2010, proposed rulemaking notice provides the general basis for the Agency's rationale that GHG, while not a NAAQS pollutant, can trigger PSD permitting requirements. The November 18, 2010, notice also refers the reader to the preamble to the Tailoring Rule for further information on this rationale. In that rulemaking, EPA addressed at length the comment that PSD can be triggered only by pollutants subject to the NAAQS and concluded that such an interpretation of the Act would contravene Congress's unambiguous intent. *See* 75 FR 31560–31562. Further discussion of EPA's rationale for concluding that PSD requirements are triggered by non-NAAQS pollutants such as GHG appears in the Tailoring Rule Response to Comments document ("Prevention of Significant Deterioration and Title V GHG Tailoring Rule: EPA's Response to Public Comments"), pp. 34–41; and in EPA's response to motions for a stay filed in the litigation concerning those rules ("EPA's Response to Motions for Stay," *Coalition for Responsible Regulation* v. *EPA,* DC Cir. No. 09–1322 (and consolidated cases)), at pp. 47–59, and are incorporated by reference here. These documents have been placed in the docket for today's action.

Comment 3: The Commenter expresses concerns regarding the legality of narrowing prior SIP approvals if states cannot interpret their regulations to include the Tailoring Rule thresholds within the phrase "subject to regulation."

Response 3: While EPA does not agree with the Commenter's assertion that the narrowing approach discussed in EPA's Tailoring Rule is illegal, the validity of the narrowing approach is irrelevant to the action that EPA is today taking for Connecticut's February 9, 2011, SIP revision. EPA did not propose to narrow its approval of Connecticut's SIP as part of this action, and in today's final action, EPA is acting to approve a SIP revision submitted by Connecticut and is not otherwise narrowing its approval of prior submitted and approved provisions in the Connecticut SIP. Accordingly, the legality of the narrowing approach is not at issue in this rulemaking.

Comment 4: The Commenter states that EPA has failed to meet applicable statutory and executive order review requirements. Specifically, the Commenter refers to the statutory requirements and executive orders for the Paperwork Reduction Act, the Regulatory Flexibility Act (RFA), the Unfunded Mandates Reform Act, and Executive Orders 12866 (OMB review of significant regulatory actions), 13175 (tribal implications), 13211 (economically significant regulatory action), and 13132 (Federalism). Additionally, the Commenter mentions that EPA has never analyzed the costs and benefits associated with triggering PSD for stationary sources in Connecticut, much less nationwide.

Response 4: EPA disagrees with the Commenter's statement that EPA has failed to meet applicable statutory and executive order review requirements. As stated in EPA's proposed approval of Connecticut's December 9, 2010 proposed SIP revision, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. Accordingly, EPA approval, in and of itself, does not impose any new information collection burden, as defined in 5 CFR 1320.3(b) and (c), that would require additional review under the Paperwork Reduction Act. In addition, this SIP approval will not have a significant economic impact on a substantial number of small entities, beyond that which would be required by the state law requirements, so a regulatory flexibility analysis is not required under the RFA. Accordingly, this rule is appropriately certified under section 605(b) of the RFA. Moreover, as this action approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandates or significantly or uniquely affect small governments, such that it would be subject to the Unfunded Mandates Reform Act. 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. Finally, this action does not have federalism implications that would make Executive Order 13132 applicable, because it merely approves a state rule implementing a federal standard and does not alter the relationship or the distribution of power and responsibilities established in the CAA.

Today's rule is a routine approval of a SIP revision, approving state law, and does not impose any requirements beyond those imposed by state law. To the extent these comments are directed more generally to the application of the statutory and executive order reviews to the required regulation of GHG under PSD programs, these comments are irrelevant to the approval of state law in

today's action. However, EPA provided an extensive response to similar comments in promulgating the Tailoring Rule. EPA refers the Commenter to the sections in the Tailoring Rule entitled "*VII. Comments on Statutory and Executive Order Reviews,*" 75 FR 31601–31603, and "*VI. What are the economic impacts of the final rule?,*" 75 FR 31595–31601. EPA also notes that today's action does not in and of itself trigger the regulation of GHG. To the contrary, GHG are already being regulated nationally, and sources in Connecticut that are subject to the PSD program are required to obtain a permit from a PSD program that addresses GHG emissions consistent with the Act's requirements. Today's action simply approves existing state laws that provide such a PSD program.

Comment 5: The Commenter states that "EPA should explicitly state in any final rule that the continued enforceability of these provisions in the Connecticut SIP is limited to the extent to which the federal requirements remain enforceable." Further, the Commenter remarks on the ongoing litigation in the U.S. Court of Appeals for the DC Circuit. Specifically, regarding EPA's determination that PSD can be triggered by GHG or is applicable to GHG, the Commenter mentions that "if the DC Circuit and/or Supreme Court determine that EPA's approach to regulating GHGs under the PSD program is invalid, the Connecticut rules should be approved in a manner that they would automatically sunset."

Response 5: EPA believes that it is most appropriate to take actions that are consistent with the federal regulations that are in place at the time the action is being taken. To the extent that any changes to federal regulations related to today's action result from pending legal challenges or other actions, EPA will process appropriate SIP revisions in accordance with the procedures provided in the Act and EPA's regulations. EPA notes that in an order dated December 10, 2010, the United States Court of Appeals for the DC Circuit denied motions to stay EPA's regulatory actions related to GHG. *Coalition for Responsible Regulation, Inc.* v. *EPA,* Nos. 09–1322, 10–1073, 10–1092 (and consolidated cases), Slip Op. at 3 (D.C. Cir. December 10, 2010) (order denying stay motions).

IV. What is the effect of this final action?

Final approval of Connecticut's February 9, 2011 SIP revision will make Connecticut's SIP adequate with respect to PSD requirements for GHG-emitting sources, thereby negating the need for a GHG PSD FIP. Furthermore, final approval of Connecticut's SIP revision will put in place the GHG emission thresholds for PSD applicability set forth in EPA's Tailoring Rule (75 FR 31514, June 3, 2010), ensuring that smaller GHG sources emitting less than these thresholds will not be subject to permitting requirements. Pursuant to section 110 of the CAA, EPA is approving changes made in Connecticut's February 9, 2011, proposed SIP revision into the State's SIP.

The changes to Connecticut's SIP-approved PSD program that EPA is approving today are to Connecticut's rules which have been formatted to conform to Connecticut's rule drafting standards for Sections 22a–174–1 and 3a, but in substantive content the rules that address the Tailoring Rule provisions are the same as the federal rules. As part of its review of the Connecticut submittal, EPA performed a line-by-line review of Connecticut's proposed SIP changes and has determined that the provisions that EPA is approving today are consistent with the Tailoring Rule. Furthermore, EPA has determined that the February 9, 2011, revision to Connecticut's SIP is consistent with section 110 of the CAA. *See, e.g.,* Tailoring Rule, at 75 FR 31561.

V. When is this action effective?

The effective date of today's final action is the date that this notice is published in the **Federal Register**. In accordance with 5 U.S.C. 553(d), EPA finds there is good cause for this action to become effective on the date of publication. The effective date upon publication of this notice for this action is authorized under 5 U.S.C. 553(d)(3), which allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." The purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today's rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today's rule provides sources emitting GHG at or above the higher emissions thresholds with a permitting authority from which it can seek the permits which, prior to this rule, federal law already required them to seek, and relieves the sources within the State from considering the lower emissions thresholds for GHG permitting purposes. For these reasons, EPA finds good cause under 5 U.S.C. 553(d)(3) for this action to become effective immediately upon publication.

VI. Final Action

EPA is taking final action to approve the State of Connecticut's February 9, 2011 SIP revision, which includes updates to Connecticut's air quality regulations, sections 22a–174–1 and 22a–174–3a relating to PSD requirements for GHG-emitting sources. Significantly, Connecticut's February 9, 2011, SIP revision: (1) Provides the State with the authority to regulate GHG under its PSD program, and (2) establishes appropriate emissions thresholds for determining PSD applicability with respect to new or modified GHG-emitting sources in accordance with EPA's Tailoring Rule. EPA has made the determination that the February 9, 2011 SIP revision is approvable because it is in accordance with the CAA and EPA regulations, including regulations pertaining to PSD permitting for GHG.

VII. 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 (Public Law 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 July 11, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Greenhouse gases, Incorporation by reference, Intergovernmental relations, and Reporting and recordkeeping requirements.

Dated: March 15, 2011.

For H. Curtis Spalding,

Ira W. Leighton,

Acting Regional Administrator, EPA New England.

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 H—Connecticut

■ 2. Section 52.370 is amended by adding paragraph (c)(99) to read as follows:

§ 52.370 Identification of plan.

* * * * *

(c) * * *

(99) Revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on February 9, 2011.

(i) Incorporation by reference. (A) The additions of subsections (21) and (49) to Section 22a–174–1, effective January 28, 2011.

(B) The revisions to Sections 22a–174–3a(a)(1)(H) through (J), Sections 22a–174–3a(d)(3)(H), Sections 22a–174–3a(j)(1)(E) through (I), Sections 22a–174–3a(k)(1) through (k)(2), and Sections 22a–174–3a(k)(4), effective January 28, 2011.

[FR Doc. 2011–11218 Filed 5–9–11; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2011–0002; Internal Agency Docket No. FEMA–8179]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

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

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

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

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

In addition, FEMA has identified the Special Flood Hazard Areas (SFHAs) in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal

financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year, on FEMA's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

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

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

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

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

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

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

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

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

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

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

§ 64.6 [Amended]

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

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region III				
Maryland:				
Brookview, Town of, Dorchester County	240097	March 17, 1976, Emerg; January 7, 1977, Reg; May 24, 2011, Susp.	May 24, 2011 ...	May 24, 2011
Cambridge, City of, Dorchester County	240098	August 12, 1975, Emerg; January 16, 1981, Reg; May 24, 2011, Susp.	*.....do	do.
Church Creek, Town of, Dorchester County.	240101	N/A, Emerg; July 25, 1995, Reg; May 24, 2011, Susp.	.....do	do.
Dorchester County, Unincorporated Areas.	240026	January 23, 1974, Emerg; October 15, 1981, Reg; May 24, 2011, Susp.	.....do	do.
Eldorado, Town of, Dorchester County	240105	November 11, 1975, Emerg; December 15, 1978, Reg; May 24, 2011, Susp.	.....do	do.
Galestown, Town of, Dorchester County	240106	June 2, 2004, Emerg; May 24, 2011, Reg; May 24, 2011, Susp.	.....do	do.
Secretary, Town of, Dorchester County	240123	June 13, 1975, Emerg; December 19, 1980, Reg; May 24, 2011, Susp.	.....do	do.
Vienna, Town of, Dorchester County	240127	December 12, 1975, Emerg; December 15, 1978, Reg; May 24, 2011, Susp.	.....do	do.
Region IV				
Kentucky:				
Arlington, City of, Carlisle County	210043	September 22, 1980, Emerg; July 2, 1987, Reg; May 24, 2011, Susp.	.....do	do.
Bardstown, City of, Nelson County	210178	August 8, 1975, Emerg; November 19, 1980, Reg; May 24, 2011, Susp.	.....do	do.
Bardwell, City of, Carlisle County	210044	September 3, 1980, Emerg; August 1, 1986, Reg; May 24, 2011, Susp.	.....do	do.
Bloomfield, City of, Nelson County	210179	August 8, 1975, Emerg; June 4, 1980, Reg; May 24, 2011, Susp.	.....do	do.
Campbellsville, City of, Taylor County ..	210213	December 17, 1975, Emerg; August 5, 1986, Reg; May 24, 2011, Susp.	.....do	do.
Estill County, Unincorporated Areas	210279	February 4, 2002, Emerg; May 24, 2011, Reg; May 24, 2011, Susp.	.....do	do.
Fulton, City of, Fulton County	210076	May 30, 1975, Emerg; August 1, 1980, Reg; May 24, 2011, Susp.	.....do	do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Fulton County, Unincorporated Areas ...	210336	December 17, 2004, Emerg; May 24, 2011, Reg; May 24, 2011, Susp.	.....do	do.
Hickman, City of, Fulton County	210077	July 13, 1979, Emerg; July 16, 1987, Reg; May 24, 2011, Susp.	.....do	do.
Irvine, City of, Estill County	210064	July 30, 1975, Emerg; September 27, 1985, Reg; May 24, 2011, Susp.	.....do	do.
Nelson County, Unincorporated Areas ..	210177	July 21, 1975, Emerg; November 5, 1980, Reg; May 24, 2011, Susp.	.....do	do.
New Haven, City of, Nelson County	210180	August 8, 1975, Emerg; November 5, 1980, Reg; May 24, 2011, Susp.	.....do	do.
Ravenna, City of, Estill County	210319	May 19, 1976, Emerg; September 18, 1985, Reg; May 24, 2011, Susp.	.....do	do.
Taylor County, Unincorporated Areas ...	210212	January 7, 1991, Emerg; February 6, 1991, Reg; May 24, 2011, Susp.	.....do	do.
Mississippi:				
Grenada, City of, Grenada County	280061	June 7, 1973, Emerg; March 1, 1979, Reg; May 24, 2011, Susp.	.....do	do.
Grenada County, Unincorporated Areas	280060	January 28, 1974, Emerg; December 1, 1978, Reg; May 24, 2011, Susp.	.....do	do.
South Carolina:				
Dillon, Town of, Dillon County	450065	July 18, 1985, Emerg; July 1, 1991, Reg; May 24, 2011, Susp.	.....do	do.
Dillon County, Unincorporated Areas	450064	N/A, Emerg; April 8, 2008, Reg; May 24, 2011, Susp.	.....do	do.
Lake View, Town of, Dillon County	450066	July 29, 1975, Emerg; March 2, 1989, Reg; May 24, 2011, Susp.	.....do	do.
Latta, Town of, Dillon County	450067	October 29, 1974, Emerg; July 3, 1986, Reg; May 24, 2011, Susp.	.....do	do.
Region V				
Illinois:				
Arthur, Village of, Douglas and Moultrie Counties.	170520	September 2, 1975, Emerg; December 2, 1988, Reg; May 24, 2011, Susp.	.....do	do.
Atwood, Village of, Douglas and Piatt Counties.	170543	March 3, 1976, Emerg; May 25, 1978, Reg; May 24, 2011, Susp.	.....do	do.
Douglas County, Unincorporated Areas	170194	N/A, Emerg; May 17, 1995, Reg; May 24, 2011, Susp.	.....do	do.
Newman, City of, Douglas County	170769	April 8, 2009, Emerg; May 24, 2011, Reg; May 24, 2011, Susp.	.....do	do.
Tuscola, City of, Douglas County	170195	October 17, 1975, Emerg; April 1, 1982, Reg; May 24, 2011, Susp.	.....do	do.
Villa Grove, City of, Douglas County	170196	February 27, 1975, Emerg; February 1, 1979, Reg; May 24, 2011, Susp.	.....do	do.
Region VII				
Missouri:				
Everton, City of, Dade County	290589	August 13, 1976, Emerg; August 1, 1986, Reg; May 24, 2011, Susp.	.....do	do.
Region VIII				
North Dakota:				
Jamestown, City of, Stutsman County ..	385366	March 19, 1971, Emerg; May 26, 1972, Reg; May 24, 2011, Susp.	.....do	do.
Kensal, City of, Stutsman County	380123	January 21, 1976, Emerg; November 20, 1979, Reg; May 24, 2011, Susp.	.....do	do.
Stutsman County, Unincorporated Areas.	380119	February 23, 2010, Emerg; May 24, 2011, Reg; May 24, 2011, Susp.	.....do	do.
Utah:				
Cache County, Unincorporated Areas ..	490012	February 12, 1980, Emerg; February 1, 1987, Reg; May 24, 2011, Susp.	.....do	do.
Clarkston, Town of, Cache County	490014	August 23, 1976, Emerg; August 19, 1980, Reg; May 24, 2011, Susp.	.....do	do.
Hyde Park, Town of, Cache County	490016	March 10, 1975, Emerg; July 29, 1980, Reg; May 24, 2011, Susp.	.....do	do.
Lewiston, City of, Cache County	490018	June 29, 1976, Emerg; July 29, 1980, Reg; May 24, 2011, Susp.	.....do	do.
Logan, City of, Cache County	490019	November 26, 1974, Emerg; September 28, 1984, Reg; May 24, 2011, Susp.	.....do	do.
Mendon, City of, Cache County	490020	August 4, 1976, Emerg; July 22, 1980, Reg; May 24, 2011, Susp.	.....do	do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Millville, Town of, Cache County	490021	March 13, 1985, Emerg; May 24, 2011, Reg; May 24, 2011, Susp.	.....do	do.
Newton, Town of, Cache County	490022	November 15, 1976, Emerg; July 22, 1980, Reg; May 24, 2011, Susp.	.....do	do.
Nibley, Town of, Cache County	490023	March 24, 1975, Emerg; August 5, 1986, Reg; May 24, 2011, Susp.	.....do	do.
North Logan, City of, Cache County	490024	September 26, 1974, Emerg; March 18, 1986, Reg; May 24, 2011, Susp.	.....do	do.
Providence, City of, Cache County	490226	May 2, 1975, Emerg; February 2, 1984, Reg; May 24, 2011, Susp.	.....do	do.
River Heights, City of, Cache County	490240	May 12, 2009, Emerg; May 24, 2011, Reg; May 24, 2011, Susp.	.....do	do.
Smithfield, City of, Cache County	490029	December 18, 1974, Emerg; March 18, 1986, Reg; May 24, 2011, Susp.	.....do	do.
Wellsville, City of, Cache County	490031	July 18, 1975, Emerg; July 29, 1980, Reg; May 24, 2011, Susp.	.....do	do.
Region X				
Idaho:				
Caldwell, City of, Canyon County	160036	May 2, 1975, Emerg; September 3, 1980, Reg; May 24, 2011, Susp.	.....do	do.
Canyon County, Unincorporated Areas	160208	June 17, 1975, Emerg; September 28, 1984, Reg; May 24, 2011, Susp.	.....do	do.
Middleton, City of, Canyon County	160037	May 22, 1975, Emerg; September 3, 1980, Reg; May 24, 2011, Susp.	.....do	do.
Nampa, City of, Canyon County	160038	May 20, 1975, Emerg; September 28, 1984, Reg; May 24, 2011, Susp.	.....do	do.
Notus, City of, Canyon County	160147	October 4, 1976, Emerg; March 18, 1980, Reg; May 24, 2011, Susp.	.....do	do.
Parma, City of, Canyon County	160039	July 27, 1976, Emerg; September 30, 1980, Reg; May 24, 2011, Susp.	.....do	do.
Star, City of, Ada and Canyon Counties	160236	N/A, Emerg; September 6, 2002, Reg; May 24, 2011, Susp.	.....do	do.

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

Dated: April 26, 2011.

Sandra K. Knight,

Deputy Federal Insurance and Mitigation Administrator, Mitigation.

[FR Doc. 2011–11301 Filed 5–9–11; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 65

[Docket ID FEMA–2011–0002]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Modified Base (1% annual-chance) Flood Elevations (BFEs) are finalized for the communities listed below. These modified BFEs will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: The effective dates for these modified BFEs are indicated on the following table and revise the Flood Insurance Rate Maps (FIRMs) in effect for the listed communities prior to this date.

ADDRESSES: The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–4064, or (e-mail) *luis.rodriguez1@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below of the modified BFEs for each community listed. These modified BFEs have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Federal Insurance and Mitigation Administrator has resolved any appeals resulting from this notification.

The modified BFEs are not listed for each community in this notice. However, this final rule includes the address of the Chief Executive Officer of the community where the modified BFE determinations are available for inspection.

The modified BFEs are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

These modified BFEs are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in those buildings. The changes in BFEs are in accordance with 44 CFR 65.4.

National Environmental Policy Act. This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

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

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

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

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

■ 1. The authority citation for part 65 continues to read as follows:

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

§ 65.4 [Amended]

■ 2. The tables published under the authority of § 65.4 are amended as follows:

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.
Nevada:					
Clark (FEMA Docket No.: B–1146).	Unincorporated areas of Clark County (09–09–2398P).	June 10, 2010; June 17, 2010; *The Las Vegas Review Journal*.	Ms. Susan Brager, Chair, Clark County Board of Commissioners, 500 South Grand Central Parkway, Las Vegas, NV 89155.	June 28, 2010	320003
Clark (FEMA Docket No.: B–1146).	Unincorporated areas of Clark County (09–09–3102P).	June 10, 2010; June 17, 2010; *The Las Vegas Review Journal*.	Ms. Susan Brager, Chair, Clark County Board of Commissioners, 500 South Grand Central Parkway, Las Vegas, NV 89155.	October 15, 2010	320003
Clark (FEMA Docket No.: B–1146).	Unincorporated areas of Clark County (10–09–1718P).	June 24, 2010; July 1, 2010; *The Las Vegas Review Journal*.	Ms. Susan Brager, Chair, Clark County Board of Commissioners, 500 South Grand Central Parkway, Las Vegas, NV 89155.	June 16, 2010	320003
Washoe (FEMA Docket No.: B–1124).	Unincorporated areas of Washoe County (09–09–3152P).	April 6, 2010; April 13, 2010; *The Reno Gazette-Journal*.	The Honorable David Humke, Chairman, Washoe County Board of Commissioners, P.O. Box 11130, Reno, NV 89520.	August 11, 2010	320019
New York:					
Niagara (FEMA Docket No.: B–1150).	Town of Cambria (07–02–0919P).	October 18, 2007; October 25, 2007; *The Niagara Gazette*.	Mr. Wright H. Ellis, Supervisor, Cambria Board of Supervisors, 4160 Upper Mountain Road, Sanborn, NY 14132.	January 24, 2008	360499
North Carolina:					
Cumberland (FEMA Docket No.: B–1156).	Town of Hope Mills (10–04–0445P).	July 26, 2010; August 2, 2010; *The Fayetteville Observer*.	The Honorable Eddie Dees, Mayor, Town of Hope Mills, 5770 Rockfish Road, Hope Mills, NC 28348.	November 30, 2010	370312
Cumberland (FEMA Docket No.: B–1156).	Unincorporated areas of Cumberland County (10–04–0445P).	July 26, 2010; August 2, 2010; *The Fayetteville Observer*.	Mr. James E. Martin, Cumberland County Manager, 117 Dick Street, Room 512, Fayetteville, NC 28301.	November 30, 2010	370076
Currituck (FEMA Docket No.: B–1146).	Unincorporated areas of Currituck County (09–04–5228P).	May 21, 2010; May 28, 2010; *The Daily Advance*.	Mr. Daniel F. Scanlon II, Currituck County Manager, P.O. Box 39, Currituck, NC 27929.	May 11, 2010	370078
Durham (FEMA Docket No.: B–1172).	City of Durham (09–04–5502P).	November 27, 2009; December 4, 2009; *The Herald-Sun*.	The Honorable William V. Bell, Mayor, City of Durham, 101 City Hall Plaza, Durham, NC 27701.	April 5, 2010	370086
Granville (FEMA Docket No.: B–1157).	Unincorporated areas of Granville County (10–04–4713P).	August 5, 2010; August 12, 2010; *The Butner-Creedmoor News & The Oxford Public Ledger*.	Mr. Brian Alligood, Granville County Manager, P.O. Box 906, Oxford, NC 27565.	December 10, 2010	370325
Guilford (FEMA Docket No.: B–1141).	City of Greensboro (09–04–4869P).	May 27, 2010; June 3, 2010; *The Greensboro News & Record*.	The Honorable William H. Knight, Mayor, City of Greensboro, P.O. Box 3136, Greensboro, NC 27402.	October 1, 2010	375351
Orange (FEMA Docket No.: B–1141).	Town of Carrboro (09–04–5619P).	June 4, 2010; June 11, 2010; *The Chapel Hill Herald*.	The Honorable Mark Chilton, Mayor, Town of Carrboro, 301 West Main Street, Carrboro, NC 27510.	October 12, 2010	370275
Orange (FEMA Docket No.: B–1135).	Town of Chapel Hill (10–04–0448P).	April 16, 2010; April 23, 2010; *The Chapel Hill Herald*.	The Honorable Kevin Foy, Mayor, Town of Chapel Hill, 405 Martin Luther King Jr. Boulevard, Chapel Hill, NC 27514.	August 23, 2010	370180

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: April 21, 2011.

Sandra K. Knight,

Deputy Federal Insurance and Mitigation Administrator, Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2011–11416 Filed 5–9–11; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 65

[Docket ID FEMA–2011–0002; Internal Agency Docket No. FEMA–B–1195]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the Base (1% annual-chance) Flood Elevations (BFEs) is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified BFEs for new buildings and their contents.

DATES: These modified BFEs are currently in effect on the dates listed in the table below and revise the Flood Insurance Rate Maps (FIRMs) in effect prior to this determination for the listed communities.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Deputy Federal Insurance and Mitigation Administrator reconsider the changes. The modified BFEs may be changed during the 90-day period.

ADDRESSES: The modified BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (e-mail) *luis.rodriguez1@dhs.gov.*

SUPPLEMENTARY INFORMATION: The modified BFEs are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified BFE determinations are available for inspection is provided.

Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The changes in BFEs are in accordance with 44 CFR 65.4.

National Environmental Policy Act. This interim rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

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

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

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

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

■ 1. The authority citation for part 65 continues to read as follows:

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

§ 65.4 [Amended]

■ 2. The tables published under the authority of § 65.4 are amended as follows:

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.
Arizona:					
Coconino	City of Page (10–09–3257P).	March 4, 2011; March 11, 2011; *The Arizona Daily Sun.*	The Honorable Lyle Dimbatt, Mayor, City of Page, P.O. Box 4301, Page, AZ 86040.	July 11, 2011	040113
Coconino	Unincorporated areas of Coconino County (10–09–3257P).	March 4, 2011; March 11, 2011; *The Arizona Daily Sun.*	The Honorable Mandy Metzger, Chairperson, Coconino County Board of Supervisors, 219 East Cherry Avenue, Flagstaff, AZ 86001.	July 11, 2011	040019
California:					
Orange	City of Orange; (10–09–3115P).	March 21, 2011; March 28, 2011; *The Orange County Register.*	The Honorable Carolyn V. Cavecche, Mayor, City of Orange, 300 East Chapman Avenue, Orange, CA 92866.	April 15, 2011	060228

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.
Riverside	Unincorporated areas of Riverside County (10–09–2063P).	March 18, 2011; March 25, 2011; *The Press-Enterprise*.	The Honorable Bob Buster, Chairperson, Riverside County Board of Supervisors, 4080 Lemon Street, Riverside, CA 92502.	July 25, 2011	060245
San Benito	City of Hollister (10–09–2357P).	March 8, 2011; March 15, 2011; *The Free Lance*.	The Honorable Victor Gomez, Mayor, City of Hollister, 375 5th Street, Hollister, CA 95023.	July 13, 2011	060268
San Benito	Unincorporated areas of San Benito County (10–09–2357P).	March 8, 2011; March 15, 2011; *The Free Lance*.	The Honorable Anthony Botelho, Chairman, San Benito County Board of, Supervisors, 481 4th Street, 1st Floor, Hollister, CA 95023.	July 13, 2011	060267
Ventura	City of Simi Valley (10–09–3242P).	March 9, 2011; March 16, 2011; *The Ventura County Star*.	The Honorable Bob Huber, Mayor, City of Simi Valley, 2929 Tapo Canyon Road, Simi Valley, CA 93063.	July 14, 2011	060421
Colorado:					
Arapahoe	City of Littleton (11–08–0082P).	March 18, 2011; March 25, 2011; *The Denver Post*.	The Honorable Doug Clark, Mayor, City of Littleton, 2255 West Berry Avenue, Littleton, CO 80165.	April 14, 2011	080017
Arapahoe	Town of Columbine Valley (11–08–0082P).	March 18, 2011; March 25, 2011; *The Denver Post*.	The Honorable Gale Christy, Mayor, Town of Columbine Valley, 2 Middlefield Road, Columbine Valley, CO 80123.	April 14, 2011	080014
Arapahoe	Unincorporated areas of Arapahoe County (11–08–0082P).	March 18, 2011; March 25, 2011; *The Denver Post*.	The Honorable Rod Bockenfeld, Chairman, Arapahoe County, Board of Commissioners, 5334 South Prince Street, Littleton, CO 80166.	April 14, 2011	080011
Douglas	Unincorporated areas of Douglas County (11–08–0287P).	March 10, 2011; March 17, 2011; *The Douglas County News-Press*.	The Honorable Jill Repella, Chair, Douglas County, Board of Commissioners, 100 3rd Street, Castle Rock, CO 80104.	February 28, 2011	080049
Florida:					
Duval	City of Jacksonville (11–04–3277P).	March 18, 2011; March 25, 2011; *The Jacksonville Daily Record*.	The Honorable John Peyton, Mayor, City of Jacksonville, 117 West Duval Street, Suite 400, Jacksonville, FL 32202.	March 14, 2011	120077
Orange	Unincorporated areas of Orange County (10–04–0673P).	February 10, 2011; February 17, 2011; *The Orlando Weekly*.	The Honorable Teresa Jacobs, Mayor, Orange County, 201 South Rosalind Avenue, 5th Floor, Orlando, FL 32801.	June 17, 2011	120179
Orange	Unincorporated areas of Orange County (10–04–7471P).	February 10, 2011; February 17, 2011; *The Orlando Weekly*.	The Honorable Teresa Jacobs, Mayor, Orange County, 201 South Rosalind Avenue, 5th Floor, Orlando, FL 32801.	June 17, 2011	120179
Sarasota	Unincorporated areas of Sarasota County (11–04–1370P).	March 16, 2011; March 23, 2011; *The Sarasota Herald-Tribune*.	The Honorable Nora Patterson, Chairperson, Sarasota County Board of Commissioners, 1660 Ringling Boulevard, Sarasota, FL 34236.	July 21, 2011	125144
Wakulla	Unincorporated areas of Wakulla County (10–04–8135P).	March 31, 2011; April 7, 2011; *The Wakulla News*.	The Honorable Tim Barden, Interim Wakulla County Administrator, P.O. Box 1263, Crawfordville, FL 32327.	March 25, 2011	120315
Georgia:					
Fulton	City of East Point (09–04–8416P).	March 7, 2011; March 14, 2011; *The Daily Report*.	The Honorable Crandall O. Jones, City of East Point Manager, 2777 East Point Street, East Point, GA 30344.	July 12, 2011	130087
Troup	City of LaGrange (10–04–5810P).	March 11, 2011; March 18, 2011; *The LaGrange Daily News*.	The Honorable Jeff Lukken, Mayor, City of LaGrange, 200 Ridley Avenue, LaGrange, GA 30240.	July 18, 2011	130177
Hawaii:					
Honolulu	City and County of Honolulu (11–09–0171P).	March 25, 2011; April 1, 2011; *The Honolulu Star-Advertiser*.	The Honorable Peter B. Carlisle, Mayor, City and County of Honolulu, 530 South King Street, Room 300, Honolulu, HI 96813.	March 21, 2011	150001
Maui	Unincorporated areas of Maui County (10–09–3595P).	March 4, 2011; March 11, 2011; *The Maui News*.	The Honorable Alan M. Arakawa, Mayor, Maui County, 250 South High Street, Wailuku, HI 96793.	February 24, 2011	150003
Mississippi:					
DeSoto	City of Olive Branch (10–04–5201P).	March 31, 2011; April 7, 2011; *The DeSoto Times Tribune*.	The Honorable Sam Rikard, Mayor, City of Olive Branch, 9200 Pigeon Roost Road, Olive Branch, MS 38654.	August 5, 2011	280286
North Carolina:					
Ashe	Unincorporated areas of Ashe County (10–04–3410P).	February 18, 2011; February 25, 2011; *The Jefferson Post*.	Mr. Dan McMillan, Ashe County Manager, 150 Government Circle, Suite 2500, Jefferson, NC 28640.	June 27, 2011	370007
Buncombe	Town of Montreat (10–04–3559P).	March 10, 2011; March 17, 2011; *The Black Mountain News*.	The Honorable Letta Jean Taylor, Mayor, Town of Montreat, P.O. Box 95, Montreat, NC 28757.	July 15, 2011	370476
Columbus	City of Whiteville (10–04–6817P).	February 24, 2011; March 3, 2011; *The News Reporter*.	The Honorable Terry Mann, Mayor, City of Whiteville, 317 South Madison Street, Whiteville, NC 28472.	February 17, 2011	370071

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.
Columbus	Unincorporated areas of Columbus County (10–04–6817P).	February 24, 2011; March 3, 2011; *The News Reporter*.	The Honorable Giles Byrd, Chairman, Columbus County Board of, Commissioners, 111 Washington Street, Whiteville, NC 28472.	February 17, 2011	370305
Rutherford	Village of Chimney Rock (10–04–3339P).	February 18, 2011; February 25, 2011; *The Daily Courier*.	The Honorable Barbara Meliski, Mayor, Village of Chimney Rock, P.O. Box 300, Chimney Rock, NC 28720.	February 11, 2011	370487
Wake	City of Raleigh (10–04–3939P).	February 15, 2011; February 22, 2011; *The News & Observer*.	The Honorable Charles Meeker, Mayor, City of Raleigh, P.O. Box 590, 222 West Hargett Street, Raleigh, NC 27602.	June 22, 2011	370243
Tennessee:					
Franklin	City of Decherd (10–04–2240P).	March 4, 2011; March 11, 2011; *The Herald-Chronicle*.	The Honorable Betty Don Henshaw, Mayor, City of Decherd, 1301 West Main Street, Decherd, TN 37324.	February 24, 2011	470054
Franklin	City of Winchester (10–04–2240P).	March 4, 2011; March 11, 2011; *The Herald-Chronicle*.	The Honorable Terry Harrell, Mayor, City of Winchester, 7 South High Street, Winchester, TN 37398.	February 24, 2011	470056
Utah:					
Washington	City of Washington (10–08–1023P).	March 11, 2011; March 18, 2011; *The Spectrum*.	The Honorable Ken Neilson, Mayor, City of Washington, 111 North 100 East, Washington, UT 84780.	February 28, 2011	490182
Wyoming:					
Sweetwater	City of Rock Springs (10–08–0509P).	March 22, 2011; March 29, 2011; *The Rocket-Miner*.	The Honorable Carl Demshar, Mayor, City of Rock Springs, 212 D Street, Rock Springs, WY 82901.	July 27, 2011	560051
Sweetwater	Unincorporated areas of Sweetwater County (10–08–0509P).	March 22, 2011; March 29, 2011; *The Rocket-Miner*.	The Honorable Debby Dellai Boese, Chairman, Sweetwater County, Board of Commissioners, 80 West Flaming Gorge Way, Suite 109, Green River, WY 82935.	July 27, 2011	560087

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: April 28, 2011.

Sandra K. Knight,

Deputy Federal Insurance and Mitigation Administrator, Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2011–11306 Filed 5–9–11; 8:45 am]

BILLING CODE 9110–12–P

Proposed Rules

Federal Register
Vol. 76, No. 90
Tuesday, May 10, 2011

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1206

[Document No. AMS–FV–11–0021]

Mango Promotion, Research, and Information Order; Assessment Increase

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule proposes amendment of the Mango Promotion, Research, and Information Order (Order) to increase the assessment rate on first handlers and importers of mangos from one half cent per pound to three quarters of a cent per pound. The increase is permitted under the Order, which is authorized by the Commodity Promotion, Research, and Information Act of 1996 (Act). The National Mango Board (Board), which administers the Order, recommended this action to ensure that the Board's research and promotion programs continue to be adequately funded.

DATES: Comments must be received by July 11, 2011.

ADDRESSES: Comments may be submitted electronically at *http://www.regulations.gov.* Comments may also be sent to the Research and Promotion Branch, Fruit and Vegetable Programs, Agricultural Marketing Service (AMS), U.S. Department of Agriculture, Room 0634–S, Stop 0244, 1400 Independence Avenue, SW, Washington, DC 20250–0244; fax (202) 205–2800. All comments submitted should reference the document number and title of this proposed rule, and will be included in the record and made available for public inspection. Comments may be viewed on the Internet at *http://www.regulations.gov,* or at the above office. Please be advised that the identity of individuals or entities submitting comments will be made public on the Internet at the above Web site.

FOR FURTHER INFORMATION CONTACT: Veronica Douglass, Marketing Specialist, Research and Promotion Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW, Room 0634–S, Stop 0244, Washington, DC 20250–0244; *telephone:* (888) 720–9917; *fax:* (202) 205–2800; *e-mail: veronica.douglass@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under the Mango Promotion, Research, and Information Order (Order) (7 CFR part 1206). The Order is authorized under the Commodity Promotion, Research, and Information Act of 1996 (Act) (7 U.S.C. 7411–7425).

Executive Order 12866

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

Executive Order 12988

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

Section 524 of the Act provides that the Act shall not affect or preempt any other State or Federal law authorizing promotion or research relating to an agricultural commodity.

Under the Act, a person subject to an order may file a petition with the U.S. Department of Agriculture (Department) stating that an order, any provision of an order, or any obligation imposed in connection with an order, is not established in accordance with the law, and requesting a modification of an order or an exemption from an order. Any petition filed challenging an order, any provision of an order, or any obligation imposed in connection with an order, shall be filed within two years after the effective date of an order, provision, or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, the Department will issue a ruling on the petition. The Act provides that the district court of the United States for any district in which the petitioner resides or conducts business shall have the jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of the Department's final ruling.

Regulatory Flexibility Analysis and Paperwork Reduction Act

In accordance with 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 the small entities that would be affected by this rule. The purpose of the RFA is to fit regulatory action to scale on businesses subject to such action so that small businesses will not be disproportionately burdened.

The Small Business Administration defines small agricultural producers as those having annual receipts of no more than $750,000 and small agricultural service firms as those having annual receipts of no more than $7 million (13 CFR part 121). First handlers and importers would be considered agricultural service firms, and the majority of mango producers, first handlers and importers would be considered small businesses. Although this criterion does not factor in additional monies that may be received by producers, handlers and importers of mangos, it is an inclusive standard for identifying small entities.

Mango producers are not subject to the assessment. First handlers and importers who market or import less than 500,000 pounds of mangos annually are exempt from the assessment. Mangos that are exported out of the United States are also exempt from assessment. Furthermore, while domestic and foreign producers are not subject to assessment under the order, but such individuals are eligible to serve on the Board along with importers and first handlers. Currently, approximately five first handlers and 193 importers are subject to assessment under the Order.

Under the current Order, first handlers and importers of 500,000 pounds or more of mangos per year each pay a mandatory assessment of one half cent per pound of mangos handled or imported. The proposed amendment to the Order would increase the rate of assessment currently paid by first handlers and importers of mangos to three quarters of a cent per pound. Exempt handlers and importers would remain exempt from assessment. While this amendment will have an economic impact on handlers and importers of more than 500,000 pounds of mangos

per year, the impact is expected to be offset by the benefits to the mango industry. Assessment revenue is used by the Board to finance promotion, research, and information programs designed to increase consumer demand for mangos. Assessments at the current rate of one half cent per pound generate about $3.4 million in annual revenue. The Order is administered by the Board under U.S. Department of Agriculture supervision.

According to the Board, additional revenue is needed to avoid reductions in the promotions budget and to increase investment in marketing and research programs. At its September 2009 meeting, the Board voted to propose a 50 percent increase in the mango assessment rate upon completion of the March 2010 referendum to determine whether mango handlers and importers favored continuation of the Order. The proposed increase is consistent with section 1206.42(b) of the Order, which permits modification of the assessment rate by the Board with the approval of the Secretary, after the first referendum is conducted.

Mango assessment collections began on January 3, 2005, however, Board activities did not begin until 2006. Consequently, the Board was able to grow a considerable reserve that was used to supplement annual assessment revenues from 2007 until 2009. In 2010, higher than expected assessment revenue made it possible for the Board to operate without exceeding the total assessments collected for that year and to begin 2011 with approximately $1.6 million in available resources. However, with 2011 spending projected at approximately $4.3 million and assessment income projected at approximately $3.2 million, the Board is expected to begin 2012 with a reserve of $505,244. With no extra funds available from reserves, and if the assessment rate is kept at the current level, the Board's budget would be decreased.

In 2010, an econometric study of the effects of the Board's promotion activities on U.S. mango demand was conducted by Dr. Ronald Ward of the University of Florida. The study indicates that from 2005 through 2009, the value of mango imports to the U.S. grew from $169 million to $217 million. This is significant as the vast majority of mangos consumed in the U.S. are imported. The growth in value is the result of both higher prices and greater volumes imported. The study also found that the Board's activities have had a positive economic impact on the demand for mangos, both in attracting more buyers and in increasing the number of mangos purchased per buyer. According to the study, increased spending by the Board would correspond to increases in market penetration and the number of households purchasing mangos. Likewise, decreased spending would correspond to declines in both of those areas. Based on the analysis of these two factors and the value of mango imports, the study concludes that every $1 invested in the Board adds an additional $7 to mango freight on board revenues. This study is available from the Board and the Agricultural Marketing Service Web site.

An increase of one quarter of a cent per pound in the mango assessment rate is expected to add an additional $1.6 million per year to the Board's assessment revenue. With the additional revenue collected, the Board intends to invest primarily in marketing and research programs. In addition, the Board would be able to establish a contingency fund to ensure consistent funding in the face of market instability.

The Board considered three alternatives prior to recommending that the assessment rate be increased. First, the Board considered reducing investment in its research program. However, postponing the human nutrition studies that may help the Board to develop health messages that increase demand for mangos could hinder expansion of the U.S. mango market. Second, the Board considered limiting investment in programs designed to improve the quality of mangos available at the retail level. Delivering higher quality mangos to U.S. consumers is one of the Board's top priorities because higher quality translates to higher demand. Third, the Board considered reducing funding for its marketing programs. Lowering the funding level for marketing programs would significantly reduce the Board's ability to conduct promotion and consumer marketing activities, thereby hindering its efforts to increase demand for mangos.

This rule does not impose additional recordkeeping requirements on first handlers, importers, or producers of mangos. Additionally, first handlers or importers of less than 500,000 pounds of mangos per year are exempt.

There are no Federal rules that duplicate, overlap, or conflict with this rule. Additionally, section 517(c) of the Act states that not more than one assessment may be levied on a first handler or importer.

In accordance with the Office of Management and Budget (OMB) regulation (5 CFR part 1320) that implements the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements that are imposed by the Order have been approved previously under OMB control number 0581–0093. This rule does not result in a change to the information collection and recordkeeping requirements previously approved.

We have performed this initial Regulatory Flexibility Analysis regarding the impact of this proposed amendment to the Order on small entities and we invite comments concerning potential effects of this amendment on small businesses.

Background

Under the Order, the Board administers a nationally coordinated program of research and promotion designed to strengthen the position of mangos in the marketplace and to establish, maintain, and expand U.S. markets for mangos. The program is financed by assessments on first handlers and importers of 500,000 pounds or more of mangos per year. The Order specifies that first handlers are responsible for submitting assessments to the Board on a monthly basis and maintaining records necessary to verify their reporting. Importers are responsible for paying assessments on mangos imported for marketing in the United States through the U.S. Customs and Border Protection Service of the U.S. Department of Homeland Security.

This rule proposes an increase of one quarter of a cent per pound in the mango assessment rate. Currently, the assessment rate is one half cent per pound of mangos handled domestically or imported into the United States. In order to sustain and expand its promotion, research, and communications programs, the Board contends that additional revenue is required. The proposed assessment rate increase is expected to generate an additional $1.6 million annually, depending on the volume of mangos handled in the United States or imported into the United States. In 2010, a total of 717,830,404 pounds of mangos were subject to assessment, resulting in approximately $3.6 million in assessment revenue. Less than one percent of the total assessments were from domestic handlers as the vast majority of assessments were collected from importers. The Board states that the proposed assessment rate increase would enable it to make additional investments in its marketing and research programs. In addition, the Board states that some of the additional revenue could be used to establish a

contingency fund to ensure consistent funding for its programs.

The Board, whose members represent domestic producers, first handlers, importers, and foreign producers, voted at its September 12, 2009, meeting to propose the assessment rate increase of one quarter of a cent per pound after the March 2010 continuance referendum. Of the members present at the meeting, 9 voted in favor and 4 opposed proposal of the assessment rate increase. The four Board members that voted against the assessment increase stated that the increase would be passed onto mango producers. The assessment will be imposed on first handlers and importers who would pay assessments under the Order. Business decisions on how to manage assessments, including whether to pass back the cost of assessments to producers, are made by handlers and importers based on their respective business practices.

This rule would amend the rules and regulations issued under the Order. This rule would increase the assessment rate by one quarter of a cent per pound of mangos handled in the United States or imported. The assessment rate would increase from one half cent to three quarters of a cent per pound. This proposed increase is consistent with section 517(d) of the Act, which permits the Board to recommend to the Secretary a rate of assessment. Section 1206.42(a) of the Order states that the assessment rate may be modified by the Board with the approval of the Secretary, after the first referendum is conducted. The Board recommends the proposed assessment rate increase based on budget constraints imposed on its marketing, research, and industry relations programs by the current assessment rate. Accordingly, section 1206.42(b) of the Order would be revised.

A 60-day comment period is provided to allow interested persons to respond to this proposal. All written comments received in response to this rule by the date specified would be considered prior to finalizing this action.

List of Subjects in 7 CFR Part 1206

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Mango promotion, Reporting and recording requirements.

For the reasons set forth in the preamble, 7 CFR part 1206 is proposed to be amended as follows:

PART 1206—MANGO RESEARCH, PROMOTION, AND INFORMATION ORDER

1. The authority citation for 7 CFR part 1206 continues to read as follows:

Authority: 7 U.S.C. 7411–7425 and 7 U.S.C. 7401.

2. In section 1206.42, paragraph (b) is revised to read as follows:

§ 1206.42 Assessments.

* * * * *

(b) The assessment rate shall be three quarters of a cent per pound on all mangos. The assessment rate will be reviewed and may be modified by the Board with the approval of the Department, after the first referendum is conducted as stated in § 1206.71(b). The Department will amend this section if the assessment rate is modified.

* * * * *

Dated: April 29, 2011.

Rayne Pegg,

Administrator, Agricultural Marketing Service.

[FR Doc. 2011–11042 Filed 5–9–11; 8:45 am]

BILLING CODE 3410–02–P

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 121, 124, 125, 126, and 127

[Docket No. SBA–2011–006]

Small Business Jobs Act Tour: Selected Provisions Having an Effect on Government Contracting

AGENCY: U.S. Small Business Administration (SBA)

ACTION: Notice of public meetings; correction.

SUMMARY: The Small Business Administration (SBA) published a document in the **Federal Register** on Friday, March 25, 2011, concerning the Small Business Act Tour: Selected Provisions Having an Effect on Government that announced a series of public meetings on the implementation of provisions of the Small Business Jobs Act of 2010 (SBJA). This document corrects the **DATES** section and the Event Information table.

FOR FURTHER INFORMATION CONTACT: Richard L. Miller, Small Business Job's Act Tour-Office of Government Contracting and Business Development, 409 Third Street, SW., Washington, DC 20416, at (202) 205–6895, Fax (202) 481–4291, or e-mail *richard.miller@sba.gov.*

Correction

In the **Federal Register** of March 25, 2011, in FR Doc. 2011–7135, on page 16703, in the second column, correct the **DATES** caption to read:

DATES: The meetings will be held on the dates and times specified in the Event Information section of the Supplementary Information below. It is recommended that all attendees register at least one week prior to the scheduled meeting date. In addition, comments to SBA docket number SBA–2011–0006 must be received on or before June 6, 2011.

In the **Federal Register** of March 25, 2011, in FR Doc. 2011–7135, on page 16706, in the third column, correct the "Event Information" caption to read:

III. Event Information

Location	Date	Address
Seattle, WA	May 9, 2011, Begins 1 p.m., Ends 5:30 p.m	Holiday Inn Seattle-SeaTac International Airport, 17338 International Blvd, Seattle, WA 98188.
Denver, CO	May 24, 2011, Begins 9 a.m., Ends 4:15 p.m	PPA Event Center, 2105 Decatur Street, Denver, CO 80211.
Albuquerque, NM ...	June 2, 2011, Begins 9 a.m., Ends 4:15 p.m	Embassy Suites Albuquerque, 1000 Woodward Place NE, Albuquerque, NM 87102.
San Diego, CA	June 3, 2011, Begins 9 a.m., Ends 4:15 p.m	Scottish Rite Event Center, 1985 Camino del Rio, South, San Diego, CA 92108.

Dated: April 24, 2011.

Calvin Jenkins,

Deputy Associate Administrator for Government Contracting.

[FR Doc. 2011–10921 Filed 5–9–11; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM456; Special Conditions No. 25–11–13–SC]

Special Conditions: Boeing Model 747–8 Series Airplanes; Overhead Flight Attendant Rest Compartment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for Boeing Model 747–8 series airplanes. These airplanes will have novel or unusual design features associated with the installation of an overhead flight attendant rest compartment. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards. Additional special conditions will be issued for other novel or unusual design features of the Boeing 747–8 airplanes.

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

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM–113), Docket No. NM456, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; or delivered in duplicate to the Transport Airplane Directorate at the above address. All comments must be marked Docket No. NM456. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Jayson Claar, FAA, Airframe/Cabin Safety Branch, ANM–115, Transport Standards Staff, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2194; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

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

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

Background

On November 4, 2005, The Boeing Company, P.O. Box 3707, Seattle, WA 98124, applied for an amendment to Type Certificate Number A20WE to include the new Model 747–8 passenger airplane. Boeing later applied for, and was granted, an extension of time for the amended type certificate, which changed the effective application date to December 31, 2006. The Model 747–8 is a derivative of the 747–400. The Model 747–8 is a four-engine jet transport airplane that will have a maximum takeoff weight of 975,000 pounds and new General Electric GEnx–2B67 engines. The Model 747–8 will have two flight crew and the capacity to carry 605 passengers.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.101, Boeing must show that the Model 747–8 meets the applicable provisions of part 25, as amended by Amendments 25–1 through 25–120, plus amendment 25–127 for § 25.795(a), except for earlier amendments as agreed upon by the FAA. These regulations will be incorporated into Type Certificate No. A20WE after type certification approval of the 747–8.

In addition, the certification basis includes other regulations, special conditions and exemptions that are not relevant to these special conditions. Type Certificate No. A20WE will be updated to include a complete description of the certification basis for these airplanes. If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the 747–8 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the 747–8 must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

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

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model or series that incorporates the same or similar novel or unusual design feature, or should any other model or series already included on the same type certificate be modified to incorporate the same or similar novel or unusual design feature, the special conditions would also apply to the other model or series under § 21.101.

Compliance with these special conditions does not relieve the applicant from the existing airplane certification basis requirements. One particular area of concern is that installing an overhead flight attendant rest (OFAR) compartment creates a smaller compartment volume within the overhead area of the airplane. The applicant must comply with the requirements of §§ 25.365(e), (f), and (g), for the OFAR compartment, as well as any other airplane compartments whose decompression characteristics are affected by the installation of an OFAR compartment. Compliance with § 25.831 must be demonstrated for all phases of flight when occupants are present.

Novel or Unusual Design Features

While the installation of an OFAR compartment is not a new concept for large transport category airplanes, each

compartment design has unique features by virtue of its design, location, and use on the airplane. Crew rest compartments have been installed and certified in the main passenger cabin area of Model 777–200 and –300 series airplanes and the overhead area of the passenger compartment of Model 777–200 airplanes. Other crew rest compartments have been installed below the passenger cabin area adjacent to the cargo compartment. Similar overhead crew rest compartments have also been installed on Model 747 series airplanes. The modification is evaluated with respect to the interior and assessed in accordance with the certification basis of the airplane. However, part 25 does not provide all of the requirements for crew rest compartments within the overhead area of the passenger compartment. Further, these special conditions do not negate the need to address other applicable part 25 regulations.

Due to the novel or unusual features associated with the installation of this OFAR compartment, special conditions are considered necessary to provide a level of safety equal to that established by the airworthiness regulations incorporated by reference in the type certificate.

Operational Evaluations and Approval

These special conditions outline requirements for overhead crew rest compartment design approvals, including the OFAR compartment, (i.e., type design changes and supplemental type certificates) administered by the FAA's Aircraft Certification Service.

Procedures must be developed to assure that a crewmember entering the OFAR compartment through the vestibule to fight a fire will examine the vestibule and the lavatory areas for the source of the fire prior to entering the remaining areas of the OFAR compartment. These procedures are intended to assure that the source of the fire is not between the crewmember and the primary exit. In the event a fire source is not immediately self-evident to the firefighter, the firefighter should check for potential fire sources at areas closest to the primary exit first, then proceed to check areas in such a manner that the fire source, when found, would not be between the firefighter and the primary exit. Procedures describing methods to search the overhead crew rests for fire source(s) must be transmitted to the operator for incorporation into its training programs and appropriate operational manuals.

Discussion of the Special Conditions

In general, the requirements listed in these special conditions are similar to those previously approved in earlier certification programs, such as the Model 777–200 series airplanes and Model 747 overhead crew rest compartments. These special conditions establish seating, communication, lighting, personal safety, and evacuation requirements for the OFAR compartment. In addition, passenger information signs, supplemental oxygen, and a seat or berth for each occupant of the OFAR compartment are required. These items are necessary because of turbulence and/or decompression. When applicable, the requirements parallel the existing requirements for a lower deck service compartment and provide an equivalent level of safety to that provided for main deck occupants.

On Model 777 series airplanes, crew rest compartments have been installed and certified in the main passenger cabin area, above the main passenger area, and below the passenger cabin area adjacent to the cargo compartment. Also, overhead crew rest compartments have been installed on Model 747 series airplanes.

The FAA issued special conditions that contain the additional safety standards that must be met for the OFAR compartments on Boeing Model 747 and 777 series airplanes. FAA Special Condition 25–ANM–16 was issued in 1987 to provide adequate safety standards for the 747–300 and 747–400 Door 5 Overhead Crew Rests, and amended in 1997 (25–ANM–16A) to address design changes in the 747–400 Door 5 Overhead Crew Rest. For Boeing Model 777 series airplanes, the FAA issued Special Conditions No. 25–230–SC, dated April 9, 2003, for overhead crew rest compartments allowed to be occupied during flight and Special Conditions No. 25–260–SC, dated April 14, 2004, for overhead flight crew rest (OFCR) compartments allowed to be occupied during taxi, take-off, and landing, as well as during flight.

Special Condition No. 1

This special condition requires the seats and berths to be certified to the maximum flight loads. Due to the location and configuration of the OFAR compartment, occupancy during taxi, take-off, and landing is prohibited, and occupancy is limited to crewmembers during flight. Occupancy would be limited to 12 in an OFAR compartment, or the combined total of approved seats and berths in the OFAR, whichever is less. This special condition has the requirements for:

- Door access and locking,
- Ashtray installation,
- Placards to prohibit passenger access,
- Access by crewmembers not trained in evacuation procedures,
- Smoking, and
- Hazardous quantities of flammable fluids, explosives, or other dangerous cargo.

The phrase "hazardous quantities" as used in this special condition permits trained crewmembers to continue to carry baggage containing minute quantities of flammable fluids (e.g., finger nail polish and aerosol hairspray) that would pose no threat to the airplane or its occupants. This wording is consistent with the existing wording of §§ 25.831(d), 25.855 (h)(2), 25.857 (b)(2), (c)(3) & (e)(4) and 25.1353(c)(3).

Special Condition No. 2

The purpose of this special condition is to prevent occupants from being trapped in the OFAR compartment if there is an emergency. The special condition requires at least two emergency evacuation routes that could be used by each occupant of the OFAR compartment to rapidly evacuate to the main cabin. These two routes must be sufficiently separated to minimize the possibility of an event rendering both routes inoperative. The main entry route meeting the appropriate requirements may be utilized as one of the emergency evacuation routes, or, as an alternative, two other emergency routes must be provided. The intent of Special Condition No. 2(b) is to ensure that one of the two routes would be clear of moving occupants under most foreseeable circumstances.

Special Condition No. 2(b) identifies the three issues that should be considered for egress routes. First, occupied passenger seats are not considered an impediment to the use of an egress route (for example, the egress route drops into one row of seats by means of a hatch) provided that the seated occupants do not inhibit the opening of the egress route (for example, a hatch).

Second, an egress route may utilize areas where normal movement of passengers occurs if it is demonstrated that the passengers would not impede egress to the main deck. If the egress means (a hatch in this design) opens into a main aisle, cross aisle, or galley complex to an extent that it contacts a standing ninety-fifth percentile male, then the contact should only momentarily interrupt the opening of the egress hatch. The interruption to the

egress means can be considered momentary if the egress means would continue to open normally once the person has moved out of the way.

Third, the escape hatch should be provided with a means to prevent it from being inadvertently closed by a passenger on the main deck. This will ensure main deck passengers can not prevent the overhead crew rest occupants from using the escape route. The crew should be able to stow the escape hatch prior to landing.

Training requirements for the OFAR compartment occupants are included in this special condition.

To clarify how compliance can be shown to Special Condition No. 2(a) new qualitative and quantitative criteria have been added to this special condition since the issuance of Special Conditions No. 25–192–SC.

Special Condition No. 3

This special condition requires each evacuation route to be designed for and have procedures established for moving an incapacitated person from the OFAR compartment to the main deck. Additional assistants to evacuate an incapacitated person may ascend up to one half the elevation change from the main deck to the OFAR compartment, or to the first landing, whichever is lower. Where the escape route is over seats, this special condition allows for five passenger seats to be emptied when demonstrating evacuation of an incapacitated person.

Special Condition No. 4

This special condition requires exit signs; placards for evacuation routes; and illumination for signs, placards, and door handles. This special condition allows the use of exit signs with a reduced background area. The material surrounding the sign must be light in color to more closely match and enhance the illuminated background of the sign that has been reduced in area (letter size stays the same). Signs with a reduced background area have been allowed under previous equivalent levels of safety for small transport executive jets.

Special Condition No. 5

This special condition requires an emergency lighting system to prevent the occupants from being isolated in a dark area due to loss of the normal OFAR compartment lighting. The emergency lighting must be activated under the same conditions as the main deck emergency lighting system.

Special Condition No. 6

This special condition requires a two-way voice communication and public address speaker(s) to alert the occupants of an in-flight emergency. Also required is a system to alert the OFAR compartment occupants of a decompression event and to don oxygen masks.

Special Condition No. 7

This special condition requires a means to inform occupants of the OFAR compartment of an emergency. Also, after certain failures, power must be maintained to the emergency alarm system for a specific period of time.

Special Condition No. 8

This special condition requires a means that is readily detectable by seated or standing OFAR compartment occupants to indicate when seat belts should be fastened. The requirement for visibility of the sign by standing occupants may be met by a general area sign that is visible to occupants standing in the main floor area or corridor of the OFAR compartment. It would not be essential that the sign be visible from every possible location in the OFAR compartment. However, the sign should not be remotely located or located where it may be easily obscured.

Special Condition No. 9

This special condition requires the OFAR compartment, which is remotely located from the passenger cabin, to be equipped with the following tools for firefighting: A hand-held fire extinguisher, protective breathing equipment (PBE), and a flashlight.

This requirement has been modified from previously issued Special Conditions No. 25–192–SC to clarify how it should be interpreted relative to the requirements of § 25.1439(a). Amendment 25–38 modified the requirements of § 25.1439(a) by adding, "In addition, protective breathing equipment must be installed in each isolated separate compartment in the airplane, including upper and lower lobe galleys, in which crewmember occupancy is permitted during flight for the maximum number of crewmembers expected to be in the area during any operation." The requirements of § 25.1439(a) apply to the OFAR compartment, which is an isolated separate compartment. However, the PBE requirements for isolated separate compartments of § 25.1439(a) are not appropriate because the OFAR compartment is novel and unusual in terms of the number of occupants. In 1976 when Amendment 25–38 was adopted, underfloor galleys were the only isolated compartments that had been certificated with a maximum of two crewmembers expected to occupy those galleys. Special Condition No. 9 addresses OFAR compartments that can accommodate up to 12 crewmembers. This large number of occupants in an isolated compartment was not envisioned at the time Amendment 25–38 was adopted. In the event of a fire, an occupant's first action should be to leave the confined space, unless the occupant(s) is fighting the fire. It is not appropriate for all OFAR compartment occupants to don PBE. Taking the time to don the PBE would prolong the time for an occupant's emergency evacuation and possibly interfere with efforts to extinguish the fire.

Special Condition No. 10

This special condition requires a smoke detection system and appropriate warnings since the OFAR compartment is remotely located from the main passenger cabin and will not always be occupied. The smoke detection system must be capable of detecting a fire in each occupiable area of the compartment created by the installation of a curtain or door.

Special Condition No. 11

This special condition requires the OFAR compartment to be designed so fires within the compartment can be controlled without having to enter the compartment; or, the design of the access provisions must allow crew equipped for firefighting to have unrestricted access to the compartment. The time for a crewmember on the main deck to react to the fire alarm, don firefighting equipment, and gain access must not exceed the time for the OFAR compartment to become smoke filled, making it difficult to locate the fire source.

Special Condition No. 12

This special condition requirement concerning fires within the compartment was developed for, and applied to, lower lobe crew rest compartments in Model 777–200 and –300 series airplanes. It was not applied to the overhead crew rest compartment in earlier certification programs such as the Model 747 airplanes. The Model 747 special conditions were issued before the new part 25 flammability requirements were developed. This requirement originated from a concern that a fire in an unoccupied overhead crew rest compartment could spread into the passenger compartment, or affect other vital systems, before it could be extinguished. This special condition would require either the installation of

a manually activated fire containment system that is accessible from outside the OFAR compartment, or a demonstration that the crew could satisfactorily perform the function of extinguishing a fire under the prescribed conditions. A manually activated built-in fire extinguishing system would be required only if a crewmember could not successfully locate and extinguish the fire during a demonstration where the crewmember is responding to the alarm.

The OFAR compartment smoke or fire detection and fire suppression systems (including airflow management features which prevent hazardous quantities of smoke or fire extinguishing agent from entering any other compartment occupied by crewmembers or passengers) is considered complex in terms of paragraph 6d of Advisory Circular (AC) 25.1309–1A, *System Design and Analysis*. In addition, the FAA considers failure of the OFAR compartment fire protection system (i.e., smoke or fire detection and fire suppression systems) in conjunction with an OFAR fire to be a catastrophic event. Based on the "Depth of Analysis Flowchart" shown in Figure 2 of AC 25.1309–1A, the depth of analysis should include both qualitative and quantitative assessments (reference paragraphs 8d, 9, and 10 of AC 25.1309–1A). In addition, it should be noted that hazardous quantities of flammable fluids, explosives, or other dangerous cargo are prohibited from being carried in the OFAR compartment, a prohibition addressed in Special Condition No. 1(a)(5).

The requirements to enable crewmember(s) to quickly enter the OFAR compartment and locate a fire source inherently places limits on the amount of baggage that may be carried and the size of the OFAR compartment. The OFAR compartment is limited to stowing crew personal luggage and is not intended for stowing cargo or passenger baggage. The design of such a system to include cargo or passenger baggage would require additional requirements to ensure safe operation.

During the one-minute smoke detection time, penetration of a small quantity of smoke from the OFAR compartment into an occupied area is acceptable for this airplane configuration. The FAA finds this acceptable based on the limitations placed in this and other associated special conditions. The FAA position is predicated on the fact that these special conditions place sufficient restrictions on the quantity and type of material allowed in crew carry-on bags that the threat from a fire in this remote area would be equivalent to that experienced in the main cabin.

Special Condition No. 13

This special condition requires that the oxygen equipment and a supplemental oxygen deployment warning for the OFAR compartment be equivalent to that provided for main deck passengers. Procedures must be established for OFAR compartment occupants to follow in the event of decompression.

Special Condition No. 14

This special condition has the requirements for a divided OFAR compartment to address supplemental oxygen equipment and deployment means, signs, placards, curtains, doors, emergency illumination, alarms, seat belt fasten signals, and evacuation routes.

The wording in Special Condition No. 14(a) was modified from previously issued special conditions to clarify that oxygen masks are not required in common areas where seats or berths are not installed. A visual indicator to don oxygen masks is required in these areas. The visual indicator is in addition to the aural alert for donning oxygen masks.

Special Condition No. 15

For lavatories or other small areas within an OFAR compartment, this special condition eliminates the requirements for flight deck communication as required by Special Condition No. 6, and emergency fire fighting and protective equipment as required by Special Condition No. 9.

Special Condition No. 16

This special condition requires a fitted waste disposal receptacle to be equipped with an automatic fire extinguisher.

Special Condition No. 17

This special condition requires the materials in the OFAR compartment to meet the flammability requirements of § 25.853(a), and the mattresses and seat cushions to meet the fire blocking requirements of § 25.853(c).

Special Condition No. 18

To clarify the applicability, this special condition reiterates the existing requirements for the main deck lavatory. OFAR compartment lavatories are required to comply with the existing rules on lavatories in the absence of other specific requirements. In addition, any lavatory located in the OFAR compartment must also meet the requirements of Special Condition No. 10 for smoke detection due to its placement in this remote area.

Special Condition No. 19

This special condition requires establishing fire protection procedures for the OFAR compartment based on the size of the compartment (compartment interior volume). This special condition has been revised from previously issued special conditions for other model airplanes because of the introduction of larger stowage compartments into the OFAR compartment. The fire protection requirements for stowage compartments in the OFAR compartment are more stringent than those for stowage in the main passenger cabin because the OFAR compartment is a remote area that can remain unoccupied for long periods of time in contrast to the main cabin that is under continuous monitoring by the cabin crew and passengers. For stowage compartments less than 25 ft^3 the safety objective of these requirements is to contain the fire. FAA research indicates that properly constructed compartments meeting the material requirements will prevent burn through. For stowage compartments greater than 25 ft^3 but less than 200 ft^3 the safety objective is to detect and contain the fire for sufficient time to allow it to be extinguished by the crew. The requirements for these sizes of compartments are comparable to the requirements for Class B cargo compartments. The fire protection requirements are intended to provide a level of safety for the OFAR compartment that is equivalent to the level of safety established by the existing regulations for the main cabin.

These special conditions along with the original type certification basis provide the regulatory requirements necessary for certification of this modification. Other special conditions may be developed, as needed, based on further FAA review and discussions with the applicant, manufacturer, and civil aviation authorities.

The addition of galley equipment or a kitchenette incorporating a heat source (e.g., cook tops, microwaves, or coffee pots), other than a conventional lavatory or kitchenette hot water heater, within the OFAR compartment, may require additional special conditions. A hot water heater is acceptable and will not require issuing additional special conditions.

The OFAR compartment on the 747–8 series airplanes is located above the main passenger cabin adjacent to door 5 and will be accessed from the main deck by stairs. The OFAR compartment will include a maximum of 10 berths and a bench style seat for a maximum

occupancy of 12. An emergency hatch that opens directly into the main passenger cabin area will be provided. A smoke detection system, an oxygen system with audio warning, emergency backup lighting, information signs, and occupant amenities will also be provided. Additionally, the OFAR compartment will only be occupied by trained crew members in flight, not during taxi, take-off, or landing.

Applicability

As discussed above, these special conditions are applicable to Boeing Model 747–8 series airplanes. Should Boeing apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design features, the special conditions would apply to that model as well under the provisions of § 21.101.

Certification of the Boeing Model 747–8 is currently scheduled for November 2011. The substance of these special conditions has been subject to the notice and public-comment procedure in several prior instances. Therefore, because a delay would significantly affect both the applicant's installation of the system and certification of the airplane, we are shortening the public-comment period to 20 days.

Conclusion

This action affects only certain novel or unusual design features of the Boeing Model 747–8 airplane. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

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

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special condition as part of the type certification basis for the Boeing Model 747–8 airplane.

1. Occupancy of the overhead flight attendant rest (OFAR) compartment is limited to the total number of bunks and seats installed in that compartment. There must be an approved seat or berth able to withstand the maximum flight loads when occupied for each occupant permitted in the OFAR compartment. The maximum occupancy is twelve.

(a) Appropriate placards must be located inside and outside each entrance to the OFAR compartment to indicate:

(1) The maximum number of occupants allowed.

(2) Occupancy is restricted to crewmembers that are trained in the evacuation procedures for the overhead crew rest compartment.

(3) Occupancy is prohibited during taxi, take-off and landing.

(4) Smoking is prohibited in the OFAR compartment.

(5) Stowage in the OFAR compartment area is limited to crew personal luggage. The stowage of cargo or passenger baggage is not allowed.

(b) At least one ashtray must be located on both the inside and the outside of any entrance to the OFAR compartment.

(c) Passengers must be prevented from entering the OFAR compartment in the event of an emergency or when no flight attendant is present.

(d) Any door installed between the OFAR compartment and passenger cabin must be capable of being quickly opened from inside the compartment, even when crowding occurs at each side of the door.

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

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

(a) The routes must be located with sufficient separation within the OFAR compartment, and between the evacuation routes, to minimize the possibility of an event rendering both routes inoperative.

Compliance with the requirements of Special Condition No. 2(a) may be shown by inspection or analysis. Regardless of which method is used, the maximum acceptable distance between exit openings is 60 feet.

Compliance by Inspection

Inspection may be used to show compliance with Special Condition No. 2(a). An inspection finding that an OFAR compartment has evacuation routes located such that each occupant of the seats and berths has an unobstructed route to at least one of the evacuation routes regardless of the location of a fire would be reason for a finding of compliance. A fire within a berth that only blocks the occupant of that berth from exiting the berth need not be considered. Therefore, exits which are located at opposite ends (i.e., adjacent to opposite end walls) of the OFAR would require no further review or analysis with regard to exit separation.

Compliance by Analysis

Analysis must show that the OFAR compartment configuration and interior features allow all occupants of the OFAR to escape the compartment in the event of a hazard inside or outside of the compartment. Elements to consider in this evaluation are:

(1) Fire inside or outside the OFAR compartment, considered separately, and the design elements used to reduce the available fuel for the fire.

(2) Design elements to reduce the fire ignition sources in the OFAR compartment.

(3) Distribution and quantity of emergency equipment within the OFAR compartment.

(4) Structural failure or deformation of components that could block access to the available evacuation routes (e.g., seats, folding berths, and contents of stowage compartments).

(5) An incapacitated person blocking the evacuation routes.

(6) Any other foreseeable hazard not identified above that could cause the evacuation routes to be compromised.

Analysis must consider design features affecting access to the evacuation routes. The design features that should be considered include, but are not limited to,

- Seat back break over,
- Elimination of rigid structure that reduces access from one part of the compartment to another,
- The elimination of items that are known to cause hazards,
- The availability of emergency equipment to address fire hazards,
- The availability of communications equipment,
- Supplemental restraint devices to retain items of mass that could hinder evacuation if broken loose, and
- Load path isolation between components that contain the evacuation routes.

Analysis of the fire threats should be used in determining the placement of required fire extinguishers and protective breathing equipment (PBE). This analysis should take into consideration the possibility of fire in any location in the OFAR compartment. The location and quantity of PBE and fire extinguishers should allow occupants located in any approved seats or berths access to the equipment

necessary to fight a fire in the OFAR compartment.

The intent of this special condition is to provide sufficient exit separation. The exit separation analysis described above should not be used to approve exits which have less physical separation (measured between the centroid of each exit opening) than the minimums prescribed below, unless compensating features are identified and submitted to the FAA for evaluation and approval.

For OFAR compartments with one exit located near the forward or aft end of an OFAR compartment (as measured by having the centroid of the exit opening within 20 percent of the total OFAR compartment length from the forward or aft end of the compartment) the exit separation should not be less than 50 percent of the total OFAR compartment length.

For OFAR compartments with neither required exit located near the forward or aft end of the OFAR compartment (as measured by having the centroid of the exit opening within 20 percent of the total OFAR compartment length from the forward or aft end of the compartment) the exit separation should not be less than 30 percent of the total OFAR compartment length.

(b) The routes must be designed to minimize the possibility of blockage, which might result from fire, mechanical or structural failure, or persons standing below or against the escape route. One of the two evacuation routes should not be located where, during times when occupancy is allowed, normal movement by passengers occurs (i.e., main aisle, cross aisle or galley complex) that would impede egress from the OFAR compartment. If an evacuation route is in an area where normal movement of passengers occurs, it must be demonstrated that passengers would not impede egress to the main deck. If there is low headroom at or near the evacuation route, provisions must be made to prevent or to protect occupants of the OFAR compartment from head injury. The use of evacuation routes must not depend on any powered device. If the evacuation path is over an area where there are passenger seats, a maximum of five passengers may be temporarily displaced from their seats when evacuating an incapacitated person(s). If the evacuation procedure involves the evacuee stepping on seats, the seats must not be damaged to the extent that they would not be acceptable for occupancy during an emergency landing.

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

(d) A limitation must be included in the airplane flight manual or other suitable means requiring that crewmembers be trained in the use of evacuation routes.

3. There must be a means for evacuating an incapacitated person (representative of a ninety-fifth percentile male) from the OFAR compartment to the passenger cabin floor. The evacuation must be demonstrated for all evacuation routes. A crewmember (a total of one assistant within the OFAR compartment) may provide assistance in the evacuation. Additional assistance may be provided by up to three persons in the main passenger compartment. These additional assistants must be standing on the floor while providing assistance. For evacuation routes with stairways, the additional assistants may ascend up to one half the elevation change from the main deck to the OFAR compartment, or to the first landing, whichever is lower.

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

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

(b) An appropriate placard located conspicuously on or near each exit defining the location and operating instructions for each evacuation route.

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

(d) The evacuation path operating instruction placards required by Special Condition 4(b) of these special conditions must be illuminated to at least 160 microlamberts under emergency lighting conditions.

5. A means must be available, in the event of failure of the airplane's main power system, or of the normal OFAR compartment lighting system, for emergency illumination to be automatically provided in the OFAR compartment.

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

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

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

6. A means must be available for two-way voice communications between crewmembers on the flight deck and occupants of the OFAR compartment. Two-way voice communications must also be available between the occupants of the OFAR compartment and each flight attendant station in the passenger cabin that is required to have a public address system microphone per § 25.1423(g). In addition, the public address system must include provisions to provide only the relevant information to the flight attendants in the OFAR compartment (e.g., fire in flight, airplane depressurization, or preparation of the compartment occupants for landing).

7. A means must be available for manually activating an aural emergency alarm system, audible during normal and emergency conditions, to enable crewmembers on the flight deck and at each pair of required floor level emergency exits to alert occupants of the OFAR compartment of an emergency situation. Use of a public address or crew interphone system is acceptable, provided an adequate means of differentiating between normal and emergency communications is incorporated. The system must be powered in flight for at least 10 minutes after the shutdown or failure of all engines and auxiliary power units (APUs).

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

9. In lieu of the requirements specified in § 25.1439(a) pertaining to isolated compartments, and to provide a level of safety equivalent to that provided to occupants of an isolated galley, the following equipment must be provided in the OFAR compartment:

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

(b) Two PBE devices suitable for firefighting, or one PBE for each hand-held fire extinguisher, whichever is greater. All PBE devices must be approved to Technical Standard Order (TSO)–C116, *Crewmember Portable Protective Breathing Equipment,* or equivalent.

(c) One flashlight.

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

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

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

(b) An aural warning in the OFAR compartment.

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

11. A means to fight a fire must be provided. This can be either a built-in extinguishing system or manual, hand-held bottle extinguishing system.

(a) For a built-in extinguishing system:

(1) The system must have adequate capacity to suppress a fire considering the fire threat, compartment volume, and ventilation rate. The system must have sufficient extinguishing agent to provide an initial knockdown and suppression environment per the minimum performance standards established for the agent being used.

(2) If the capacity of the extinguishing system does not provide effective fire suppression that will last for the duration of flight from the farthest point in route to the nearest suitable landing site expected in service, an additional manual firefighting procedure must be established. For a built-in extinguishing system, the time needed for effective fire suppression must be established and documented in the firefighting procedures of the airplane flight manual. If the duration of time for demonstrated effective fire suppression provided by the built-in extinguishing agent will be exceeded, the firefighting procedures must instruct the crew to:

(i) Enter the OFAR compartment at the time that demonstrated fire suppression effectiveness will be exceeded.

(ii) Check for and extinguish any residual fire.

(iii) Confirm that the fire is out.

(b) For a manual, hand-held bottle extinguishing system (designed as the sole means to fight a fire or to supplement a built-in extinguishing system of limited suppression duration) for the OFAR compartment:

(1) A limitation must be included in the airplane flight manual or other suitable means requiring that crewmembers be trained in the firefighting procedures.

(2) The compartment design must allow crewmembers equipped for firefighting to have unrestricted access to all parts of the compartment.

(3) The time for a crewmember on the main deck to react to the fire alarm, don the firefighting equipment, and gain access to the OFAR compartment must not exceed the time for the compartment to become smoke-filled, making it difficult to locate the fire source.

(4) Approved procedures describing methods for searching the OFAR compartment for fire source(s) must be established. These procedures must be transmitted to the operator for incorporation into its training programs and appropriate operational manuals.

12. A means must be provided to prevent hazardous quantities of smoke or extinguishing agent originating in the OFAR compartment from entering any other compartment occupied by crewmembers or passengers. This means must include the time periods during the evacuation of the OFAR compartment and, if applicable, accessing the OFAR compartment to manually fight a fire. When access to the OFAR compartment is open for emergency evacuation all smoke entering any other compartment occupied by crewmembers or passengers must dissipate within five minutes after access to the OFAR compartment is closed. Hazardous quantities of smoke may not enter any other compartment occupied by crewmembers or passengers during access to manually fight a fire in the OFAR compartment. The amount of smoke entrained by a firefighter exiting the OFAR compartment is not considered hazardous. During the one-minute smoke detection time, penetration of a small quantity of smoke from the OFAR into an occupied area is acceptable. Flight tests must be conducted to show compliance with this requirement.

(a) A provision in the firefighting procedures must ensure that all door(s) and hatch(es) at the OFAR compartment outlets are closed after the compartment is evacuated and during firefighting to minimize smoke and extinguishing agent from entering other occupiable compartments.

(b) If a built-in fire extinguishing system is used in lieu of manual firefighting, the fire extinguishing system must be designed so no hazardous quantities of extinguishing agent enter other compartments occupied by passengers or crew. The system must have adequate capacity to suppress any fire occurring in the OFAR compartment, considering the fire threat, compartment volume, and ventilation rate.

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

14. The following requirements apply to OFAR compartments divided into several sections by installing curtains or partitions:

(a) To compensate for sleeping occupants, there must be an aural alert that can be heard in each section of the OFAR compartment that accompanies automatic presentation of supplemental oxygen masks. A visual alert that informs occupants that they must don oxygen masks is required in each section where seats or berths are not installed. Each seat or berth must have at least two supplemental oxygen masks. A means must be in place by which oxygen masks can be manually deployed from the flight deck.

(b) A placard is required adjacent to each curtain that visually divides or separates, for privacy purposes, the OFAR compartment into multiple sections. The placard must require that the curtain(s) remains open when the private section it creates is unoccupied. The vestibule section adjacent to the stairway is not considered a private section and, therefore, does not require a placard.

(c) For each section of the OFAR compartment created by the installation of a curtain, the following requirements must be met with the curtain open or closed:

(1) No smoking placard (Special Condition No. 1).

(2) Emergency illumination (Special Condition No. 5).

(3) Emergency alarm system (Special Condition No. 7).

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

(5) A smoke or fire detection system (Special Condition No. 10).

(d) OFAR compartments that are visually divided to the extent that evacuation could be affected must have exit signs directing occupants to the primary stairway exit. The exit signs must be provided in each separate section of the OFAR compartment, except for curtained bunks, and must meet the requirements of § 25.812(b)(1)(i).

(e) Sections within an OFAR compartment created by installing a rigid partition with a door physically separating the sections, must meet the following requirements with the door open or closed:

(1) A secondary evacuation route from each section to the main deck, or the applicant must show that any door between the sections precludes anyone from being trapped inside the compartment. Removing an incapacitated occupant from this area must be considered. A secondary evacuation route from a small room designed for only one occupant for a short period of time, such as a changing area or lavatory, is not required. However, removing an incapacitated occupant from a small room, such as a changing area or lavatory, must be considered.

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

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

(4) Each section must have exit signs that meet the requirements of § 25.812(b)(1)(i) and direct occupants to the primary stairway exit. An exit sign with reduced background area as described in Special Condition No. 4(a) may be used to meet this requirement.

(f) For each section of the OFAR compartment created by the installation of a partition with a door, the following requirements must be met with the door open or closed:

(1) No smoking placards (Special Condition No. 1).

(2) Emergency illumination (Special Condition No. 5).

(3) Two-way voice communication (Special Condition No. 6).

(4) Emergency alarm system (Special Condition No. 7).

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

(6) Emergency firefighting and protective equipment (Special Condition No. 9).

(7) Smoke or fire detection system (Special Condition No. 10).

15. Special Conditions 6 (two-way voice communication with the flight deck) and 9 (emergency firefighting and protective equipment) are not applicable to lavatories or other small areas that are not intended to be occupied for extended periods of time.

16. If a waste disposal receptacle is fitted, it must be equipped with an automatic fire extinguisher that meets the performance requirements of § 25.854(b).

17. Materials (including finishes or decorative surfaces applied to the materials) must comply with the flammability requirements of § 25.853(a), as amended by Amendment 25–83. Mattresses and seat cushions must comply with the flammability requirements of § 25.853(c), as amended by Amendment 25–83.

18. The addition of a lavatory within the OFAR compartment would require the lavatory to meet the same requirements as those for a lavatory installed on the main deck except with regard to Special Condition No. 10 for smoke detection.

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

DESIGN CRITERIA FOR ENCLOSED STOWAGE COMPARTMENTS NOT LIMITED TO STOWAGE OF EMERGENCY OR AIRPLANE-SUPPLIED EQUIPMENT

Fire protection features	Stowage compartment interior volumes		
	Less than 25 cubic feet	25 cubic feet to 57 cubic feet	57 cubic feet to 200 cubic feet
Materials of Construction [1]	Yes	Yes	Yes.
Detectors [2]	No	Yes	Yes.
Liner [3]	No	Conditional	Yes.
Locating Device [4]	No	Yes	Yes.

[1] Compliant Materials of Construction

The material used in constructing each enclosed stowage compartment must at least be fire resistant and must meet the flammability standards established for interior components (i.e., 14 CFR part 25 Appendix F, parts I, IV, and V) per the requirements of § 25.853. For compartments less than 25 ft^3 in interior volume, the design must ensure the ability to contain a fire likely to occur within the compartment under normal use.

[2] Smoke or Fire Detectors

Enclosed stowage compartments equal to or exceeding 25 ft^3 in interior

volume must be provided with a smoke or fire detection system to ensure that a fire can be detected within a one-minute detection time. Flight tests must be conducted to show compliance with this requirement. Each system (or systems) must provide:

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

(b) An aural warning in the OFAR compartment.

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

[3] *Liner*

If material used in constructing the stowage compartment can be shown to meet the flammability requirements of a liner for a Class B cargo compartment (i.e., § 25.855 at Amendment 25–93, and Appendix F, part I, paragraph (a)(2)(ii)), then no liner would be required for enclosed stowage compartments equal to or greater than 25 ft^3 in interior volume but less than 57 ft^3 in interior volume. For all enclosed stowage compartments equal to or greater than 57 ft^3 in interior volume but less than or equal to 200 ft^3, a liner must be provided that meets the requirements of § 25.855 for a Class B cargo compartment.

[4] *Fire Location Detector*

If an OFAR compartment has enclosed stowage compartments exceeding 25 ft^3 interior volume that are located separately from the other stowage compartments (for example, away from one central location, such as the entry to the OFAR compartment or a common area within the OFAR compartment) that compartment would require additional fire protection features and/or devices to assist the firefighter in determining the location of a fire.

Issued in Renton, Washington, on May 3, 2011.

KC Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

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BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM455; Notice No. 25–11–12–SC]

Special Conditions: Boeing, Model 747–8 Series Airplanes; Door 1 Extendable Length Escape Slide

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for the Boeing Model 747–8 airplane. This airplane will have a novel or unusual design feature(s) associated with an extendable length escape slide. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: We must receive your comments by May 31, 2011.

ADDRESSES: You must mail two copies of your comments to: Federal Aviation Administration, Transport Airplane Directorate, *Attn:* Rules Docket (ANM–113), Docket No. NM455, 1601 Lind Avenue, SW., Renton, Washington, 98057–3356. You may deliver two copies to the Transport Airplane Directorate at the above address. You must mark your comments: Docket No. NM455. You can inspect comments in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Jayson Claar, FAA, Airframe and Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington, 98057–3356; telephone (425) 227–2194; facsimile (425) 227–1232.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

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

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

Background

On November 4, 2005, The Boeing Company applied for an amendment to Type Certificate Number A20WE to include the Model 747–8 series passenger airplane. The Model 747–8 is a derivative of the 747–400. The Model 747–8 is a four-engine jet transport airplane that will have a maximum takeoff weight of 975,000 pounds, new General Electric GEnx–2B67 engines, and the capacity to carry 605 passengers.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.17, Boeing must show that the Model 747–8 (hereafter referred as 747–8) meets the applicable provisions of part 25, as amended by Amendments 25–1 through 25–120 plus Amendment 25–127 for § 25.765(a), except for earlier amendments as agreed upon by the FAA. These regulations will be incorporated into Type Certificate No. A20WE after type certification approval of the 747–8.

In addition, the certification basis includes other regulations, special conditions, and exemptions that are not relevant to these proposed special conditions. Type Certificate No. A20WE will be updated to include a complete description of the certification basis for these airplanes.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the 747–8 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for the model be amended later to include any other model or series that incorporates the same design feature, or should any other model or series already included on the same type certificate be modified to incorporate the same or similar novel or unusual design feature, the special conditions would also apply to other model or series under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the 747–8 must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

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

Novel or Unusual Design Features

The Boeing Model 747–8 will incorporate the following novel or unusual design features: The 747–8 design offers seating capacity on two separate decks, the main deck with a maximum passenger capacity of 495 and the upper deck with a maximum passenger capacity of 110. Section 25.810(a)(1)(iii) requires that after full deployment the emergency escape system assist means must be long enough so that the lower end is self-supporting on the ground and provides safe evacuation of occupants to the ground after collapse of one or more legs of the landing gear. Typically, airplanes have fixed-length slides that meet the above requirements. However, it was not possible to use fixed-length slides for the 747–8 Door 1 because of the difference between normal sill height and the high-sill height associated with collapse of some of the landing gear in an emergency. Some combinations of landing gear collapse could cause the airplane to tip back on its tail. The 747–8 Door 1 escape slide is an extendable length design to meet the gear collapse and tail tip conditions. The regulations do not adequately address the certification requirements for an extended length escape slide.

Discussion

The regulations governing the certification of the 747–8 do not adequately address the certification requirements for an extendable length escape slide. The only reference to extendable length escape slides in Technical Standard Order (TSO) C69c, Emergency Evacuation Slides, Ramps, Ramp/Slides, and Slide/Rafts, is in the inflation time requirement section. The requirements of § 25.801(a)(1)(iii) for other airplanes has been addressed by a single length escape slide. However, for the 747–8 Door 1, it was not possible to have a single length escape slide because of the extreme difference in sill heights between normal sill height and high-sill height associated with collapse of some of the landing gear, and the additional case of the airplane tipping back on its tail. For Door 1, the normal sill height is approximately 187 inches, and the high-sill height is approximately 346 inches.

The proposed design of the extendable length escape system has an approximately 12 foot long extension packed at the toe end of the escape slide. During normal operation, the extension portion remains packed at the toe end. The airplane is equipped with an electronic sensor that evaluates the attitude of the airplane, and determines if the extendable portion is needed. When the extended length is needed, the system sends a signal to an electronic sign on the door to indicate to the flight attendant that the extendable length of the slide needs to be inflated. The extendable length inflation system is activated by pulling on a separate inflation handle located on the right side of the slide girt.

The Airbus A380 airplane has an extendable length slide and the FAA issued Special Conditions Number 25–323–SC to address the installation of the extendable length escape slide in that airplane. These previously issued special conditions provide a starting point for developing special conditions for the 747–8 airplane, which consider and evaluate the unique aspects of this airplane's design.

The extension is intended only for use at high-sill heights. A typical fixed-length slide operating at high-sill height does not satisfy all of the performance requirements of § 25.810, but its variations in performance are understood and largely predictable. Certain performance criteria are valid regardless of sill height, while other aspects of performance can be expected to decline at higher sill heights. With an extendable slide, there is a step change in configuration and potentially a change in performance. Therefore, special conditions are needed to ensure acceptable performance in the extended mode.

Section 25.810 specifies the basic performance requirements for escape slides, including wind testing, repeatability testing, and testing at adverse sill heights. Section 25.1309(a) requires systems to perform under foreseeable operating conditions, such as extreme temperatures, and demonstrate that the system design is appropriate for its intended function. Standards for the equipment itself are in TSO–C69c and contribute to a satisfactory installation.

Typically, wind tests are only conducted on fixed-length slides at normal sill height. Since the regulations require that the escape slides have the capability of being deployed in 25-knot winds directed from the most critical angle, escape slides usually exceed 25 knot performance at other than the critical angle. The same is expected to be true of the slide in its extended mode, but some reduction in the required wind velocity is appropriate since the slide will be in an abnormal condition. Available data indicate that the capability of being deployed in 22-knot winds is appropriate to cover the slide in its extended mode at normal sill height. This corresponds to roughly 75% of the wind energy required for the slide in its normal attitude and will ensure that the slide can function in its extended mode at least as well as a fixed-length slide under similar abnormal conditions.

These special conditions also specify a rate for passenger evacuation that is consistent with that of fixed-length escape slides.

Applicability

As discussed above, these special conditions are applicable to the Boeing Model 747–8 airplane. Should Boeing apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101.

Certification of the Boeing Model 747–8 is currently scheduled for November 2011. The substance of these special conditions has been subject to the notice and public-comment procedure in several prior instances. Therefore, because a delay would significantly affect both the applicant's installation of the system and certification of the airplane, we are shortening the public-comment period to 20 days.

Conclusion

This action affects only certain novel or unusual design features of the Boeing Model 747–8 airplane. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

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

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for the Boeing Model 747–8 airplanes.

In addition to the provisions of 14 CFR part 25, the following special conditions are proposed:

1. The extendable escape slide must receive TSO–C69c or latest TSO authorization published at the time of TSO application for the Door 1 Slide.

2. In addition to the requirements of § 25.810(a)(1)(iii) for usability in conditions of landing gear collapse, the deployed escape slide in the extended mode must demonstrate an evacuation rate of 45 persons per minute per lane at the sill height corresponding to activation of the extension.

3. In lieu of the requirements of § 25.810(a)(1)(iv), the escape slide with the extendable section activated must be capable of being deployed in 22-knot winds directed from the critical angle, with the airplane on all its landing gear, with the assistance of one person on the ground. Two deployment scenarios must be addressed as follows:

(a) Extendable section is activated during the inflation time of the basic slide and,

(b) Extendable section is activated after the basic slide is completely inflated.

4. Pitch sensor tolerances and accuracy must be taken into account when demonstrating compliance with § 25.1309(a) for the escape slide in both extended and unextended modes.

5.(a) There must be a "slide extension" warning such that the cabin crew is immediately made aware of the need to deploy the extendable section of the slide. The ability to provide such a warning must be available for ten minutes after the airplane is immobilized on the ground.

(b) There must be a positive means for the cabin crew to determine that the extendable portion of the slide has been fully erected.

6. Whenever passengers are carried on the main deck of the airplane, there must be a cabin crewmember stationed on each side of the airplane located near each Door 1 Exit. This special condition must be included in the airplane flight manual as a limitation.

Issued in Renton, Washington, on May 3, 2011.

KC Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0088; Directorate Identifier 2010–CE–072–AD]

RIN 2120–AA64

Airworthiness Directives; Embraer—Embraer—Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–500 Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Supplemental notice of proposed rulemaking (NPRM); extension of the comment period.

SUMMARY: We are revising an earlier NPRM for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

It has been found that moisture may accumulate and freeze, under certain conditions, in the gap between the AOA vane base assembly and the stationary ring of the sensor's body. If freezing occurs both AOA sensors may get stuck and the Stall Warning Protection System (SWPS) will be no longer effective without alerting. This may result in inadvertent aerodynamic stall and loss of controllability of the airplane.

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by June 24, 2011.

ADDRESSES: You may send comments 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:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact EMBRAER Empresa Brasileira de Aeronáutica S.A., Phenom Maintenance Support, Av. Brig. Faria Lima, 2170, Sao Jose dos Campos—SP, CEP: 12227–901—PO Box: 36/2, Brasil; *telephone:* ++55 12 3927–5383; *fax:* ++55 12 3927–2619; *E-mail: phenom.reliability @embraer.com.br;* Internet: *http://www.embraer.com.br.* 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 (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; *telephone:* (816) 329–4165; *fax:* (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2011–0088; Directorate Identifier 2010–CE–072–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 proposed to amend 14 CFR part 39 with an earlier NPRM for the specified products, which was published in the **Federal Register** on January 31, 2011 (76 FR 5298). That earlier NPRM proposed to require actions intended to address the unsafe condition for the products listed above.

Since that NPRM was issued, EMBRAER issued new service information that adds actions to inspect the sensor area and apply sealant around the sensors and also adds additional airplanes to the applicability.

The Agência Nacional de Aviação Civil—Brazil (ANAC), which is the aviation authority for Brazil, has issued Notice of Proposed Regulation (NPR) NPR/AD 2011–500–02, dated March 31, 2011, to add additional information from the revised service information to correct an unsafe condition for the specified products. The NPR states:

> It has been found that moisture may accumulate and freeze, under certain conditions, in the gap between the AOA vane base assembly and the stationary ring of the sensor's body. If freezing occurs both AOA sensors may get stuck and the Stall Warning Protection System (SWPS) will be no longer effective without alerting. This may result in inadvertent aerodynamic stall and loss of controllability of the airplane.
> Since this condition may occur in other airplanes of the same type and affects flight safety, a corrective action is required. Thus, sufficient reason exists to request compliance with this AD in the indicated time limit.

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

Relevant Service Information

Embraer—Empresa Brasileira de Aeronautica S.A. has issued PHENOM Service Bulletin SB No.: 500–27–0006, Revision No.: 02, dated January 14, 2011. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

Comments

We have considered the following comments received on the earlier NPRM.

Service Information Revision

Embraer commented that new requirements to inspect the sensor area and apply sealant around the interface between the angle of attack (AOA) covers and the new AOA sensors were included in a revision to the service information referenced in the earlier NPRM. If the new requirements in the revised service information were not included in the proposed NPRM action, the new AOA sensors could be subject to the same behavior as the old AOA sensors. Embraer suggests changing the proposed NPRM to include the actions and procedures required by the new revised service information.

We agree with this comment. If we do not incorporate the additional actions and procedures required by the revised service information, moisture could still accumulate and freeze, under certain conditions, in the gap between the new AOA vane base assembly and the stationary ring of the new sensor's body. This condition could cause the sensors to get stuck and cause the Stall Warning Protection System to no longer be effective. We propose the use of PHENOM Service Bulletin SB No.: 500–27–0006, Revision No.: 02, dated January 14, 2011, which incorporates the actions previously proposed and adds additional actions and procedures to require inspecting the sensor area and applying sealant around the interface between the AOA covers and the AOA sensors.

FAA's Determination and Requirements of the Proposed AD

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

Certain changes described above expand the scope of the earlier NPRM. As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on the proposed AD.

Differences Between This Proposed AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a Note within the proposed AD.

Costs of Compliance

We estimate that this proposed AD will affect 101 products of U.S. registry.

We estimate that 85 products of U.S. registry would require the modification and that it would take about 9.5 work-hours per product to comply with the modification requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $1,550 per product.

Based on these figures, we estimate the cost of the modification requirement of the proposed AD on U.S. operators to be $200,387.50, or $2,357.50 per product.

We estimate that 101 products of U.S. registry would require an inspection for sealant application. We estimate it would take .5 hours to comply with the inspection requirements of this proposed AD.

Based on these figures, we estimate the cost of the inspection for the sealant application requirement of the proposed AD on U.S. operators to be $4,292.50, or $42.50 per product.

In addition, we estimate that any necessary follow-on actions would take about 1.5 work-hours and require parts costing $50, for a cost of $177.50 per product. We have no way of determining the number of products that may need these actions.

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); and

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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 AD:

Embraer—Empresa Brasileira de Aeronautica S.A.: Docket No. FAA–2011–0088; Directorate Identifier 2010–CE–072–AD.

Comments Due Date

(a) We must receive comments by June 24, 2011.

Affected ADs

(b) None.

Applicability

(c) This AD applies to the following airplanes, certificated in any category:

(1) *Group 1 airplanes*

Group 1 includes Empresa Brasileira de Aeronautica S.A. (EMBRAER) EMB–500 airplanes, serial numbers 50000005 through 50000119, 50000121 through 50000130, 50000132 through 50000134, 50000136, 50000137, 50000139, 50000141 through 50000158, 50000160 through 50000162, 50000164, 50000165, 50000167 through 50000175, 50000177, and 50000178, that are equipped with Angle of Attack (AOA) sensors, part number (P/N) C–100117–2 and cover plates P/N 500–01702–401 and/or P/N 500–01702–402.

(2) *Group II airplanes*

Group II includes Empresa Brasileira de Aeronautica S.A. (EMBRAER) EMB–500 airplanes, serial numbers 50000005 through 50000217, 50000219 through 50000221, and 50000226.

Note 1: In-production effectivity—Empresa Brasileira de Aeronautica S.A. (EMBRAER) EMB–500 airplanes, serial numbers 500000218, 50000222 through 50000225, 50000227, and on, have incorporated the proposed actions of this AD at the factory and are not included in the applicability of this AD.

Subject

(d) Air Transport Association of America (ATA) Code 27: Flight Controls.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

It has been found that moisture may accumulate and freeze, under certain conditions, in the gap between the AOA vane base assembly and the stationary ring of the sensor's body. If freezing occurs both AOA sensors may get stuck and the Stall Warning Protection System (SWPS) will be no longer effective without alerting. This may result in inadvertent aerodynamic stall and loss of controllability of the airplane.

Since this condition may occur in other airplanes of the same type and affects flight safety, a corrective action is required. Thus, sufficient reason exists to request compliance with this AD in the indicated time limit.

The MCAI requires replacement of both Angle of Attack (AOA) sensors and cover plates, inspection of the sensor area, and, if needed, application of sealant between the AOA covers and the AOA sensors.

Actions and Compliance

(f) Unless already done, do the following actions:

(1) For *Group I airplanes:* Within 300 hours time-in-service (TIS) after the effective date of this AD or within 12 months after the effective date of this AD, whichever comes first, do the following actions following part I of PHENOM Service Bulletin SB No.: 500–27–0006, Revision No.: 02, dated January 14, 2011:

(i) Replace the left hand (LH) and the right hand (RH) AOA sensors P/N C–100117–2 with LH and RH AOA sensors P/N C–100117–3.

(ii) Replace the LH cover plate P/N 500–01702–401 and the RH cover plate P/N 500–01702–402 with LH cover plate P/N 500–01702–403 and RH cover plate P/N 500–01702–404.

(iii) If, before the effective date of this AD, the replacement actions required in paragraphs (f)(1)(i), and (ii) of this proposed AD have already been done following PHENOM Service Bulletin SB No.: 500–27–0006, dated September 2, 2010, and/or PHENOM Service Bulletin SB No.: 500–27–0006, Revision No.: 01, dated November 29, 2010, we will allow "unless already done" credit for corrective actions already done.

(4) *For group I and group II airplanes:* Within 300 hours TIS after the effective date of this AD or within 12 months after the effective date of this AD, whichever comes first, inspect the interface between the AOA covers and the AOA sensors, and, if the sealant is missing, clean the areas and apply new sealant following part II of PHENOM Service Bulletin SB No.: 500–27–0006, Revision No.: 02, dated January 14, 2011.

FAA AD Differences

Note 2: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to *Attn:* Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; *telephone:* (816) 329–4165; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

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

Related Information

(h) Refer to Agência Nacional de Aviação Civil—Brazil (ANAC), NPR/AD 2011–500–02, dated March 31, 2011; MCAI Agência Nacional De Aviação Civil—Brazil (ANAC), AD No.: 2010–11–01, dated December 20, 2010; and PHENOM Service Bulletin SB No.: 500–27–0006, Revision No.: 02, dated January 14, 2011; for related information. For service information related to this AD, contact EMBRAER Empresa Brasileira de

Aeronáutica S.A., Phenom Maintenance Support, Av. Brig. Faria Lima, 2170, Sao Jose dos Campos—SP, CEP: 12227–901—PO Box: 36/2, Brasil; *telephone:* ++55 12 3927–5383; *fax:* ++55 12 3927–2619; *E-mail: phenom.reliability@embraer.com.br;* Internet: *http://www.embraer.com.br.* 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 May 4, 2011.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–11334 Filed 5–9–11; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0389; Directorate Identifier 2007–NM–189–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B2–1C, A300 B2–203, A300 B2K–3C, A300–B4–103, A300 B4–203, and A300 B4–2C Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above that would supersede an existing AD. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

* * * [C]racks * * * in sections 13 to 18 of the fuselage between rivets of longitudinal lap joints between frames 18 and 80 which could affect the structural integrity of the fuselage if not corrected.

* * * * *

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by June 24, 2011.

ADDRESSES: You may send comments 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:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Airbus SAS—EAW (Airworthiness Office), 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; *e-mail: account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2011–0389; Directorate Identifier 2007–NM–189–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 based on 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

On December 20, 1989, we issued AD 90–01–10, Amendment 39–6448 (55 FR 261, January 4, 1990). That AD required actions intended to address an unsafe condition on the products listed above.

Since we issued AD 90–01–10, Airbus has refined the inspection program for cracking at areas of the fuselage defined in AD 90–01–10 as "special areas" (paragraph A.1. of AD 90–01–10), "standard areas" (paragraph A.2. of AD 90–01–10), and "modified or repaired areas" (paragraph A.3. of AD 90–01–10). The new inspection program is designed to allow airplanes to reach their limit of validity (LOV). Certain compliance times are reduced and certain other compliance times are extended.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2007–0091, dated April 10, 2007, and corrected June 23, 2008 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

> This Airworthiness Directive (AD) is issued in order to prevent cracks development in sections 13 to 18 of the fuselage between rivets of longitudinal lap joints between frames 18 and 80 which could affect the structural integrity of the fuselage if not corrected.
>
> This new AD:
>
> —Retains the requirements of DGAC AD 1989–061–092(B)R4 [which corresponds to FAA AD 90–01–10], which is cancelled;
>
> —Takes into account a new inspection program as detailed in AIRBUS Service Bulletins (SB) A300–53–0211 Revision 7, which will allow A300 aircraft to reach the Limit of Validity (LOV).
>
> This AD has been republished to correctly refer to SB A300–53–0211 in Note 2 of the Compliance section.

The inspection program consists of repetitive detailed inspections for disbonding and cracking of the fuselage inner doubler; eddy current and ultrasonic inspections of the fuselage longitudinal lap joints for cracking; and repair if necessary (i.e., repairing any cracking or disbonding, or contacting Airbus for repair instructions and doing the repair). You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Airbus has issued Service Bulletin A300–53–229, Revision 5, dated April 8,

1997; and Mandatory Service Bulletin A300–53–0211, Revision 07, dated December 1, 2006. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a Note within the proposed AD.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 5 products of U.S. registry.

We estimate that it would take about 3,735 work-hours per product to comply with the new basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $1,587,375, or $317,475 per product.

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); and

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

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

List of Subjects in 14 CFR Part 39

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

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 removing Amendment 39–6448 (55 FR 261, January 4, 1990) and adding the following new AD:

Airbus: Docket No. FAA–2011–0389; Directorate Identifier 2007–NM–189–AD.

Comments Due Date

(a) We must receive comments by June 24, 2011.

Affected ADs

(b) This AD supersedes AD 90–01–10, Amendment 39–6448.

Applicability

(c) This AD applies to Airbus Model A300 B2–1C, A300 B2–203, A300 B2K–3C, A300–B4–103, A300 B4–203, and A300 B4–2C airplanes; certificated in any category; serial numbers 0003 through 0156 inclusive.

Subject

(d) Air Transport Association (ATA) of America Code 53: Fuselage.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

This Airworthiness Directive (AD) is issued in order to prevent cracks development in sections 13 to 18 of the fuselage between rivets of longitudinal lap joints between frames 18 and 80 which could affect the structural integrity of the fuselage if not corrected.

This new AD:

—Retains the requirements of DGAC AD 1989–061–092(B)R4[which corresponds to FAA AD 90–10–10], which is cancelled;

—Takes into account a new inspection program as detailed in AIRBUS Service Bulletins (SB) A300–53–0211 Revision 7, which will allow A300 aircraft to reach the Limit of Validity (LOV).

This AD has been republished to correctly refer to SB A300–53–0211 in Note 2 of the Compliance section.

The inspection program consists of repetitive detailed inspections for disbonding and cracking of the fuselage inner doubler; eddy current and ultrasonic inspections of the fuselage longitudinal lap joints for cracking; and repair if necessary (i.e., repairing any cracking or disbonding, or contacting Airbus for repair instructions and doing the repair).

Compliance

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

Repetitive Inspections of "Special Areas" and Repair or Modification if Necessary

(g) For airplanes on which an eddy current inspection of the "special" areas of the longitudinal lap joints has not been done as of the effective date of this AD in accordance with Airbus Mandatory Service Bulletin A300–53–0211: Prior to the accumulation of 24,000 total flight cycles, or within 2,000 flight cycles after the effective date of this AD, whichever occurs later; do an eddy current inspection for cracking of the "special" areas of the longitudinal lap joints, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A300–53–0211, Revision 07, dated December 1, 2006. If no cracking is found, repeat the inspection thereafter at the applicable intervals specified in Table 1 of this AD. If any crack is found during any inspection required by this paragraph, repair or modify before further flight, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A300–53–

0211, Revision 07, dated December 1, 2006; and do the applicable inspection of the repaired or modified area in accordance with paragraph (k) of this AD. "Special" areas of the longitudinal lap joints are defined in Airbus Mandatory Service Bulletin A300–53–0211, Revision 07, dated December 1, 2006.

TABLE 1—REPETITIVE INTERVALS FOR INSPECTING SPECIAL AREAS OF THE LONGITUDINAL LAP JOINTS

For airplanes—	Inspect special area—	Repeat at intervals not to exceed—
All	STGR5 LH and RH (FR54 through FR58)	3,600 flight cycles
All	STGR22 LH and RH (FR26 through FR40)	2,700 flight cycles
All	STGR22 RH (FR58 through FR65)	3,000 flight cycles
All	STGR31 LH/RH (FR26 through FR39)	3,000 flight cycles
MSN 003	STGR31 LH/RH (FR54 through FR58)	3,600 flight cycles

(h) For airplanes on which an eddy current inspection of the "special" areas of the longitudinal lap joints has been done before the effective date of this AD in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A300–53–0211; except for airplanes on which a repair or modification of the "special" areas has been done in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A300–53–0211: Do the next inspection of the "special" areas of the longitudinal lap joints at the earlier of the times specified in paragraphs (h)(1) and (h)(2) of this AD, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A300–53–0211, Revision 07, dated December 1, 2006. If no cracking is found, repeat the inspection thereafter at the applicable intervals specified in Table 2 of this AD. If any crack is found during any inspection required by this paragraph, repair or modify before further flight, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A300–53–0211, Revision 07, dated December 1, 2006, and do the applicable inspection of the repaired or modified area in accordance with paragraph (k) of this AD. "Special" areas of the longitudinal lap joints are defined in Airbus Mandatory Service Bulletin A300–53–0211, Revision 07, dated December 1, 2006.

(1) Within 6,000 flight cycles after doing the last inspection of the "special" areas of the longitudinal lap joints, in accordance with Airbus Mandatory Service Bulletin A300–53–0211.

(2) Within the applicable intervals specified in Table 2 of this AD, or within 60 days after the effective date of this AD, whichever occurs later.

TABLE 2—REPETITIVE INTERVALS FOR INSPECTING SPECIAL AREAS OF THE LONGITUDINAL LAP JOINTS

For airplanes—	Inspect special area—	Repeat at intervals not to exceed—
All	STGR5 LH and RH (FR54 through FR58)	3,600 flight cycles
All	STGR22 LH and RH (FR26 through FR40)	2,700 flight cycles
All	STGR22 RH (FR58 through FR65)	3,000 flight cycles
All	STGR31 LH/RH (FR26 through FR39)	3,000 flight cycles
MSN 003	STGR31 LH/RH (FR54 through FR58)	3,600 flight cycles

Repetitive Inspections of "Standard Areas" and Repair or Modification If Necessary

(i) For airplanes on which an eddy current inspection of the "standard" areas of the longitudinal lap joints has not been done before the effective date of this AD in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A300–53–0211: At the applicable time specified in Tables 3 and 4 of this AD, do an eddy current inspection for cracking of the longitudinal lap joints in the "standard" areas, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A300–53–0211, Revision 07, dated December 1, 2006. Repeat the inspection thereafter at the applicable intervals specified in Tables 3 and 4 of this AD. If any crack is found during any inspection required by this paragraph, repair or modify before further flight, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A300–53–0211, Revision 07, dated December 1, 2006, and do the applicable inspection of the applicable area specified in Tables 3 and 4 of this AD. "Standard" areas of the longitudinal lap joints are defined in Airbus Mandatory Service Bulletin A300–53–0211, Revision 07, dated December 1, 2006.

TABLE 3—INITIAL COMPLIANCE TIMES AND REPETITIVE INTERVALS FOR INSPECTING STANDARD AREAS OF THE LONGITUDINAL LAP JOINTS

For airplanes—	Before the accumulation of—	Inspect standard area—	Repeat at intervals not to exceed—
All	32,000 total flight cycles	STGR5, 13, 22 LH and RH, STGR31 LH (FR18 through FR26).	3,600 flight cycles
All	32,000 total flight cycles	STGR27 RH, STGR39 RH (FR18 through FR20A, FR25A, FR26).	8,000 flight cycles
All	32,000 total flight cycles	STGR43 LH, STGR46 RH, STGR51 LH (FR19 through FR26).	5,700 flight cycles
All	32,000 total flight cycles	STGR5 LH/RH (FR26 through FR40) STGR11 LH/RH (FR27 through FR32) STGR13 LH/RH (FR 26 through FR28, FR31 through FR40) STGR27 LH/RH (FR 27 through FR32) STGR43 LH/RH (FR 26 through FR39) STGR49 RH (FR26 through FR39).	3,000 flight cycles
All	32,000 total flight cycles	STGR47 LH (FR26 through FR39)	5,700

TABLE 3—INITIAL COMPLIANCE TIMES AND REPETITIVE INTERVALS FOR INSPECTING STANDARD AREAS OF THE LONGITUDINAL LAP JOINTS—Continued

For airplanes—	Before the accumulation of—	Inspect standard area—	Repeat at intervals not to exceed—
All	32,000 total flight cycles	STGR5, 13, 22 LH/RH (FR40 through FR54).	5,000
All except MSN 0003	32,000 total flight cycles	STGR13, 44, 52 LH/RH (FR54 through FR58) STGR22 LH/RH (FR54, FR55) STGR31 LH/RH (FR54 through FR58).	3,600

(j) For airplanes on which an eddy current inspection of the "standard" areas of the longitudinal lap joints has been done as of the effective date of this AD in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A300–53–0211; except for airplanes on which a repair or modification of the "standard areas" has been done in accordance with Airbus Mandatory Service Bulletin A300–53–0211: Do the next inspection of the "standard" areas of the longitudinal lap joints at the earlier of the times specified in paragraphs (j)(1) and (j)(2) of this AD, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A300–53–0211, Revision 07, dated December 1, 2006. Thereafter, if no cracking is found, repeat the inspection at the applicable intervals specified in Tables 3 and 4 of this AD. If any crack is found during any inspection required by this paragraph, repair or modify before further flight, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A300–53–0211, Revision 07, dated December 1, 2006, and do the applicable inspection of the repaired or modified area in accordance with paragraph (k) of this AD. "Standard" areas of the longitudinal lap joints are defined in Airbus Mandatory Service Bulletin A300–53–0211, Revision 07, dated December 1, 2006.

TABLE 4—INITIAL COMPLIANCE TIMES AND REPETITIVE INTERVALS FOR INSPECTING ADDITIONAL STANDARD AREAS OF THE LONGITUDINAL LAP JOINTS

For airplanes—	Before the accumulation of—	Inspect standard area—	Repeat at intervals not to exceed—
Pre-Mod 1398	32,000 total flight cycles	STGR5, 13 LH/RH 22 LH (FR58 through FR65) STGR31 LH (FR58 through FR72) STGR31 RH (FR65 through FR72).	2,700 flight cycles
All	32,000 total flight cycles	STGR27 RH, STGR39 RH (FR58, FR59A, FR63A through FR65).	8,000 flight cycles
Post-Mod 1398	32,000 total flight cycles	STGR5, 13 LH/RH 22 LH (FR58 through FR65) STGR31 LH (FR58 through FR72) STGR 31 RH (FR65 through FR72).	3,000 flight cycles
Pre-Mod 1398	32,000 total flight cycles	STGR5, 13, 22 LH/RH (FR65 through FR72).	2,300 flight cycles
Post-Mod 1398	32,000 total flight cycles	STGR5, 13, 22 LH/RH (FR65 through FR72).	3,000 flight cycles
All	32,000 total flight cycles	STGR44 LH (FR58 through FR72) STGR52 LH/RH (FR58 through FR65) STGR47 RH (FR58 through FR72) STGR57 LH (FR65 through FR72).	3,000 flight cycles
All	24,000 total flight cycles	STGR22 RH (FR58 through FR65)	3,000 flight cycles
All	32,000 total flight cycles	STGR6 LH/RH (FR72 through FR80) STGR24 LH/RH (FR76 through FR80).	3,000 flight cycles
All	32,000 total flight cycles	STRG17 LH/RH (FR76 through FR80) STGR29 LH/RH (FR72 through FR76). STGR35 LH/RH (FR72 through FR80).	5,700 flight cycles
All	27,000 total flight cycles	STGR51 LH/RH (FR72 through FR80).	5,700 flight cycles

(1) Within the applicable time in paragraph (j)(1)(i) or (j)(1)(ii) of this AD after doing the last inspection of the "standard" areas of the longitudinal lap joints in accordance with Airbus Mandatory Service Bulletin A300–53–0211.

(i) For longitudinal lap joints with bonded doublers: 6,000 flight cycles.

(ii) For longitudinal lap joints without bonded doublers: 8,000 flight cycles.

(2) Within the applicable time specified in Tables 3 or 4 of this AD, or within 60 days after the effective date of this AD, whichever occurs later.

Post-Repair or Modification Inspections and Repair or Modification if Necessary

(k) For airplanes on which a repair or modification has been done in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A300–53–0211: At the applicable initial inspection time specified in Table 5 of this AD, do an eddy current inspection for cracking of the repaired or modified areas, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A300–53–0211, Revision 07, dated December 1, 2006. If no cracking is found, repeat the inspection thereafter at the applicable intervals specified

in Table 5 of this AD. If any crack is found during any inspection required by this paragraph, repair or modify before further flight, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A300–53–0211, Revision 07, dated December 1, 2006.

TABLE 5—POST-REPAIR OR MODIFICATION COMPLIANCE TIME

Repair or retrofit solution/area—as identified in airbus mandatory service bulletin A300–53–0211	Initial inspection after repair or retrofit—	Follow-up inspections at intervals not to exceed—
Repair 1: (Without cut out) also applicable to the solution with removed inner doubler.	Skin/doubler thickness	1,000 flight cycles.
	• < 1 inch: 10,000 flight cycles after repair	
	• ≥ 1 inch and < 2 inch: 30,000 flight cycles after repair	2,000 flight cycles.
	• ≥ 2 inch: 60,000 flight cycles after repair	6,400 flight cycles.
Repair 4 (With cut out)	Within 32,000 flight cycles after repair	5,000 flight cycles.
Repair 4A (With cut out)	Within 24,000 flight cycles after repair	5,300 flight cycles.
Repair 7 (MSN 0095 at STGR52 LH in Section 16)	Within 37,000 flight cycles after repair	12,000 flight cycles.
Repair 9 (MSN 0073 and 0095 STGR44 LH/RH in Sections 16 and 17).	Within 36,000 flight cycles after repair	5,000 flight cycles.
Repair 10 (Post-repair inspections in Figure 13)	Within 20,000 flight cycles after repair	11,000 flight cycles.
Repair 2 (With cut out)	Within 24,000 flight cycles after repair	5,300 flight cycles.
Repair 3 (Without cut out)	Within 24,000 flight cycles after repair	5,300 flight cycles.
Retrofit 1 (Retrofit lap joint)	Within 32,000 flight cycles after retrofit	5,000 flight cycles.
Retrofit 2 Retrofit lower shell (4 panel solution) STGR43 LH (FR26 through FR39), STGR43 RH (FR26 through FR38), and STGR49 RH (FR26 through FR38).	Within 32,000 flight cycles after retrofit	3,000 flight cycles.
Retrofit 2 Retrofit lower shell (4 panel solution) STGR 46 RH (FR19 through FR26), and STGR47 LH (FR26 through FR39), and STGR51 LH (FR19 through FR26).	Within 32,000 flight cycles after retrofit	5,700 flight cycles.
Retrofit 3 Retrofit lower shell (3 panel solution) STGR43 LH (FR26 through FR39), and STGR43 RH (FR26 through FR38).	Within 32,000 flight cycles after retrofit	3,000 flight cycles.
Retrofit 3 Retrofit lower shell (3 panel solution) STGR46 RH (FR19 through FR26), and STGR51 LH (FR19 through FR26), and STGR 54 LH (FR26 through FR39).	Within 32,000 flight cycles after retrofit	5,700 flight cycles.
Retrofit 3A (STGR43 LH/RH between FR37 and FR39 in Section 14).	Within 32,000 flight cycles after retrofit	5,000 flight cycles.
Retrofit 4 (Retrofit lap joint without cut out)	Within 42,000 flight cycles after retrofit	5,000 flight cycles.
Retrofit 5 (Retrofit lap joint)	Within 42,000 flight cycles after retrofit	5,000 flight cycles.
Retrofit 6 (Retrofit lap joint)	Within 34,000 flight cycles after retrofit	12,000 flight cycles.
Retrofit 7 (Retrofit lap joint)	Within 47,600 flight cycles after retrofit	5,400 flight cycles.

Fuselage Inner Doubler Inspections and Repair if Necessary

(l) For airplanes on which any inspections of the fuselage bonded inner doublers of the longitudinal lap joints in Sections 13 through 18 (except Sections 16 and 17 at Stringer 31 left-hand and right-hand) for disbonding and cracking have not been done as of the effective date of this AD in accordance with Airbus Service Bulletin A300–53–229: Prior to the accumulation of 24,000 total flight cycles or within 15 years since new, whichever occurs first; or within 60 days after the effective date of this AD; whichever occurs later, do a detailed inspection of the fuselage bonded inner doublers of the longitudinal lap joints in Sections 13 through 18 (except Sections 16 and 17 at Stringer 31 left-hand and right-hand) for disbonding and cracking, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–53–229, Revision 5, dated April 8, 1997. If no disbonding and no cracking is found, repeat the inspection thereafter at the applicable intervals specified in Table 6 of this AD.

TABLE 6—REPETITIVE INTERVALS FOR INSPECTIONS FOR DISBONDING AND CRACKING

For area—	Inspect at intervals not to exceed—
Sections 13 and 14 as specified in Airbus Service Bulletin A300–53–229.	Within 7 years or 12,000 flight cycles after doing the inspection, whichever occurs first.
Sections 15 through 18 as specified in Airbus Service Bulletin A300–53–229.	Within 8.5 years or 12,000 flight cycles after doing the inspection, whichever occurs first.

(1) If no cracking is found and "minor" disbonding, as defined in Airbus Service Bulletin A300–53–229, is found: Repeat the inspection thereafter at intervals not to exceed 1 year for areas below stringer 22, and at intervals not to exceed 2 years for areas above and including stringer 22.

(2) If no cracking is found and "major" disbonding, as defined in Airbus Service Bulletin A300–53–229, is found: Within 1,000 flight cycles after doing the inspection, repair, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–53–229, Revision 5, dated April 8, 1997.

(3) If any cracking is found, repair prior to further flight, in accordance with Airbus Service Bulletin A300–53–229, Revision 5, dated April 8, 1997.

(m) For airplanes on which any inspections of the fuselage bonded inner doublers of the longitudinal lap joints in Sections 13 through 18 (except Sections 16 and 17 at Stringer 31 left-hand and right-hand) for disbonding and cracking have been done as of the effective date of this AD in accordance with Airbus Service Bulletin A300–53–229; except for airplanes on which a repair of that area has been done in accordance with Airbus Service

Bulletin A300–53–229: At the applicable time specified in Table 6 of this AD, or within 60 days after the effective date of this AD, whichever occurs later, do a detailed inspection of the fuselage bonded inner doublers of the longitudinal lap joints in Sections 13 through 18 (except Sections 16 and 17 at Stringer 31 left-hand and right-hand) for disbonding and cracking, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–53–229, Revision 5, dated April 8, 1997. If no disbonding and no cracking is found, repeat the inspection at the applicable intervals specified in Table 6 of this AD.

(1) If no cracking is found and "minor" disbonding, as defined in Airbus Service Bulletin A300–53–229, is found: Repeat the inspection thereafter at intervals not to exceed 1 year for areas below stringer 22, and at intervals not to exceed 2 years for areas above and including stringer 22.

(2) If no cracking is found and "major" disbonding, as defined in Airbus Service Bulletin A300–53–229, is found: Within 1,000 flight cycles after doing the inspection, repair, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–53–229, Revision 5, dated April 8, 1997.

(3) If any cracking is found, repair prior to further flight, in accordance with Airbus Service Bulletin A300–53–229, Revision 5, dated April 8, 1997.

(n) For airplanes on which any inspections of the fuselage bonded inner doublers of the longitudinal lap joints in Sections 16 and 17 at Stringer 31 left-hand and right-hand for disbonding and cracking have not been done as of the effective date of this AD in accordance with Airbus Service Bulletin A300–53–229: Prior to the accumulation of 24,000 total flight cycles or within 12 years since new, whichever occurs first; or within 60 days after the effective date of this AD; whichever occurs later, do a detailed inspection of the fuselage bonded inner doubles of the longitudinal lap joints in Sections 16 and 17 at Stringer 31 left-hand and right-hand for disbonding and cracking, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–53–229, Revision 5, dated April 8, 1997. If no disbonding and no cracking is found, repeat the inspection thereafter at intervals not to exceed 7 years or 12,000 flight cycles, whichever occurs first.

(1) If no cracking is found and "minor" disbonding, as defined in Airbus Service Bulletin A300–53–229, is found: Repeat the inspection thereafter at intervals not to exceed 1 year for areas below stringer 22, and at intervals not to exceed 2 years for areas above and including stringer 22. Doing a repair in accordance with Airbus Service Bulletin A300–53–229, Revision 5, dated April 8, 1997, terminates the repetitive inspections required by this paragraph for that area.

(2) If no cracking is found and "major" disbonding, as defined in Airbus Service Bulletin A300–53–229, is found: Within 1,000 flight cycles after doing the inspection, repair, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–53–229, Revision 5, dated April 8, 1997.

(3) If any cracking is found, repair prior to further flight, in accordance with Airbus Service Bulletin A300–53–229, Revision 5, dated April 8, 1997.

(o) For airplanes on which any inspections of the fuselage bonded inner doublers of the longitudinal lap joints in Sections 16 and 17 at Stringer 31 left-hand and right-hand for disbonding and cracking have been done as of the effective date of this AD in accordance with Airbus Service Bulletin A300–53–229; except airplanes on which a repair of that area has been done in accordance with Airbus Service Bulletin A300–53–229: Within 7 years or 12,000 flight cycles after doing the inspection, whichever occurs first; or within 60 days after the effective date of this AD; whichever occurs later, do a detailed inspection of the fuselage bonded inner doubles of the longitudinal lap joints in Sections 16 and 17 at Stringer 31 left-hand and right-hand for disbonding and cracking in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–53–229, Revision 5, dated April 8, 1997. If no disbonding and corrosion are found, repeat the inspection thereafter at intervals not to exceed 7 years or 12,000 flight cycles, whichever occurs first.

(1) If no cracking is found and "minor" disbonding, as defined in Airbus Service Bulletin A300–53–229, is found: Repeat the inspection thereafter at intervals not to exceed 1 year for areas below stringer 22, and at intervals not to exceed 2 years for areas above and including stringer 22. Doing a repair in accordance with Airbus Service Bulletin A300–53–229, Revision 5, dated April 8, 1997, terminates the repetitive inspections required by this paragraph for that area.

(2) If no cracking is found and "major" disbonding, as defined in Airbus Service Bulletin A300–53–229, is found: Within 1,000 flight cycles after doing the inspection, repair, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–53–229, Revision 5, dated April 8, 1997.

(3) If any cracking is found, repair prior to further flight, in accordance with Airbus Service Bulletin A300–53–229, Revision 5, dated April 8, 1997.

(p) Although Airbus Service Bulletin A300–53–229, Revision 5, dated April 8, 1997; and Airbus Mandatory Service Bulletin A300–53–0211, Revision 07, dated December 1, 2006; specify to submit certain information to the manufacturer, this AD does not include that requirement.

FAA AD Differences

Note 1: This AD differs from the MCAI and/or service information as follows:

(1) Although the MCAI or service information allows further flight after cracks are found during compliance with the required action, this AD requires that you repair the crack(s) before further flight.

(2) The MCAI or service information does not include enforceable compliance times for certain actions; however, this AD requires that those actions be done at the enforceable times specified in this AD.

(3) Although the MCAI or service information tells you to submit information to the manufacturer, paragraph (p) of this AD specifies that such submittal is not required.

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, 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 International Branch, send it to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2125; fax (425) 227–1149. Information may be e-mailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* 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. The AMOC approval letter must specifically reference this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

Related Information

(r) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2007–0091, dated April 10, 2007, corrected June 23, 2008; Airbus Service Bulletin A300–53–229, Revision 5, dated April 8, 1997; and Airbus Mandatory Service Bulletin A300–53–0211, Revision 07, dated December 1, 2006; for related information.

Issued in Renton, Washington, on April 28, 2011.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–11335 Filed 5–9–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Chapter III

Regulatory Review Schedule

AGENCY: National Indian Gaming Commission.

ACTION: Notice of comment periods on preliminary drafts.

SUMMARY: On November 18, 2010, the National Indian Gaming Commission (NIGC) issued a Notice of Inquiry and

Notice of Consultation advising the public that the NIGC was conducting a comprehensive review of its regulations and requesting public comment on the process for conducting the regulatory review. On April 4, 2011, after holding eight consultation meetings and reviewing all comments, NIGC published a Notice of Regulatory Review Schedule setting out detailed consultation schedules and review processes. NIGC divided the regulations to be reviewed into five groups, and each group will be reviewed in three phases, the Drafting Phase, the Notice of Proposed Rulemaking phase, and the Notice of Final Rule Phase.

The purpose of this document is to establish a May 31, 2011, deadline for submittal of written comments on the preliminary draft of the fee regulation and to inform the public that the Commission will provide at least 30 days for written comments on any preliminary drafts circulated by the Commission during the Drafting Phase of the Regulatory Review.

DATES: Submit comments on the preliminary draft of the fee regulation by May 31, 2011.

ADDRESSES: Comments sent by electronic mail are strongly encouraged. Electronic submissions should be directed to *reg.review@nigc.gov.* See *File Formats and Required Information for Submitting Comments* under **SUPPLEMENTARY INFORMATION,** below, for instructions. Submissions sent by regular mail should be addressed to Lael Echo-Hawk, Counselor to the Chair, National Indian Gaming Commission, 1441 L Street NW., Suite 9100, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Lael Echo-Hawk, National Indian Gaming Commission, 1441 L Street NW., Suite 9100 Washington, DC 20005. Telephone: 202–632–7009; e-mail: *reg.review@nigc.gov.*

SUPPLEMENTARY INFORMATION: On November 18, 2010, NIGC issued a Notice of Inquiry and Notice of Consultation advising the public that the NIGC was conducting a comprehensive review of all regulations promulgated to implement 25 U.S.C. 2701–2721 of the Indian Gaming Regulatory Act (IGRA) and requesting public comment on the process for conducting the regulatory review. On April 4, 2011, NIGC published a Notice of Regulatory Review Schedule setting out detailed consultation schedules and review processes.

The Commission's regulatory review process establishes three phases of review: A Drafting Phase, a Notice of Proposed Rulemaking Phase, and a Notice of Final Rule Phase. The Drafting Phase is intended to provide for tribal participation early in the drafting or amendment of any rule with tribal implications. During the drafting phase, the Commission may circulate a preliminary draft, preliminary proposed amendments to a current regulation, or preliminary proposals provided by Tribes or tribal organizations. The Drafting Phase includes an opportunity for the public to provide written comments on preliminary drafts. On April 22, 2011, the Commission released a preliminary draft of amendments to 25 CFR Part 514. This document establishes a May 31, 2011 deadline to provide written comments on the preliminary draft of Part 514.

This document also advises the public that any future preliminary drafts of regulations or amendments released by the Commission will include a deadline for the submittal of written comments to the Commission. The Commission intends to provide the public at least 30 days for the submittal of written comments on preliminary drafts.

File Formats and Required Information for Submitting Comments

If submitting by electronic mail: send to *reg.review@nigc.gov* a message containing the name of the person making the submission, his or her title and organization (if the submission of an organization), mailing address, telephone number, fax number (if any), and e-mail address. The document itself must be sent as an attachment and must be in a single file and in recent, if not current, versions of: (1) Adobe Portable Document File (PDF) format (preferred); or (2) Microsoft Word file formats.

If submitting by print only: Anyone who is unable to submit a comment in electronic form should submit an original and two paper copies by hand or by mail to the address listed above. Use of surface mail is strongly discouraged owing to the uncertainty of timely delivery.

Authority: 25 U.S.C. 2706(b)(10); E.O. 13175.

Tracie L. Stevens,

Chairwoman.

Steffani A. Cochran,

Vice-Chairwoman.

Daniel J. Little,

Associate Commissioner.

[FR Doc. 2011–11284 Filed 5–9–11; 8:45 am]

BILLING CODE 7565–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2011–0002; Internal Agency Docket No. FEMA–B–1192]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule.

SUMMARY: Comments are requested on the proposed Base (1% annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed in the table below. The purpose of this proposed rule is to seek general information and comment regarding the proposed regulatory flood elevations for the reach described by the downstream and upstream locations in the table below. The BFEs and modified BFEs are a part of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, these elevations, once finalized, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents in those buildings.

DATES: Comments are to be submitted on or before August 8, 2011.

ADDRESSES: The corresponding preliminary Flood Insurance Rate Map (FIRM) for the proposed BFEs for each community is available for inspection at the community's map repository. The respective addresses are listed in the table below.

You may submit comments, identified by Docket No. FEMA–B–1192, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–4064, or (e-mail) *luis.rodriguez1@dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–4064, or (e-mail) *luis.rodriguez1@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency

(FEMA) proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in those buildings.

Comments on any aspect of the Flood Insurance Study and FIRM, other than the proposed BFEs, will be considered. A letter acknowledging receipt of any comments will not be sent.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Executive Order 12866, Regulatory Planning and Review. This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866, as amended.

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

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

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

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

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

Flooding source(s)	Location of referenced elevation**	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground ∧Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Sacramento County, California, and Incorporated Areas				
Dry Creek	Approximately 1.6 miles upstream of the Natomas East Main Drainage Canal confluence.	+41	+42	City of Sacramento, Unincorporated Areas of Sacramento County.
	Approximately 0.4 mile upstream of Elverta Road	+75	+77	
Dry Creek (North Branch)	At the Dry Creek confluence	+41	+43	Unincorporated Areas of Sacramento County.
	At the divergence from Dry Creek	+71	+73	
Grand Island (static flooding)—floodplain area between Sacramento River and Steamboat Slough.	At the area between Highway 160 and Grand Island Road.	None	+10	Unincorporated Areas of Sacramento County.
Linda Creek	Approximately 0.7 mile downstream of Indian Creek Drive.	+172	+173	Unincorporated Areas of Sacramento County.
	Approximately 1.0 mile upstream of Cherry Avenue (at the county boundary).	+268	+271	
Linda Creek (South Branch)	At the Linda Creek confluence	+196	+198	Unincorporated Areas of Sacramento County.
	Approximately 700 feet upstream of Walnut Avenue	None	+235	
Pierson District (static flooding)—floodplain area east of Sacramento River.	At the area north and east of River Road, south of Randall Island Road, and west of the levee extending from River Road to the intersection of Randall Island Road and State Highway 24.	None	+16	Unincorporated Areas of Sacramento County.
RD 744 (static flooding)—floodplain area east of Sacramento River.	At the area south and east of River Road	None	+20	Unincorporated Areas of Sacramento County.
RD 746 (static flooding)—floodplain area east of Sacramento River.	At the area north of Blair Street and east of River Road.	None	+18	Unincorporated Areas of Sacramento County.
RD 813 (static flooding)—floodplain area east of Sacramento River.	At the area southeast of River Road, northeast of Herzog Road, and south of Blair Street.	None	+17	Unincorporated Areas of Sacramento County.
Sheet Flow Areas (AO Zones).	At the area between Bradshaw Road and Gerber Road and approximately 0.4 mile north of Carmen Cita Avenue.	#1	#2	Unincorporated Areas of Sacramento County.

Flooding source(s)	Location of referenced elevation**	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground ∧Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Sheet Flow Areas (AO Zones).	At the area approximately 0.8 mile east of the intersection of Bradshaw Road and Elder Creek Road and approximately 0.9 mile south of Jackson Road.	#2	#1	Unincorporated Areas of Sacramento County.
Sierra Creek	At the Dry Creek confluence	+69	+70	Unincorporated Areas of Sacramento County.
	Approximately 260 feet upstream of 28th Street	+69	+70	
Sutter Island (static flooding)—floodplain area between Sacramento River, Steamboat Slough, and Sutter Slough.	At the area between Highway 160 and Sutter Island Road.	None	+16	Unincorporated Areas of Sacramento County.

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES:

City of Sacramento

Maps are available for inspection at City Hall, 915 I Street, 5th Floor, Sacramento, CA 95814.

Unincorporated Areas of Sacramento County

Maps are available for inspection at the Sacramento County Water Resources Department, 827 7th Street, Room 301, Sacramento, CA 95814.

Caldwell Parish, Louisiana, and Incorporated Areas

Hurricane Creek	Approximately 500 feet downstream of the railroad	None	+125	Town of Clarks, Village of Grayson.
	Approximately 0.66 mile upstream of State Highway 126.	None	+160	
Ouachita River	Approximately 0.7 mile downstream of U.S. Route 165.	None	+73	Unincorporated Areas of Caldwell Parish.
	Approximately 1,475 feet upstream of U.S. Route 165	None	+73	

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+ North American Vertical Datum.
# Depth in feet above ground.
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** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES:

Town of Clarks

Maps are available for inspection at the Town Hall, 1714 U.S. Route 845, Clarks, LA 71415.

Unincorporated Areas of Caldwell Parish

Maps are available for inspection at the Caldwell Parish Community Recreation Center/911 Complex, 6563 U.S. Route 165, Columbia, LA 71418.

Village of Grayson

Maps are available for inspection at the Village Hall, 5228 U.S. Route 126 East, Grayson, LA 71435.

Clay County, Missouri, and Incorporated Areas

Brushy Creek	Approximately 400 feet upstream of the most downstream Clinton County boundary.	+985	+987	City of Lawson, Unincorporated Areas of Clay County.
	At the most upstream Clinton County boundary	None	+1045	
Cates Branch	At the upstream side of Liberty Landing Road	+755	+756	City of Liberty, Unincorporated Areas of Clay County.
	At the downstream side of Harrison Street	+852	+851	

Flooding source(s)	Location of referenced elevation**	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground ∧Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Clear Creek	At the Fishing River confluence	+777	+775	City of Kearney, City of Mosby, Unincorporated Areas of Clay County.
	Approximately 0.5 mile upstream of Nation Road	+819	+823	
Clear Creek Tributary 15	Approximately 0.8 mile upstream of the Clear Creek confluence.	+779	+780	Unincorporated Areas of Clay County.
	Approximately 1 mile upstream of the Clear Creek confluence.	None	+788	
Clear Creek Tributary 15.1 (overflow effects from Clear Creek).	Approximately 1,375 feet upstream of the Clear Creek confluence.	+779	+780	City of Kearney, Unincorporated Areas of Clay County.
	Approximately 377 feet upstream of 6th Street	None	+786	
Crockett Creek	At the Holmes Creek confluence	+772	+766	City of Mosby, Unincorporated Areas of Clay County.
	Approximately 1,400 feet upstream of Longridge Road.	+785	+790	
Crockett Creek Tributary 3	At the Crockett Creek confluence	+773	+771	Unincorporated Areas of Clay County.
	Approximately 0.7 mile upstream of the Crockett Creek confluence.	None	+791	
Crockett Creek Tributary 4	Approximately 1,400 feet upstream of Longridge Road.	+785	+790	Unincorporated Areas of Clay County.
	Approximately 390 feet upstream of Stockdale Road	None	+814	
Dry Fork	At the downstream side of South Thompson Avenue	+776	+773	City of Excelsior Springs, Unincorporated Areas of Clay County.
	Approximately 0.6 mile downstream of Salem Road	+909	+905	
East Creek	Approximately 550 feet downstream of North Broadway Avenue.	+866	+867	City of Gladstone.
	At the upstream side of Northeast 61st Street	None	+904	
East Fork Fishing River	At the Fishing River confluence	+745	+744	City of Excelsior Springs, Unincorporated Areas of Clay County.
	Approximately 1,200 feet upstream of Isley Boulevard	+787	+786	
East Fork Fishing River Tributary 2.	Approximately 154 feet downstream of Saint Louis Avenue.	+763	+768	City of Excelsior Springs.
	Approximately 1,600 feet upstream of Saint Louis Avenue.	+764	+768	
East Fork Line Creek Tributary 1.	Approximately 1,120 feet upstream of Arrowhead Trafficway.	None	+909	City of Gladstone.
	Approximately 1,150 feet upstream of Arrowhead Trafficway.	None	+909	
First Creek	At the Second Creek confluence	+818	+819	City of Smithville, Unincorporated Areas of Clay County.
	At the Platte County boundary	+862	+864	
Fishing River	At the Ray County boundary	+730	+731	City of Kearney, City of Mosby, Unincorporated Areas of Clay County, Village of Prathersville.
	Approximately 0.5 mile downstream of North Home Avenue.	None	+860	
Holmes Creek	At the Fishing River confluence	+770	+763	City of Kearney, City of Mosby, Unincorporated Areas of Clay County.
	Approximately 1.1 miles upstream of North State Route 33.	None	+829	
Little Platte River	Approximately 1.2 miles downstream of U.S. Route 169.	+811	+810	City of Smithville, Unincorporated Areas of Clay County.
	Approximately 0.5 mile downstream of State Route F	+814	+815	
Little Shoal Creek	At the Shoal Creek confluence	+745	+744	City of Glenaire, City of Liberty, City of Pleasant Valley, Village of Claycomo.
	At the upstream side of North Church Road	None	+800	

Flooding source(s)	Location of referenced elevation**	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground ∧Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Little Shoal Creek Tributary 5	Approximately 0.4 mile upstream of the Little Shoal Creek confluence.	+763	+764	City of Liberty.
	At the downstream side of South State Route 291	None	+843	
Little Shoal Creek Tributary 6	At the downstream side of Smiley Street	+763	+765	City of Glenaire, City of Liberty.
	Approximately 600 feet downstream of Liberty Drive ..	+834	+830	
Little Shoal Creek Tributary 7	At the Little Shoal Creek confluence	+763	+764	City of Glenaire, City of Liberty.
	Approximately 300 feet upstream of Kings Highway ...	None	+798	
Mill Creek	At the upstream side of Randolph Road	+793	+789	City of Gladstone, Village of Claycomo.
	At the downstream side of Northeast 62nd Terrace	+947	+949	
Missouri River	At the Ray County boundary	+722	+717	City of Missouri City, City of North Kansas City, Unincorporated Areas of Clay County, Village of Randolph.
	Approximately 300 feet upstream of I–29	+747	+748	
Muddy Fork	At the Clear Creek confluence	+786	+788	City of Holt, City of Kearney, Unincorporated Areas of Clay County.
	Approximately 0.6 mile upstream of County Road BB	+865	+863	
Old Maids Creek	Approximately 980 feet upstream of Arrowhead Trafficway.	None	+896	City of Gladstone.
	Approximately 990 feet upstream of Arrowhead Trafficway.	None	+896	
Owens Branch	At the Little Platte River confluence	+813	+812	City of Smithville, Unincorporated Areas of Clay County.
	Approximately 1,000 feet downstream of Northeast 188th Street.	+909	+911	
Polecat Creek	At the Wilkerson Creek confluence	+881	+884	Unincorporated Areas of Clay County.
	Approximately 0.95 mile upstream of Clementine Road.	None	+980	
Randolph Creek	At the upstream side of the most downstream crossing of I–435.	+746	+751	Village of Randolph.
	At the downstream side of the most upstream crossing of I–435.	+761	+779	
Randolph Creek Tributary	At the Randolph Creek confluence	+746	+751	Village of Randolph.
	Approximately 1,700 feet upstream of the Randolph Creek confluence.	None	+763	
Rock Creek	At the upstream side of Armour Road	+745	+759	City of Avondale, City of North Kansas City.
	Approximately 150 feet upstream of Northeast Excelsior Street.	+777	+780	
Rock Creek Gladstone	Approximately 150 feet upstream of North Jackson Drive.	+849	+851	City of Gladstone.
	Approximately 250 feet upstream of Northeast 72nd Street.	None	+934	
Rock Creek Tributary 11 (backwater effects from Rock Creek Tributary 11.2).	From the Rock Creek Tributary 11.2 confluence to the downstream side of I–29.	+756	+761	City of North Kansas City.
Rock Creek Tributary 11.2	At the upstream side of Armour Road	+752	+758	City of North Kansas City.
	Approximately 640 feet upstream of I–29	None	+784	
Rocky Branch	At the Wilkerson Creek confluence	+846	+848	City of Smithville, Unincorporated Areas of Clay County.
	Approximately 250 feet downstream of Northeast 132nd Street.	None	+888	
Rush Creek	At the Missouri River confluence	+730	+727	City of Liberty, Unincorporated Areas of Clay County.
	At the Rush Creek Tributary 15 confluence	None	+826	
Second Creek	At the Little Platte River confluence	+814	+813	City of Smithville, Unincorporated Areas of Clay County.
	At the Platte County boundary	None	+822	

Flooding source(s)	Location of referenced elevation**	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground ∧Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Shoal Creek Tributary 20	At the Shoal Creek confluence	+768	+769	City of Pleasant Valley.
	Approximately 300 feet downstream of North Corrington Avenue.	+807	+824	
Shoal Creek Tributary 20.1 ...	At the Shoal Creek Tributary 20 confluence	+771	+773	City of Pleasant Valley.
	Approximately 1,400 feet upstream of Kaill Road	+807	+805	
Town Branch	At the Shoal Creek confluence	+733	+734	City of Liberty.
	Approximately 0.8 mile upstream of East Ruth Ewing Road.	None	+775	
Wilkerson Creek	Approximately 400 feet upstream of East County Road DD.	+816	+817	City of Smithville, Unincorporated Areas of Clay County.
	Approximately 0.4 mile upstream of the Wilkerson Creek Tributary 5 confluence.	None	+936	
Williams Creek	At the Fishing River confluence	+760	+758	Unincorporated Areas of Clay County, Village of Prathersville.
	Approximately 0.5 mile upstream of County Road RA	+849	+851	
Williams Creek Tributary 14	At the Williams Creek confluence	+814	+817	Unincorporated Areas of Clay County.
	Approximately 150 feet upstream of Northeast 161st Street.	None	+834	

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Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

ADDRESSES:

City of Avondale
Maps are available for inspection at City Hall, 3007 State Highway 10, Kansas City, MO 64117.

City of Excelsior Springs
Maps are available for inspection at City Hall, 201 East Broadway Street, Excelsior Springs, MO 64024.

City of Gladstone
Maps are available for inspection at City Hall, 7010 North Holmes Street, Gladstone, MO 64118.

City of Glenaire
Maps are available for inspection at City Hall, 309 Smiley Road, Glenaire, MO 64068.

City of Holt
Maps are available for inspection at City Hall, 315 Main Street, Holt, MO 64048.

City of Kearney
Maps are available for inspection at City Hall, 100 East Washington Street, Kearney, MO 64060.

City of Lawson
Maps are available for inspection at City Hall, 103 North Pennsylvania Avenue, Lawson, MO 64062.

City of Liberty
Maps are available for inspection at City Hall, 101 East Kansas Street, Liberty, MO 64069.

City of Missouri City
Maps are available for inspection at the Clay County Courthouse, 1 Courthouse Square, Liberty, MO 64068.

City of Mosby
Maps are available for inspection at City Hall, 12312 4th Street, Mosby, MO 64024.

City of North Kansas City
Maps are available for inspection at City Hall, 2010 Howell Street, North Kansas City, MO 64116.

City of Pleasant Valley
Maps are available for inspection at City Hall, 6500 Royal Street, Pleasant Valley, MO 64068.

City of Smithville
Maps are available for inspection at City Hall, 107 West Main Street, Smithville, MO 64089.

Unincorporated Areas of Clay County
Maps are available for inspection at the Clay County Courthouse, 1 Courthouse Square, Liberty, MO 64068.

Village of Claycomo
Maps are available for inspection at the Village Municipal Office, 115 Northeast 69 Highway, Claycomo, MO 64119.

Village of Prathersville
Maps are available for inspection at City Hall, 25615 H Highway, Prathersville, MO 64024.

Village of Randolph

Flooding source(s)	Location of referenced elevation**	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground ∧Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Maps are available for inspection at City Hall, 7777 North East Birmingham Road, Randolph, MO 64161.				
Allen County, Ohio, and Incorporated Areas				
Auglaize River	Approximately 0.7 mile downstream of Greely Chapel Road.	None	+909	Unincorporated Areas of Allen County.
	Approximately 750 feet upstream of Faulkner Road	None	+965	
Dug Run	At the Ottawa River confluence	None	+780	City of Lima, Unincorporated Areas of Allen County.
	Approximately 100 feet downstream of North Cable Road.	+828	+827	
Dug Run Tributary	At the Dug Run confluence	+816	+813	Unincorporated Areas of Allen County.
	At the downstream side of Eastown Road	+824	+823	
Flat Fork Creek	Approximately 0.4 mile downstream of East 7th Street	None	+762	Unincorporated Areas of Allen County.
	Approximately 0.6 mile upstream of State Highway 66 (Spencerville Avenue).	None	+776	
Freed Ditch	At the Little Ottawa River confluence	+870	+867	Unincorporated Areas of Allen County, Village of Fort Shawnee.
	Approximately 1,600 feet upstream of the Little Ottawa River confluence.	+871	+870	
Hog Creek	At the Ottawa River confluence	None	+900	Unincorporated Areas of Allen County.
	At the downstream side of County Highway 15 (Hardin Road).	None	+924	
Jennings Creek	Approximately 400 feet downstream of Pohlman Road	None	+760	City of Delphos, Unincorporated Areas of Allen County.
	Approximately 200 feet upstream of Pohlman Road	None	+760	
Little Ottawa River	At the Ottawa River confluence	None	+827	Unincorporated Areas of Allen County, Village of Fort Shawnee.
	Approximately 0.8 mile upstream of Hume Road	None	+881	
Little Riley Creek	At the upstream side of Columbus Grove Bluffton Road.	None	+820	Unincorporated Areas of Allen County.
	Approximately 150 feet upstream of Columbus Grove Bluffton Road.	None	+820	
Lost Creek	At the Ottawa River confluence	None	+863	Unincorporated Areas of Allen County.
	At the downstream side of Cool Road	None	+928	
Lost Creek Tributary	At the downstream side of State Highway 117/309	None	+875	Unincorporated Areas of Allen County.
	Approximately 50 feet upstream of State Highway 117/309.	None	+875	
Ottawa River	Approximately 1.1 miles downstream of Lincoln Highway.	None	+767	City of Lima, Unincorporated Areas of Allen County, Village of Elida.
	At the Hog Creek confluence	None	+900	
Pike Run	At the Ottawa River confluence	None	+769	City of Lima, Unincorporated Areas of Allen County.
	Approximately 300 feet downstream of Knollwood Drive.	None	+829	
Sugar Creek	Approximately 1.2 miles downstream of Hookwaltz Road.	None	+776	City of Lima, Unincorporated Areas of Allen County.
	At the downstream side of Phillips Road	None	+881	
Unnamed Tributary No. 3 to Little Ottawa River.	Approximately 1,500 feet upstream of the Little Ottawa River confluence.	None	+835	Unincorporated Areas of Allen County, Village of Fort Shawnee.
	Approximately 0.5 mile upstream of the Little Ottawa River confluence.	None	+839	

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+ North American Vertical Datum.
# Depth in feet above ground.

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		Effective	Modified	

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** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

ADDRESSES:

City of Delphos

Maps are available for inspection at City Hall, 608 North Canal Street, Delphos, OH 45833.

City of Lima

Maps are available for inspection at City Hall, 50 Town Square, Lima, OH 45801.

Unincorporated Areas of Allen County

Maps are available for inspection at the Allen County Courthouse, 301 North Main Street, Lima, OH 45802.

Village of Elida

Maps are available for inspection at the Village Hall, 200 West Main Street, Elida, OH 45807.

Village of Fort Shawnee

Maps are available for inspection at the Village Hall, 2050 West Breese Road, Fort Shawnee, OH 45806.

Shelby County, Tennessee, and Incorporated Areas

Fletcher Creek	Approximately 100 feet upstream of Bartlett Road	+246	+245	City of Memphis, Unincorporated Areas of Shelby County.
	Approximately 150 feet upstream of Back Nine Drive	None	+366	
Howard Creek	Approximately 1,310 feet downstream of Old Brownsville Road.	+246	+247	City of Bartlett, Unincorporated Areas of Shelby County.
	Approximately 1,115 feet upstream of Billy Maher Road.	None	+256	
Ivy Creek	Approximately 650 feet upstream of CSX railroad	None	+261	City of Lakeland.
	At the upstream side of Memphis Arlington Road	None	+295	
Loosahatchie River Lateral A	Approximately 200 feet downstream of Gulf Stream Road.	+269	+267	Township of Arlington.
	At the upstream side of Memphis Arlington Road	+280	+281	
Loosahatchie River Lateral CA.	At the Loosahatchie River Lateral C confluence	+274	+275	Township of Arlington.
	Approximately 0.3 mile upstream of Forrest Street	None	+294	
North Fork Creek Lateral A	Approximately 0.8 mile upstream of the North Fork Creek confluence.	+274	+275	City of Millington, Unincorporated Areas of Shelby County.
	At the upstream side of Sullivan Road	+321	+320	
Wolf Creek Lateral F	Approximately 125 feet upstream of Wolf River Boulevard.	+272	+274	City of Germantown.
	At the upstream side of Johnson Road	None	+337	
Wolf River Lateral C	Approximately 645 feet upstream of the Wolf River Lateral CA confluence.	+273	+272	City of Germantown.
	Approximately 130 feet upstream of Woodruff Drive	+312	+311	
Wolf River Lateral G	Approximately 0.4 mile upstream of the Wolf River confluence.	+273	+272	City of Germantown, Town of Collierville.
	Approximately 0.5 mile upstream of Fox Hill East Circle.	None	+323	
Wolf River Lateral H	Approximately 0.3 mile downstream of Wolf River Boulevard.	+279	+280	Town of Collierville, Unincorporated Areas of Shelby County.
	Approximately 140 feet downstream of State Highway 72.	+329	+325	
Wolf River Lateral J	Approximately 0.4 mile downstream of Shelton Road East.	+289	+288	Town of Collierville, Unincorporated Areas of Shelby County.
	Approximately 130 feet upstream of West White Road	+327	+323	

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+ North American Vertical Datum.

Depth in feet above ground.

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		Effective	Modified	

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Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

ADDRESSES:

City of Bartlett
Maps are available for inspection at 3585 Altrurial Road, Bartlett, TN 38134.

City of Germantown
Maps are available for inspection at 1920 South Germantown Road, Germantown, TN 38138.

City of Lakeland
Maps are available for inspection at 10001 Highway 70, Lakeland, TN 38002.

City of Memphis
Maps are available for inspection at 125 North Main Street, Room 476, Memphis, TN 38103.

City of Millington
Maps are available for inspection at 7930 Nelson Street, Millington, TN 38053.

Town of Collierville
Maps are available for inspection at 500 Keough Road, Collierville, TN 38017.

Township of Arlington
Maps are available for inspection at 5854 Airline Road, Arlington, TN 38002.

Unincorporated Areas of Shelby County
Maps are available for inspection at 160 North Main Street, Suite 350, Memphis, TN 38103.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: April 28, 2011.

Sandra K. Knight,

Deputy Federal Insurance and Mitigation Administrator, Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2011–11411 Filed 5–9–11; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2011–0002; Internal Agency Docket No. FEMA–B–1193]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule.

SUMMARY: Comments are requested on the proposed Base (1% annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed in the table below. The purpose of this proposed rule is to seek general information and comment regarding the proposed regulatory flood elevations for the reach described by the downstream and upstream locations in the table below. The BFEs and modified BFEs are a part of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, these elevations, once finalized, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents in those buildings.

DATES: Comments are to be submitted on or before August 8, 2011.

ADDRESSES: The corresponding preliminary Flood Insurance Rate Map (FIRM) for the proposed BFEs for each community is available for inspection at the community's map repository. The respective addresses are listed in the table below.

You may submit comments, identified by Docket No. FEMA–B–1193, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–4064, or (e-mail) *luis.rodriguez1@dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–4064, or (e-mail) *luis.rodriguez1@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in those buildings.

Comments on any aspect of the Flood Insurance Study and FIRM, other than the proposed BFEs, will be considered. A letter acknowledging receipt of any comments will not be sent.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Executive Order 12866, Regulatory Planning and Review. This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866, as amended.

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

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

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

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

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

Flooding source(s)	Location of referenced elevation **	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground ∧Elevation in meters (MSL)		Communities affected
		Effective	Modified	
St. Clair County, Alabama, and Incorporated Areas				
Coosa River	At the Fishing Creek confluence	None	+477	Town of Ragland, Town of Riverside.
	Approximately 5.5 miles downstream of Neely Henry Dam.	None	+486	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

Town of Ragland

Maps are available for inspection at 220 Fredia Street, Suite 102, Ragland, AL 35131.

Town of Riverside

Maps are available for inspection at 379 Depot Street, Riverside, AL 35135.

Cass County, Missouri, and Incorporated Areas				
Lake Winnebago	Entire shoreline	+922	+923	City of Lake Winnebago.
Unnamed Tributary to Lumpkins Fork (backwater effects from Lumpkins Fork).	From approximately 275 feet upstream of the Lumpkins Fork confluence to approximately 850 feet upstream of the Lumpkins Fork confluence.	None	+962	City of Raymore.
Unnamed Tributary to Mill Creek (backwater effects from Mill Creek).	From approximately 50 feet upstream of the Mill Creek confluence to approximately 850 feet upstream of the Mill Creek confluence.	None	+893	Village of Loch Lloyd.
Unnamed Tributary to Poney Creek (backwater effects from Poney Creek).	From approximately 1,300 feet upstream of the Poney Creek confluence to approximately 1.0 mile upstream of the Poney Creek confluence.	None	+845	Unincorporated Areas of Cass County
Unnamed Tributary to South Grand River (backwater effects from South Grand River).	From approximately 1,850 feet upstream of South Lake Annette Road to approximately 0.49 mile upstream of South Lake Annette Road.	None	+849	Unincorporated Areas of Cass County.

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Flooding source(s)	Location of referenced elevation **	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground ∧Elevation in meters (MSL)		Communities affected
		Effective	Modified	

Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

City of Lake Winnebago

Maps are available for inspection at City Hall, 10 East Winnebago Drive, Lake Winnebago, MO 64034.

Unincorporated Areas of Cass County

Maps are available for inspection at Cass County Courthouse, 102 East Wall Street, Harrisonville, MO 64701.

Village of Loch Loyd

Maps are available for inspection at the Loch Lloyd Trustee's Office, 16750 Country Club Drive, Loch Lloyd, MO 64012.

Dauphin County, Pennsylvania (All Jurisdictions)

Mahantango Creek	Approximately 1.88 miles upstream of Malta Road	None	+434	Township of Mifflin.
	Approximately 0.38 mile downstream of Market Street	None	+470	
Rattling Creek	Approximately 185 feet upstream of Glen Park Road	None	+762	Township of Jackson.
	Approximately 630 feet upstream of Glen Park Road	None	+768	
Wiconisco Creek (Upper Reach).	Approximately 1.26 miles downstream of the Rattling Creek confluence.	None	+603	Township of Washington.
	Approximately 1.11 miles downstream of the Rattling Creek confluence.	None	+606	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

Township of Jackson

Maps are available for inspection at the Jackson Township Building, 450 Bastion Road, Halifax, PA 17032.

Township of Mifflin

Maps are available for inspection at the Mifflin Township Building, 3843 Shippen Dam Road, Millersburg, PA 17061.

Township of Washington

Maps are available for inspection at the Washington Township Municipal Building, 185 Manors Road, Elizabethville, PA 17023.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: April 28, 2011.

Sandra K. Knight,

Deputy Federal Insurance and Mitigation Administrator, Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2011–11425 Filed 5–9–11; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2011–0002; Internal Agency Docket No. FEMA–B–1190]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule.

SUMMARY: Comments are requested on the proposed Base (1% annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed in the table below. The purpose of this proposed rule is to seek general information and comment regarding the proposed regulatory flood elevations for the reach described by the downstream and upstream locations in the table below. The BFEs and modified BFEs are a part of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, these elevations, once finalized, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents in those buildings.

DATES: Comments are to be submitted on or before August 8, 2011.

ADDRESSES: The corresponding preliminary Flood Insurance Rate Map (FIRM) for the proposed BFEs for each community is available for inspection at the community's map repository. The respective addresses are listed in the table below.

You may submit comments, identified by Docket No. FEMA–B–1190, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–4064, or (e-mail) *luis.rodriguez1@dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–4064, or (e-mail) *luis.rodriguez1@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in those buildings.

Comments on any aspect of the Flood Insurance Study and FIRM, other than the proposed BFEs, will be considered. A letter acknowledging receipt of any comments will not be sent.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Executive Order 12866, Regulatory Planning and Review. This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866, as amended.

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

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

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

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

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

Flooding source(s)	Location of referenced elevation**	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground ∧Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Greene County, Pennsylvania (All Jurisdictions)				
Dunkard Creek	Approximately 400 feet downstream of the downstream county boundary.	None	+950	Township of Wayne.
	Approximately 100 feet upstream of the upstream county boundary.	None	+951	
Purman Run	Approximately 0.55 mile upstream of North East Street.	None	+963	Township of Franklin.
	Approximately 0.56 mile upstream of North East Street.	None	+965	
Pursley Creek (backwater effects from South Fork Tenmile Creek).	At the South Fork Tenmile Creek confluence	None	+960	Township of Center.
	Approximately 0.34 mile upstream of the South Fork Tenmile Creek confluence.	None	+960	
South Fork Tenmile Creek	Approximately 1,061 feet upstream of Center Street	None	+789	Township of Center, Township of Morgan.
	Approximately 0.64 mile upstream of Oak Forest Road.	None	+968	
Tenmile Creek	Approximately 1,581 feet upstream of Center Street	None	+786	Township of Morgan.
	Approximately 1.55 miles upstream of Center Street	None	+804	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

Flooding source(s)	Location of referenced elevation**	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground ∧Elevation in meters (MSL)		Communities affected
		Effective	Modified	

** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

Township of Center

Maps are available for inspection at the Center Township Supervisors Building, 100 Municipal Drive, Rogersville, PA 15359.

Township of Franklin

Maps are available for inspection at the Franklin Township Municipal Building, 568 Rolling Meadows Road, Waynesburg, PA 15370.

Township of Morgan

Maps are available for inspection at the Morgan Township Municipal Building, 1019 3rd Street, Extension, Mather, PA 15346.

Township of Wayne

Maps are available for inspection at the Wayne Township Municipal Building, 132 Spraggs Road, Spraggs, PA 15362.

Marion County, West Virginia, and Incorporated Areas

Bingamon Creek	At the West Fork River confluence	+901	+902	Unincorporated Areas of Marion County.
	At the Harrison County boundary	None	+902	
Booths Creek	Approximately 40 feet upstream of the West Fork River confluence.	None	+886	Town of Monongah, Unincorporated Areas of Marion County.
	At the Harrison/Taylor County boundary	None	+959	
Tevebaugh Creek (backwater effects from West Fork River).	From approximately 400 feet upstream of the West Fork River confluence to approximately 1,300 feet upstream of the West Fork River confluence.	None	+897	Town of Worthington.

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
#Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

Town of Monongah

Maps are available for inspection at the Town Hall, 430 Bridge Street, Monongah, WV 26554.

Town of Worthington

Maps are available for inspection at the Town Hall, 247 Main Street, Worthington, WV 26591.

Unincorporated Areas of Marion County:

Maps are available for inspection at the Marion County City Building, 200 Jackson Street, Fairmont, WV 26554.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: April 15, 2011.

Sandra K. Knight,

Deputy Federal Insurance and Mitigation Administrator, Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2011–11418 Filed 5–9–11; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2010–0003; Internal Agency Docket No. FEMA–B–1155]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule; correction.

SUMMARY: On November 9, 2010, FEMA published in the **Federal Register** a proposed rule that included an erroneous community name for Lake Michigan and White Ditch in La Porte County, Indiana. The City of Michiana Shores should have been listed as the Town of Michiana Shores.

DATES: Comments pertaining to the Lake Michigan and White Ditch BFEs for the Town of Michiana Shores are to be submitted on or before August 8, 2011.

ADDRESSES: You may submit comments, identified by Docket No. FEMA–B–1155, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–4064 or (e-mail) *luis.rodriguez1@dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–4064 or (e-mail) *luis.rodriguez1@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) publishes proposed determinations of Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs for communities participating in the National Flood Insurance Program (NFIP), in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are minimum requirements. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in those buildings.

Correction

In the proposed rule published at 75 FR 68744, in the November 9, 2010, issue of the **Federal Register**, FEMA published a table under the authority of 44 CFR 67.4. The table, entitled "La Porte County, Indiana, and Incorporated Areas" addressed several flooding sources, including Lake Michigan and White Ditch. That table incorrectly listed the City of Michiana Shores among the communities affected by the modified BFEs for Lake Michigan and White Ditch and listed the incorrect name of the community in the list of map repository addresses. The correct name of the community is the Town of Michiana Shores, and its map repository is located at the Town Hall, 601 El Portal South Drive, Michiana Shores, Indiana 46360. This proposed rule correction is reopening the comment period for the modified BFEs for Lake Michigan and White Ditch, for the Town of Michiana Shores, due to the error in listing this community as the City of Michiana Shores in the previously published proposed rule at 75 FR 68744.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: April 8, 2011.

Sandra K. Knight,

Deputy Federal Insurance and Mitigation Administrator, Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2011–11292 Filed 5–9–11; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2011–0002; Internal Agency Docket No. FEMA–B–1175]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule; correction.

SUMMARY: On February 16, 2011, FEMA published in the **Federal Register** a proposed rule that contained an erroneous table. This notice provides corrections to that table, to be used in lieu of the information published at 76 FR 8978. The table provided here represents the flooding sources, location of referenced elevations, effective and modified elevations, and communities affected for Yolo County, California, and Incorporated Areas. Specifically, it addresses the following flooding sources: Cache Creek, Cache Creek Left Bank Overflow, and Cache Creek Right Bank Overflow.

DATES: Comments are to be submitted on or before August 8, 2011.

ADDRESSES: You may submit comments, identified by Docket No. FEMA–B–1175, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–4064 or (e-mail) *luis.rodriguez1@dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–4064 or (e-mail) *luis.rodriguez1@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) publishes proposed determinations of Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs for communities participating in the National Flood Insurance Program (NFIP), in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are minimum requirements. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in those buildings.

Corrections

In the proposed rule published at 76 FR 8978, in the February 16, 2011, issue of the **Federal Register**, FEMA published a table under the authority of 44 CFR 67.4. The table, entitled "Unincorporated Areas of Yolo County, California" addressed the flooding source Cache Creek Settling Basin. That table contained inaccurate information as to the location of referenced elevation, effective and modified elevation in feet, and/or communities affected for this flooding source. In this notice, FEMA is publishing a table containing the accurate information, to address these prior errors. The information published in the **Federal Register** on February 16, 2011, for Cache Creek Settling Basin has been divided into individual descriptions for Cache Creek, Cache Creek Left Bank Overflow, and Cache Creek Right Bank Overflow to provide more detailed information on the area affected by these proposed BFEs and modified BFEs. The City of Woodland also has been added as a community affected by Cache Creek Right Bank Overflow. The information

provided below should be used in lieu of that previously published for Cache Creek Settling Basin.

Flooding source(s)	Location of referenced elevation**	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground ∧Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Yolo County, California, and Incorporated Areas				
Cache Creek	Approximately 3,200 feet downstream of County Road 102.	+48	+54	Unincorporated Areas of Yolo County.
	Approximately 1.4 miles downstream of County Road 94B.	+95	+94	
Cache Creek Left Bank Overflow.	Approximately 1.9 miles east of the intersection of County Road 103 and County Road 20.	None	+40	Unincorporated Areas of Yolo County.
	Approximately 3,200 feet downstream of County Road 102.	+48	+54	
Cache Creek Right Bank Overflow.	Approximately 1.1 miles east of the intersection of County Road 24 and County Road 102.	+36	+37	City of Woodland, Unincorporated Areas of Yolo County.
	Approximately 1,500 feet north of the intersection of County Road 96B and County Road 19B.	+91	+93	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

City of Woodland

Maps are available for inspection at the Community Development Department, 520 Court Street, Woodland, CA 95695.

Unincorporated Areas of Yolo County

Maps are available for inspection at the Yolo County Department of Planning and Public Works, 292 West Beamer Street, Woodland, CA 95695.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: April 26, 2011.

Sandra K. Knight,

Deputy Federal Insurance and Mitigation Administrator, Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2011–11245 Filed 5–9–11; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2011–0002; Internal Agency Docket No. FEMA–B–1021]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule; correction.

SUMMARY: On November 24, 2008, FEMA published in the **Federal Register** a proposed rule that contained an erroneous table. This notice provides corrections to that table, to be used in lieu of the information published at 73 FR 70944. The table provided here represents the flooding sources, location of referenced elevations, effective and modified elevations, and communities affected for Menifee County, Kentucky, and Incorporated Areas. Specifically, it addresses the flooding source Licking River (Cave Run Lake).

DATES: Comments are to be submitted on or before August 8, 2011.

ADDRESSES: You may submit comments, identified by Docket No. FEMA–B–1021, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–4064 or (e-mail) *luis.rodriguez1@dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–4064 or (e-mail) *luis.rodriguez1@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) publishes proposed determinations of Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs for communities participating in the National Flood Insurance Program (NFIP), in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are minimum requirements. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in those buildings.

Correction

In the proposed rule published at 73 FR 70944 in the November 24, 2008, issue of the **Federal Register,** FEMA published a table under the authority of 44 CFR 67.4. The table, entitled "Menifee County, Kentucky, and Incorporated Areas," addressed the flooding source Licking River (Cave Run Lake). That table contained inaccurate information as to the location of referenced elevation, effective and modified elevation in feet, and/or communities affected for that flooding source. In this notice, FEMA is publishing a table containing the accurate information, to address these prior errors. The information provided below should be used in lieu of that previously published.

Flooding source(s)	Location of referenced elevation**	*Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground ∧Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Menifee County, Kentucky, and Incorporated Areas				
Licking River (Cave Run Lake).	At the Buck Creek confluence	None	+765	City of Frenchburg, Unincorporated Areas of Menifee County.
	At the North Fork Licking River confluence	None	+765	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

ADDRESSES

City of Frenchburg

Maps are available for inspection at 157 Old Campus Road, Frenchburg, KY 40322.

Unincorporated Areas of Menifee County

Maps are available for inspection at the Menifee County Courthouse, 12 Main Street, Frenchburg, KY 40322.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: April 21, 2011.

Sandra K. Knight,

Deputy Federal Insurance and Mitigation Administrator, Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2011–11298 Filed 5–9–11; 8:45 am]

BILLING CODE 9110–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2, 22, 24, 27, 90 and 95

[WT Docket No. 10–4; FCC 11–53]

Improving Wireless Coverage Through the Use of Signal Boosters

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document the Federal Communications Commission (Commission) seeks comment on revisions to its rules to help fill gaps in wireless coverage and expand broadband in rural and difficult-to-serve areas, and protect wireless networks from harm. The development and deployment of well-designed signal boosters holds great potential to empower consumers in rural and underserved areas to improve their wireless coverage in their homes, at their jobs, and when they travel by car, recreational vehicle, or boat.

DATES: Submit comments on or before June 24, 2011, and reply comments on or before July 25, 2011. For additional information concerning proposed information collections contained in this document, contact Judith-B.Herman

at (202) 418–0214, or via the Internet at *Judith.B-Herman@fcc.gov.*

ADDRESSES: You may submit comments, identified by WT Docket No. 10–4; FCC 11–53, 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://www.fcc.gov/cgb/ecfs/.* 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 e-mail: *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: Joyce Jones, Mobility Division, Wireless Telecommunications Bureau, at (202) 418–1327, or e-mail at *joyce.jones@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking ("NPRM") in WT Docket No. 10–4, FCC 10–53, adopted on April 5, 2011, and released on April 6, 2011. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: *http://www.fcc.gov.* Alternative formats are available to persons with disabilities by sending an e-mail to *fcc504@fcc.gov.* or by calling the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

I. Procedural Matters

A. Ex Parte Rules-Permit-But-Disclose Proceeding

1. This rulemaking shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented generally is required. Other requirements pertaining to oral and written presentations are set forth in § 1.1206(b) of the Commission's rules.

B. Comment Filing Procedures

2. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, and 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

• *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/* or the Federal eRulemaking Portal: *http://www.regulations.gov.*

• *Paper Filers:* Parties who choose to file by paper must file an original and four copies 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 must be disposed of *before* entering the building.

• Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

• U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington, DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

3. Parties should send a copy of their filings to Joyce Jones, Federal Communications Commission, Room 6404, 445 12th Street, SW., Washington, DC 20554, or by e-mail to *joyce.jones@fcc.gov.* Parties shall also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (202) 488–5300, or via e-mail to *fcc@bcpiweb.com.*

4. Documents in WT Docket No. 10–4 will be available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The documents may also be purchased from BCPI, telephone (202) 488–5300, facsimile (202) 488–5563, TTY (202) 488–5562, e-mail *fcc@bcpiweb.com.*

5. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice) or 202–418–0432 (TTY). Contact the FCC to request reasonable accommodations for filing comments (accessible format documents, sign language interpreters, CART, etc.) by e-mail: *FCC504@fcc.gov*; phone: 202–418–0530 or TTY: 202–418–0432.

C. Paperwork Reduction Act

6. This document contains a proposed or a modified information collection. Accordingly, we seek comment on the impact of this *NPRM* on information collections, pursuant to the Paperwork Reduction Act of 1995.

Synopsis of the Notice of Proposed Rulemaking

II. Introduction

7. In this document, the Commission initiates a proceeding to facilitate the development and deployment of well-designed signal boosters, which hold great potential to empower consumers in rural and underserved areas to improve their wireless coverage in their homes, at their jobs, and when they travel by car, recreational vehicle, or boat. The Notice of Proposed Rulemaking (NPRM) proposes a new regulatory framework authorizing individuals and entities to operate "consumer signal boosters" provided the devices comply with: (1) All applicable technical and radiofrequency (RF) exposure rules, and (2) a set of parameters aimed at preventing and controlling interference and rapidly resolving interference problems should

they occur. A consumer signal booster is any signal booster operated by (or for the benefit of) consumers on spectrum being used to provide subscriber-based services, *e.g.*, voice communications, texting, using a broadband connection to access e-mail or the Internet. The Commission also proposes revisions to the rules governing signal boosters used for private land mobile services.

8. In addition, the Commission addresses three petitions for rulemaking filed by Bird Technologies, Inc. (filed Aug. 18, 2005), the DAS Forum (a membership section of PCIA—the Wireless Infrastructure Association) (filed Oct. 23, 2009) (DAS Forum), and Wilson Electronics, Inc. (filed Nov. 3, 2009), and a petition for declaratory ruling filed by Jack Daniel DBA Jack Daniel Company (filed Sept. 25, 2008), all of which relate to signal boosters.

III. Discussion

A. Certification and Use of Consumer Signal Boosters

1. License-by-Rule Framework

9. The Commission proposes to license the use of signal boosters by rule under section 307(e) of the Communications Act, 47 U.S.C. 307(e). 47 U.S.C. 307(e)(1) states in part that, "[n]otwithstanding any license requirement established in this Act, if the Commission determines that such authorization serves the public interest, convenience, and necessity, the Commission may by rule authorize the operation of radio stations without individual licenses in the following radio services: (A) Citizens band radio service; * * * " section 307(e) states further that, "[f]or purposes of this subsection, the terms 'citizens band radio service', * * * shall have the meanings given them by the Commission by rule." The Commission believes that a license-by-rule framework would be the best approach for enabling operation of properly certificated signal boosters, particularly because it would obviate the need for burdensome individual licensing requirements. The Commission's proposed regulatory framework would facilitate operation of signal boosters to enhance wireless coverage and access to broadband services, while minimizing administrative costs and burdens on the public, Commission licensees, and agency staff, thus serving the public interest, convenience and necessity.

10. The Commission tentatively concludes that authorizing the operation of properly certificated signal boosters by rule under section 307(e) of the Act would further the public interest, convenience, and necessity. Signal boosters provide substantial public benefits for consumers by improving wireless coverage in rural, indoor, and other hard to serve locations where wireless coverage may be deficient. However, because the Commission proposes to authorize operation of signal boosters on licensed spectrum, the Commission further proposes that any such use would be on a secondary, non-interfering basis, and would have to meet the proposed technical parameters of operation, which are designed to prevent, control, and quickly resolve any interference should it occur.

2. General Requirements for All Consumer Signal Boosters

11. *Manufacturing Requirements.* The Commission proposes that all consumer signal boosters must meet all applicable technical specifications for the relevant band(s) of operation as they apply to mobile units (*i.e.*, not base station technical specifications). The applicable rules are 47 CFR 22.355, Public Mobile Services frequency tolerance; 47 CFR 22.913, Cellular effective radiated power limits; 47 CFR 22.917, Emission limitation for cellular equipment; 47 CFR 24.232, PCS power and antenna height limits; 47 CFR 24.238, Emission limitations for Broadband PCS equipment; 47 CFR 27.50, Miscellaneous Wireless Communications Services power and antenna height limits; 47 CFR 27.53, Miscellaneous Wireless Communications Services emission limits; 47 CFR 90.205, Private Land Mobile Radio Services power and antenna height limits; 47 CFR 90.210, Private Land Mobile Radio Services emission masks; 47 CFR 90.219, Private Land Mobile Radio Services use of signal boosters; and 47 CFR 90.247, Private Land Mobile Radio Services mobile repeater stations. The Commission seeks detailed comment on our proposal and proposed rule language set forth below that signal boosters must comply with all applicable technical requirements for mobile units for the bands they will operate on. In addition, the Commission seeks comment on whether any other technical specifications should apply and the costs and benefits of adopting such additional technical requirements.

12. The Commission also proposes that all signal boosters must monitor the device's compliance with all applicable technical requirements for mobile devices for the band in which they operate (*e.g.* power, out-of-band emissions (OOBE)). The Commission believes base station technical limits are not applicable because they would allow significantly higher power levels, which are not warranted for this service. If it is determined that the device is operating outside of the applicable technical parameters, the Commission proposes that the device must be capable of shutting itself down automatically within ten (10) seconds (or less). The Commission further proposes that the device must remain off for at least one (1) minute before restarting. If after five (5) restarts, the device is still not operating consistent with applicable technical rules, it must shut off and remain off until manually restarted by the device operator. The Commission also proposes that all signal boosters must detect feedback or oscillation (such as may result from insufficient isolation between the antennas) and deactivate the uplink transmitter within 10 seconds of detection. After such deactivation, the booster must not resume operation until manually reset. These built-in technological safeguards would minimize the potential for harmful interference to wireless networks.

13. The Commission seeks detailed comment on its proposal and proposed rule language set forth below, including the appropriate triggers to initiate device shut down. In addition, the Commission queries whether signal boosters should monitor for any other parameters and, if so, how such monitoring would be accomplished and at what additional cost. Further, the Commission seeks specific comment on whether the existing technical rules that apply to mobile devices in parts 22, 24 and 27 are appropriate for all signal booster devices. Are these technical limits adequate to address varying types of signal booster installations, *e.g.*, personal use vs. carrier and enterprise installations, which are typically professionally installed and designed to cover large areas such as office buildings or arenas? The Commission notes that signal boosters can be designed for use on both the Personal Communications Service (PCS) and Cellular Radiotelephone Service bands, but different technical requirements apply to these bands; does this create unnecessary design challenges for signal booster manufacturers? The Commission also notes that mobile subscriber unit power is subject to an effective radiated power (ERP) limit, which is appropriate for devices with integrated antennas, while most signal boosters do not have integrated antennas. Would transmitter output power be a more appropriate power limit measure for signal booster devices? The Commission requests detailed comment on the appropriate technical

limits that should apply to signal boosters for each band of operation, including the associated costs and benefits.

14. The Commission also seeks comment on other technical requirements that may be necessary to ensure signal boosters do not negatively affect carriers' networks. For example, some commenters expressed concern that wideband signal boosters generate additional radio frequency (RF) noise that can reduce the capacity and reliability of the network even when subscriber signals are not amplified. We seek detailed comment and analyses on the impact of wideband signal booster use on wireless networks. How are these impacts different from narrowband signal boosters? How can wideband signal boosters be designed to avoid potential problems? Can specific device features minimize network impact, *e.g.*, programmability to a specific frequency block or powering on only when needed to amplify a signal? Specifically, how would such design features affect device cost?

15. *RF Exposure.* The Commission proposes to apply the relevant part 22, 24, 27 or 90 mobile station technical requirements to signal boosters. In addition, the Commission proposes to prohibit signal boosters that are designed to be used so that the radiating structure(s) is/are within 20 centimeters of the user or other persons, as defined for portable devices in § 2.1093(b). Thus, the Commission proposes to permit only fixed and mobile signal boosters, which will be governed by the RF exposure rules regarding how the devices are deployed. The RF exposure rules in §§ 1.1307 and 2.1091 of the Commission's rules outline exposure limits, equipment authorization requirements, and other regulatory requirements that are based on the type of device, how it is deployed or used, the power of its transmissions, and the proximity of its antenna and radiating structures to a person's body. To maintain RF exposure compliance, the operation of signal boosters can be highly dependent on how they are installed and operated with respect to the fixed and mobile exposure conditions required by §§ 1.1307 and 2.1091; therefore, in addition to the routine evaluation currently required under § 2.1091 for parts 22, 24, 27 and 90 devices, clear installation and user operating instructions/requirements are proposed to be necessary for installers and end users to satisfy RF exposure requirements.

16. The Commission's existing RF exposure rules have proven effective in ensuring compliance for the deployment and use of existing signal boosters, and thus the Commission sees no reason to change the existing RF exposure requirements. The Commission will, however, outline these requirements in a new § 95.1627. Specifically, the Commission proposes to maintain its requirement that routine RF exposure evaluation is required for signal boosters authorized under part 95 that operate under fixed and mobile exposure conditions. The Commission proposes to amend §§ 1.1307(b) and 2.1091 of its rules accordingly. In addition, as required by § 2.1091, applications for equipment authorization shall contain a statement confirming compliance with the RF exposure limits for both the fundamental and unwanted emissions. Further, technical information showing the basis for compliance with RF exposure requirements must be submitted to the Commission upon request. Since signal boosters operating in fixed-mounted configurations are generally deployed similarly to subscriber transceiver antennas, the Commission proposes to require labeling for these types of signal boosters as similarly required for subscriber transceiver antennas in Table 1 of § 1.1307(b)(1). The Commission seeks comment on all aspects of our proposal.

17. *Labeling and Marketing Requirements.* The Commission proposes that all signal boosters must be labeled and marketed to consumers with clear information specifying the legal use of the device. Numerous commenters request a marketing and/or labeling requirement for signal boosters. Specifically, the Commission proposes that marketing materials must include a prominently placed "consumer disclosure" notifying consumers that the signal booster can only be operated consistent with part 95, Subpart M. For example, for signal boosters offered online or via direct mail or catalog, the consumer disclosure should be prominently displayed in close proximity to the images and descriptions of each signal booster. In addition, the Commission proposes that all signal booster packaging must prominently display the consumer disclosure using a label, either on or otherwise affixed to the package. Specifically the Commission proposes that all signal boosters marketed on or after six months from the effective date of our rules must include the following advisories in 12-point or greater typeface (1) in any marketing materials, (2) in the owner's manual, (3) on the outside packaging of the device, and (4) on a label affixed to the device:

WARNING. Operation of this device is on a secondary non-interference basis and must cease immediately if requested by the FCC or a licensed wireless service provider.

In addition to the above, signal boosters intended for fixed operation must include the following advisory:

WARNING. Operation of this device must be coordinated with, and information on channel selection and operating power must be obtained from, the applicable spectrum licensees authorized in the area of deployment. Licensee information is available at *http://www.fcc.gov/signalboosters.*

18. The Commission seeks comment on its proposals, including the text of our proposed rules set forth below. In addition, the Commission seeks comment on whether to require manufacturers, retailers, and any other entity marketing or selling signal boosters to display the consumer disclosure language conspicuously at the point-of-sale and on their Web sites. The Commission also seeks comment on whether to include enforcement language as part of the consumer disclosure.

19. *Operator Requirements.* The Commission also proposes that if a signal booster is causing harmful interference as defined in part 2.1 of its rules, 47 CFR 2.1, the operator of the device must immediately cease operations. While the Commission believes that its proposed rules will facilitate the development and deployment of robust signal boosters which will not harm wireless networks, in the event harmful interference does occur, this safeguard confirms that an interfering signal booster operator must cease operation. The Commission seeks comment on its proposals and proposed rule language set forth below. In addition, the Commission seeks comment on whether and how signal booster operators should be protected from interference from other signal booster operations.

3. Fixed Signal Booster Requirements

20. The Commission's proposed rules seek to facilitate the development of signal boosters which do not cause harmful interference to wireless networks. Avoiding harmful interference, however, will differ for fixed and mobile signal boosters. Accordingly, in addition to the general requirements discussed above, the Commission proposes additional and separate requirements for fixed and mobile signal boosters.

21. The Commission proposes to require all operators of fixed consumer signal boosters to coordinate frequency selection and power levels with applicable carrier(s) prior to operation.

For purposes of this proceeding, the term "fixed signal booster" refers to a signal booster that is operated at a fixed location, *e.g.*, office building, tunnel, garage, home. The Commission seeks comment on this proposal and its proposed rules, including whether there are other requirements specific to fixed signal boosters that it should mandate. For example, is coordination sufficient to address the power control concerns of Code Division Multiple Access (CDMA) carriers or should all signal boosters be equipped with dynamic power control capabilities? What would be needed to accomplish sufficient dynamic power control and at what cost? In addition, what type of coordination should be required for temporary or emergency deployment of signal boosters? Further, how should the coordination process accommodate a carrier's subsequent network changes? The Commission notes that, as drafted, its proposed rule would permit fixed, outdoor installation of signal boosters. The Commission recognizes, however, that such outdoor installations may pose additional installation challenges for achieving adequate antenna attenuation, among other things. Accordingly, the Commission queries whether additional safeguards are necessary for fixed, outdoor signal booster installations, such as a professional installation requirement?

22. The Commission recognizes that there may be instances where a service provider may not timely respond to coordination requests. The Commission thus seeks comment on how to administer a coordination requirement that balances the need for timely coordination with the resulting burdens on carriers. The Commission seeks detailed comment on how the coordination should be structured, including whether to impose specific timelines for responding to a coordination request and what dispute resolutions procedures are necessary in the event the parties cannot reach a coordination agreement.

4. Mobile Signal Booster Requirements

23. In order to prevent mobile signal boosters from causing harmful interference to wireless networks, different safeguards are necessary. Unlike fixed devices, mobile signal boosters cannot reasonably be coordinated with nearby carrier base stations in advance. In lieu of that coordination, the Commission seeks to ensure that mobile signal boosters only operate when needed, and cease operations when they are unnecessary. The Commission therefore proposes to require a signal booster operating in a mobile environment to power down or shut down as the device approaches the base station with which it is communicating. If implemented in signal boosters, such a safeguard could protect a service provider's network by mitigating excess noise to base stations from signal boosters that are operating but not needed. The Commission seeks comment on this proposal and proposed rules set forth below, including how this concept would be implemented and enforced. Could the devices simply turn off when not needed or could a dynamic power control similar to that used by mobile phones be implemented in a signal booster? Commenters should address the technical, operational and economic challenges to such an approach.

24. While powering down or shutting down will reduce noise at the base station with which the device is communicating, a signal booster can also introduce noise to other carriers' base stations (the "near-far problem"). For example, a signal booster communicating with Carrier "A," far from carrier A's base station may be near Carrier "B's" base station and introduce excessive noise to Carrier B. In this vein, the Commission seeks comment on whether and how it should address this problem. How best can a mobile signal booster prevent noise generation with base stations with which it is not communicating? For example, should the Commission only permit carrier-specific signal boosters for mobile applications, or should it require that mobile signal boosters be tethered to the phone or only be approved if they have a docking station to ensure amplification of only the desired signal of the operator? If such protection is necessary, how should it be accomplished? Specifically, how will additional design features influence device cost? Are there other potential problems that manufacturers should address? Several commentators also suggest that mobile signal boosters include some form of automatic gain control to avoid base station overload. The Commission seeks comment on whether we should require devices to have automatic gain control and how that should be accomplished.

5. Other Proposals

25. Four parties—AT&T, CTIA, the Wireless Association, the DAS Forum, and Wilson Electronics, Inc.—submitted alternate proposals which may facilitate the development of well-designed, properly operating and installed signal boosters while controlling, preventing and, if necessary, resolving interference to wireless networks. The Commission carefully examined these proposals and, where appropriate, incorporated specific elements from these proposals where they appeared narrowly tailored to address carriers' concerns about network reliability and management, into the Commission's overall proposal. The Commission seeks comment on these four proposals, including whether additional elements of these proposals should be included in the Commission's comprehensive proposal for signal boosters. For example, the Commission notes that there appears to be some commonality between the proposals submitted by AT&T, CTIA, and Wilson regarding the need for signal boosters to include a form of remote shut-off capability. Should the Commission include remote shut-off capability among the safeguards in its proposed framework and how should it be implemented? In addition, should such a shut-off feature be subject to a quantitative or qualitative standard, *e.g.*, reasonable network management? Also, should the Commission require boosters to incorporate location detection features as suggested by some commenters? Further, the Commission seeks detailed comment on the impact of signal booster use on network-based E–911 systems, including how manufacturers might implement CTIA's proposal to require signal boosters to include a mechanism for relaying accurate E–911 location information. The Commission also encourages comment on other safeguards not currently included in its proposal or the alternate proposals that could promote signal booster use. Commenters advocating additional safeguards should address the costs and benefits of such additional features.

6. Treatment of Existing Signal Boosters

26. The Commission recognizes that there are signal boosters being operated today by CMRS licensees or others, which will not meet the requirements we propose in the NPRM. The Commission seeks comment on how such boosters should be treated. Further, should the Commission sunset the use of existing signal boosters which do not meet its proposed safeguards or grandfather certain existing signal boosters? In addition, to the extent the Commission determines to grandfather certain signal boosters and adopts a signal booster registration requirement, it queries whether grandfathered devices should also be subject to such a requirement. The Commission notes that nothing in this item affects the ability of the Commission's Enforcement Bureau to investigate and take appropriate action to resolve instances

of interference caused by signal boosters.

27. At the same time, the Commission seeks to provide an orderly transition to signal boosters that meet any new requirements developed in this proceeding, and minimize public confusion about whether particular devices are legal for use going forward. The Commission proposes a two-step approach to achieving these goals. First, the Commission proposes that, beginning 30 days after the effective date of final rules in this proceeding, all applications for equipment authorization must show that the device meets the new rules. Second, the Commission proposes that, beginning six months from the effective date of its rules, all signal boosters marketed or sold in the United States must meet its proposed safeguards. This approach encourages manufacturers to quickly transition to devices that meet the new rules, providing near-term equipment options for licensees and consumers. The Commission seeks comment on this proposal, including whether these timeframes are reasonable.

B. National Signal Booster Clearinghouse

28. While the technical and operational safeguards the Commission proposes reduce the likelihood that interference will occur, in the event it does occur, there may be benefits to requiring signal booster operators to register their devices prior to use. For example, a national signal booster clearinghouse could hasten interference resolution by providing licensees with a quick resource for identifying nearby signal boosters and points of contact. Similarly, a clearinghouse could be useful to identify sources of interference for future network changes. Accordingly, the Commission seeks comment on whether signal booster operators should be required to register their devices with a national clearinghouse prior to operation. Further, the Commission seeks detailed comment on how a clearinghouse could be structured and what information should be required. Specifically, the Commission seeks comment on how a clearinghouse could be administered, by whom, and whether there are technical or programmatic features that could aid compliance with a registration requirement, *e.g.*, signal boosters could be equipped with features that would prevent operation until properly registered. Commenters should also address the costs and benefits of a registration requirement.

29. While recognizing the potential benefits of signal booster registration, the Commission is mindful of the burden a registration requirement might create for consumers. The Commission thus seeks comment on practical measures it might adopt to minimize or eliminate consumer burdens. For example, should certain types of devices be excluded from registration, *e.g.*, consumer versus professionally installed devices? Likewise, should any registration requirement be limited to fixed signal boosters because their precise locations are known and registration would allow licensees to quickly identify all fixed boosters in a particular area in the event interference is observed at a base station? Finally, the Commission queries whether, given the transient nature of the location of mobile signal boosters, registration would be effective in helping to identify and prevent interference from signal boosters.

C. Signal Boosters for Part 90 Private Land Mobile Radio Service Operations

30. Regarding Part 90 Private Land Mobile Radio (PLMR), non-consumer signal boosters operated by licensees, the Commission proposes revisions to the technical and operational requirements aimed at preventing interference. Specifically, the Commission proposes to:

- Retain the Class A (narrowband) and Class B (wideband) regulatory distinctions and permit private land mobile fixed (Class A and B) and mobile (Class A only) devices.
- Make clear that Class B devices must be limited to confined areas such as buildings, tunnels, parking structures, etc., but allow Class B signal boosters to be connected to external antennas that can communicate with base stations.
- Seek comment on whether to relax or otherwise improve the power and emission limits for Class A and Class B devices.
- Seek comment on whether to require part 90 PLMR, including 700 MHz public safety broadband (non-consumer) devices, to also meet the technical and coordination requirements for consumer signal boosters.
- Seek comment on the impact of the proposed rules on public safety vehicular external antennas and whether additional flexibility should be afforded to such uses.

The Commission encourages commenters to address the costs and benefits of the Commission's proposals as well as any alternatives proposed by commenters.

1. Commercial vs. Private Part 90 Signal Booster Operation

31. Part 90 services include both subscriber-based services and PLMR, which warrant different approaches for signal booster operation. In order to promote regulatory parity, the Commission proposes to apply the same technical and operational requirements to all consumer signal boosters. Thus, the Commission proposes that part 90 consumer signal booster operators must comply with proposed § 95.1600 *et seq.* of its rules. In addition, however, given the unique characteristics of part 90 licensing, the Commission also proposes that part 90 consumer signal booster operators must comply with existing technical requirements for part 90 signal boosters and any new requirements we may adopt in the course of this proceeding. PLMR signal booster operators will continue to be required to comply with existing part 90 signal booster requirements and any new requirements the Commission may adopt in the course of this proceeding. The Commission seeks comment on its approach, including the costs and benefits, but query whether some or all of the technical and regulatory framework proposed above for consumer signal boosters should be applied to part 90 PLMR signal boosters.

2. Part 90 Signal Booster Classifications

32. The Commission proposes to maintain the Class A (narrowband) and Class B (wideband) distinctions for signal boosters in part 90. Class A signal boosters allow part 90 licensees with interleaved channels to meet their own needs without affecting neighboring licensees. In addition, the record demonstrates a demand and need for Class B signal boosters where proper installation and licensee coordination can avoid interference. The Commission believes that maintaining the Class A and Class B signal booster distinction affords licensees the flexibility to deploy signal boosters to fill in dead spots in coverage, extend coverage into buildings and obstructed areas, and provide extended range for public safety entities in rural areas with poor signal coverage. The Commission seeks comment on its proposal and takes this opportunity to seek comment on further distinctions, definition changes, or operational requirements for Class A and Class B signal boosters to ensure they are properly deployed and operated in the public interest.

3. Part 90 Signal Booster Operation

33. The Commission believes that Class B signal booster use should be

limited to confined areas such as buildings, tunnels, parking garages or other structures where the signal would be contained. Accordingly, the Commission proposes to remove the language "or in remote areas" from § 90.219(d) in order to clarify where Class B signal boosters may operate. Class B signal boosters amplify all signals within the device's passband, which makes it difficult to coordinate Class B signal booster use where different licensees have interleaved narrowband channels. Because of this additional level of complexity, Class B signal booster use in the part 90 bands should continue to be restricted to enclosed areas where the signals can be more easily controlled. The removal of the "or in remote areas" language should also eliminate any confusion regarding the allowable geographic locations for Class B signal boosters. Class B boosters can be deployed in both urban and rural areas so long as they are installed in a confined area; Class B signal booster use is not restricted to rural or remote areas. The Commission seeks comment on its proposal. In addition, the Commission seeks comment on how to structure a reasonable transition process for existing Class B signal boosters that do not meet its proposed rules. For example, should the Commission temporarily grandfather such devices and if so, under what terms and for what period of time?

34. The Commission also proposes to allow Class B signal booster operators to pair enclosed, Class B signal boosters with external antennas in order to provide a return path to the licensee's base or repeater station. Containing a Class B booster's signal completely within a structure eliminates the device's primary function—to facilitate signals into and out of obstructed areas. This type of deployment is used to facilitate public safety communications during in-building emergencies and many local jurisdictions require in-building signal boosters for this purpose. If properly coordinated and installed, such in-building signal booster systems can provide an important communications link without causing interference. The Commission seeks comment on its proposal. In addition, the Commission seeks comment on how to facilitate non-licensee use of part 90 PLMR Class B signal boosters for in-building emergency communications, including whether it should adopt our proposed consumer signal booster license-by-rule approach for such use. The Commission also seeks comment on whether additional safeguards are necessary to control interference from in-building signal booster systems. For example, how can the return link be coordinated and deployed in confined areas over frequency ranges that cover multiple licenses? Should the Commission restrict the return link to Class A signal boosters only?

4. Part 90 Mobile Signal Boosters

35. The Commission's current policy affords part 90 licensees flexibility to implement a variety of devices, including mobile signal boosters, on their authorized channels as long as technical requirements are met and coordinated service boundaries are maintained. The Commission proposes to amend its rules to codify this policy and explicitly permit part 90 licensees to use mobile signal boosters on their assigned frequencies. The Commission recognizes, however, that interleaved part 90 channels present additional complications for controlling interference due to the number of different licensees that could be affected. For these reasons, the Commission does not believe wideband, mobile Class B signal boosters should be allowed on interleaved part 90 channels. The Commission thus proposes to only allow part 90 licensees to operate mobile Class A signal boosters on their assigned frequencies. The Commission recognizes that its proposal may prevent part 90 mobile consumer signal booster use because of the difficulty in designing a Class A mobile signal booster. We seek comment on our proposal including how our proposal will affect part 90 mobile consumer signal booster use. Should part 90 SMR licensees or their subscribers be permitted to operate mobile Class B signal boosters? Should 700 MHz public safety broadband licensees or their public safety users be permitted to operate mobile Class B boosters? What additional safeguards or requirements would be necessary to allow Class B signal boosters in a mobile environment without increased interference potential? Should the Commission permit mobile Class B signal boosters if the mobile device is tethered or placed in a docking station, such that only the desired mobile signal is amplified?

36. *Mobile Amplifiers.* In addition, Jack Daniel asks the Commission to clarify that a mobile amplifier is distinct from a mobile signal booster. Specifically, Jack Daniel proposes that the Commission define mobile amplifiers as "radio frequency amplifiers that physically connect[] to the mobile radio, portable or handset, typically [via] the antenna connector." Historically, the Commission has treated these devices as part 90 transmitters for PLMR public safety and business/industrial pool licensees and allowed their use so long as they did not result in the device operating outside of part 90 technical rules. Given this opportunity to review the use of these part 90 amplifiers, the Commission seeks comment on whether any restrictions should be placed on these devices. For example, should commercial SMR service subscribers be permitted to use mobile amplifiers under a different set of technical requirements and what should they be? Most SMR subscriber radios have integrated antennas so connecting an external antenna may not be possible, but the Commission seeks comment on the viability of mobile amplifiers for SMR services. Does connecting the amplifier directly to the mobile device via a physical connection adequately address the interference concerns raised in this proceeding? What technical limits should be applied to mobile amplifiers, *e.g.*, should the Commission adopt separate power limits other than those that apply to part 90 mobile radios generally, should the Commission require automatic gain control or other features to ensure these devices do not cause interference? Should the Commission require that mobile amplifiers be tested with specific radio models to ensure that, when combined, the devices together meet applicable technical requirements in order to merit certification?

5. Technical and Other Issues for Part 90 PLMR Signal Boosters

37. *Emission Limits for Part 90 Signal Boosters.* Commenters state that due to the use of narrowband digital modulation techniques since the signal booster rules were adopted, today's Class A signal boosters are not able to boost discrete digital narrowband channels without incurring group delay which could cause intermittent problems with the receiver's performance. The Commission believes there may be merit in the suggestion by commenters to relax the emission limits for Class A signal boosters to allow for consideration of the group delay issue. Accordingly, the Commission seeks comment as to what passband technical specifications (that could be verified through our equipment certification process) should be required for Class A boosters in lieu of the current requirement to meet the standard emission masks for transmitters. Would it be appropriate to use the 60 kHz passband (at −3 dB), 150 kHz (at −60 dB) specification proposed by Canam

Technology, Inc.? Or should the maximum allowable passband be scaled in some way to the occupied bandwidth of the channel to be amplified? What sort of technical specification would be appropriate to verify the linearity and performance characteristics of a Class A signal booster to ensure that the out-of-band emissions of boosted signals are not degraded by intermodulation products or spurious emissions?

38. The Commission also seeks comment on the appropriate emission limits for Class B signal boosters. What emission mask sufficient for Class B signal boosters? Are Class B signal boosters programmable such that the roll off characteristics can be adjusted to apply to the upper and lower spectrum boundaries of the licensee's desired spectrum range? What other types of emission limitations should be considered for Class B signal boosters and how should compliance with these limits be measured in the equipment certification process?

39. *Signal booster power limits.* While the Commission recognizes that increased power limits for Class A signal boosters may facilitate more economical distribution systems, such increased power limits come with added interference concerns and complexity. A properly engineered and installed higher power Class A signal booster could be useful to fill in dead spots in outdoor coverage or to more economically cover large buildings. However, increasing the power limit would also significantly increase the device's interference potential and could present RF exposure issues if not carefully deployed. The Commission believes more information is needed on this issue before a decision can be made. The Commission thus seeks comment on whether part 90 signal boosters (both Class A and Class B) should be permitted to increase their power levels. What increased power levels are appropriate and what additional safeguards should be adopted? If the Commission permits Class A signal boosters to operate at higher levels, should such operation be limited to fixed applications? Should the Commission decrease the power limit for mobile Class A boosters to minimize interference potential? The Commission also seeks comment on whether the existing power limit remains appropriate for Class B signal boosters and whether it is expressed clearly in § 90.219(b) or whether the language "limited to 5 watts ERP for each authorized frequency that the booster is designed to amplify" has created confusion.

40. *Equipment authorization for part 90 signal boosters.* The Commission also takes this opportunity to augment the record on additional issues related to signal booster power levels. Specifically, a review of the equipment authorization database reveals that signal boosters have been certified with a wide range of signal booster power levels, many well in excess of 5 watts transmitter output power. This is because at the time of equipment authorization, the testing authority does not know how the device will be installed, how much signal will be lost in cables to outside antennas or the type of antenna that will be used. Nor does the testing authority know if the device will be installed as a signal booster subject to power limits in § 90.219 or as an amplifier that will be connected directly to a radio and not subject to the 5 watt ERP limit. Given these practical realities, is 5 watt ERP the proper power limit for signal boosters? Is ERP the best measure of power for signal boosters? Is the existing equipment authorization process sufficient to ensure signal boosters are approved in such a way that their operation is consistent with our rules? To ensure proper authorization of devices for their intended use, should the Commission require documentation or labeling on signal amplification devices to describe how the device is to be used under our rules? Should the Commission change the way it measures compliance for signal boosters to better differentiate between Class A and Class B signal boosters or between a signal booster and an amplifier designed to connect directly to a radio? While measuring field strength of a device would ensure compliance with our rules, it would make it difficult for the installer to address the wide range of deployment scenarios. The Commission thus seeks comment on other rules or techniques that can be used in the equipment authorization process to ensure signal boosters are properly operated.

41. *PLMR Signal Booster Registration.* PLMR signal booster operation, like consumer signal booster use, presents the same potential for interference to wireless operations. The Commission thus seeks comment whether, consistent with any registration process it may adopt for consumer signal booster operators, PLMR signal booster operators should also be required to register their signal boosters with a national, centralized clearinghouse prior to use. If interference from a PLMR booster occurs, the clearinghouse could provide other part 90 licensees with a ready resource for identifying and rectifying the source of the interference. Further, the Commission seeks comment on whether any registration requirement would apply to fixed, mobile, or both types of signal boosters.

42. *Other design requirements.* The Commission also seeks comment on whether part 90 PLMR signal boosters, including 700 MHz public safety broadband (non-consumer) devices, should be required to implement some or all of the safeguards it proposes for consumer signal boosters, such as automatic monitoring and shut down capabilities. Are these additional safeguards necessary for Class A signal boosters which are designed and deployed by the licensee to amplify only their authorized channel(s)?

43. *800 MHz Rebanding.* As noted by several commenters, 800 MHz part 90 frequencies are subject to a rebanding process to resolve interference issues related to a mix of interleaved commercial, private and public safety channels. Once rebanding is complete, the separation of commercial SMR frequencies from part 90 PLMR channels will facilitate the deployment of signal boosters with less complication and fewer instances of interference. Jack Daniel points out, however, that after rebanding, thousands of consumers will likely continue to operate existing signal boosters unaware that the signals they are trying to amplify have been moved to another spectrum. Accordingly, Jack Daniel suggests that we establish a deadline for the removal of these devices from service. Jack Daniel acknowledges that implementation of such a deadline will require the participation of retailers and manufacturers of the products. The Commission seeks comment on the impact of rebanding on existing and future uses of part 90 signal boosters. Should the Commission establish a sunset date for the operation of existing Part 90 Class B signal boosters that operate in the 800 MHz band? How should the Commission effectuate such a sunset? Given that part 90 consumer operations would likely be limited to the rebanded SMR frequencies, should there be different technical requirements for signal boosters on those frequencies than for devices that would operate in the public safety and business/industrial pool? Recognizing the complexities involved in the rebanding process, should the Commission exclude part 90 consumer signal boosters from the general consumer signal booster license—by-rule framework until after the completion of the rebanding process?

44. *Request for forbearance on conflicting regulations to local zoning*

laws. Jack Daniel requests that the Commission forbear from adopting any regulations that would hinder local zoning decisions that require the installation of signal boosters in buildings to facilitate communications by public safety first responders. Jack Daniel argues that many local governments have adopted or are considering code requirements that would require the installation of Class B signal boosters in buildings, and that the Commission should not usurp, via an assertion of exclusive jurisdiction, local zoning requirements by adopting conflicting rules.

45. The Commission's intent in this proceeding is to facilitate the development and deployment of well-designed signal boosters which will expand wireless coverage for consumers without harming wireless networks. The Commission does not seek to preempt local governments' authority to require the installation of signal boosters pursuant to fire or other building codes in the context of this proceeding. Any such installations, however, are required to comply with the Commission's existing rules applicable to signal boosters and will be required to comply with any rules which it may adopt in this proceeding.

46. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities small entities by the policies and rules proposed in this *NPRM.* Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *NPRM* provided in section V.F.2. of the item. The Commission will send a copy of the *Notice of Proposed Rule Making,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

Need for, and Objectives of, the Proposed Rules

47. The regulatory framework for signal boosters proposed in this NPRM is one element in a set of initiatives designed to promote deployment of mobile voice and broadband services in the United States. Well-designed, properly operating, and properly installed signal boosters have the potential to improve consumers' wireless network coverage without harming commercial, private, and public safety wireless network performance. Malfunctioning, poorly designed, or improperly installed signal boosters, however, may harm consumers by blocking calls, including E–911 and other emergency calls, and decreasing network coverage and capacity. The regulatory framework proposed in this *NPRM* seeks to create appropriate incentives for carriers and manufacturers to collaboratively develop robust signal boosters that do not harm wireless networks. This, in turn, will empower consumers to improve their cell phone coverage as they deem necessary. The public interest is best served by ensuring that consumers have access to well-designed boosters that do not harm wireless networks.

48. The *NPRM* proposes a new regulatory framework authorizing the operation of "consumer signal boosters" provided the devices (1) comply with all applicable technical rules, and (2) comply with a set of parameters aimed at preventing and controlling interference and rapidly resolving interference problems should they occur. We also propose certain revisions to our service rules in part 90.

Legal Basis

49. The proposed action is authorized under §§ 4(i), 4(j), 301, 303(r), and 307 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 301, 303(r), 307.

Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

50. 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 which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

51. 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.

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. Because Census Bureau data are not yet available for the new category, we will estimate small business prevalence using the prior categories and associated data. For the category of Paging, data for 2002 show that there were 807 firms that operated for the entire year. Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more. For the category of Cellular and Other Wireless Telecommunications, data for 2002 show that there were 1,397 firms that operated for the entire year. Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more. Thus, we estimate that the majority of wireless firms are small.

53. The Commission has determined that there are approximately 241,237 licensees in the Wireless Radio Services affected by this *NPRM*, as of October 1, 2010; the Commission does not know how many licensees in these bands are small entities, as the Commission does not collect that information for these types of entities. Thus, the Commission assumes, for purposes of this IRFA, that all prospective licensees are small entities as that term is defined by the SBA or by our proposed small business definitions for these bands.

54. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* The Census Bureau defines this category as follows: "This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment.

Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment." The SBA has developed a small business size standard for firms in this category, which is: all such firms having 750 or fewer employees. According to Census Bureau data for 2002, there were a total of 1,041 establishments in this category that operated for the entire year. Of this total, 1,010 had employment under 500, and an additional 13 had employment of 500 to 999. Thus, under this size standard, the majority of firms can be considered small.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

55. In the *NPRM*, the Commission seeks comment on rules and policies that will broaden the availability and use of signal boosters to enhance wireless coverage for consumers, particularly in rural and underserved areas, while ensuring that boosters do not adversely impact wireless networks. The *NPRM* proposes to authorize individuals to use fixed and mobile consumer signal boosters by rule under part 95.

56. Under the Commission's proposal, all consumer signal boosters must comply with technical and operational requirements aimed at preventing interference to wireless networks, including: complying with technical parameters (*e.g.*, power and unwanted emission limits) for the applicable spectrum band as well as RF exposure requirements for the type of device; automatically self-monitoring operations and shutting down if not in compliance with our technical rules; and for mobile boosters, powering down, or shutting down, automatically when a device is not needed, such as when the device approaches the base station with which it is communicating. The *NPRM* also proposes to require manufacturers to market and label consumer signal boosters in a way that provides consumers with clear information specifying the legal use of the device.

57. In order to facilitate the near-term availability of new, compliant consumer signal boosters, the Commission proposes to require applications for equipment authorization to demonstrate compliance with the new rules within 30 days of their effective date. Further, the Commission proposes to require that devices marketed or sold in the United States comply with the new rules within 6 months of their effective date.

58. In addition, under the Commission's proposal, operators of consumer signal boosters would be required to immediately cease operations upon notification by a licensee or the Commission that the device causes harmful interference to wireless network operations. Further, operators of boosters operated at a fixed location, such as in a building, tunnel or garage, would be required to coordinate frequency selection and power levels with the applicable wireless carrier(s) prior to operation.

59. With respect to part 90 PLMR, non-consumer, signal boosters operated by licensees, the *NPRM* proposes revisions to the technical and operational requirements aimed at preventing interference. Specifically, the Commission proposes to retain the Class A (narrowband) and Class B (wideband) regulatory distinctions and permit private land mobile fixed (Class A and B) and mobile (Class A only) devices. In addition, the *NPRM* proposes to make clear that Class B devices must be limited to confined areas such as buildings, tunnels, parking structures, etc., but permits use of external antennas to communicate with base stations.

Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

60. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): "(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and 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."

61. The *NPRM* specifically invites comments on a range of potential safeguards for signal boosters and invites interested parties to suggest alternative proposals. At this time, the Commission has not excluded any alternative proposal concerning potential signal booster safeguards from its consideration, but it would do so in this proceeding if the record indicates that a particular proposal would have a significant and unjustifiable adverse economic impact on small entities.

62. In the *NPRM*, the Commission also discusses possible registration requirements with a national signal booster clearinghouse to facilitate rapid resolution of interference (in the event harmful interference occurs notwithstanding the Commission's proposed safeguards) and ease coordination burdens. However, the Commission will not consider any alternative that would have a significant and unjustifiable adverse economic impact on small entities.

63. The Commission solicits alternative proposals, especially those that would not incur significant and unjustifiable adverse impacts on small entities.

Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

None.

IV. Ordering Clauses

65. Pursuant to sections 4(i), 4(j), 301, 303(r), and 307 of the Communications Act of 1934, 47 U.S.C. 154(i), 154(j), 301, 303(r), 307 that this *NPRM is hereby adopted.*

66. Pursuant to sections 4(i), 4(j), 301, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 301 , 303(r) and § 1.2 of the Commission's rules, 47 CFR 1.2, the Petition for Declaratory Ruling filed on September 25, 2008, by Jack Daniel, DBA Jack Daniel Company *is denied.*

67. Pursuant to sections 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303(r), and § 1.407 of the Commission's rules, 47 CFR 1.407, that the Petitions for Rulemaking filed by Bird Technologies Group on August 18, 2005, by The DAS Forum (A Membership Section of PCIA—The Wireless Infrastructure Association) on October 23, 2009, and by Wilson Electronics, Inc. on November 3, 2009, *are granted* to the extent provided herein, and otherwise *are denied.*

68. The Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *NPRM*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 1

Administrative practice and procedure, Communications common carriers, Radio, Reporting and recordkeeping requirements, Telecommunications.

47 CFR Part 2

Communications common carriers, Communications equipment, Imports, Radio, Reporting and recordkeeping requirements, Telecommunications.

47 CFR Part 22

Communications common carriers, Communications equipment, Radio, Reporting and recordkeeping requirements, Rural areas.

47 CFR Parts 24 and 27

Administrative practice and procedure, Communications common carriers, Communications equipment, Radio, Reporting and recordkeeping requirements, Telecommunications.

47 CFR Parts 90 and 95

Administrative practice and procedure, Business and industry, Common carriers, Communications equipment, Emergency medical services, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

Bulah Wheeler,

Deputy Manager.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 1, 2, 22, 24, 27, 90 and 95 of Title 47 of the Code of Federal Regulations as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 15 U.S.C. 79 *et seq.*; 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, 303(r), and 309.

2. Amend § 1.1307 by adding a new entry to Table 1 "Signal Booster Radio Service (part 95)" below existing entry "Private Land Mobile Radio Services Specialized Mobile Radio (subpart S of part 90)", and by revising paragraph (b)(2) to read as follows:

§ 1.1307 Actions that may have a significant environmental effect, for which Environmental Assessments (EAs) must be prepared.

* * * * *

(b) * * *

(1) * * *

TABLE 1—TRANSMITTERS, FACILITIES AND OPERATIONS SUBJECT TO ROUTINE ENVIRONMENTAL EVALUATION

Service (title 47 CFR rule part)	Evaluation required if:
* * * * * * *	
Signal Booster Radio Service (part 95).	In building radiation system where antenna(s) mounted < 2.5 m above the floor and total power of all channels > 60 W ERP (100 W EIRP) The Signal Booster Radio Service provisions in part 95 shall apply only if a label is affixed to the transmitting antenna that: (1) provides adequate notice regarding potential radiofrequency safety hazards, e.g., information regarding the safe minimum separation distance required between users and transmitting antennas; and (2) references the applicable FCC-adopted limits for radiofrequency exposure specified in § 1.1310.
* * * * * * *	

(2) Mobile and portable transmitting devices that operate in the Cellular Radiotelephone Service, the Personal Communications Services (PCS), the Satellite Communications Services, the Wireless Communications Service, the Maritime Services (ship earth stations only), the Specialized Mobile Radio Service and the 3650 MHz Wireless Broadband Service, authorized under subpart H of part 22, parts 24, 25, 27, 80, 90, and 95 of this chapter, are subject to routine environmental evaluation for RF exposure prior to equipment authorization or use, as specified in §§ 2.1091 and 2.1093 of this chapter. In addition, mobile transmitting devices that operate in the Signal Booster Radio Service authorized under part 95 of this chapter, are subject to routine environmental evaluation for RF exposure prior to equipment authorization or use, as specified in § 2.1091 of this chapter. Unlicensed PCS, unlicensed NII and millimeter wave devices are also subject to routine environmental evaluation for RF exposure prior to equipment authorization or use, as specified in §§ 15.253(f), 15.255(g), 15.319(i), and 15.407(f) of this chapter. Portable transmitting equipment for use in the Wireless Medical Telemetry Service (WMTS) is subject to routine environment evaluation as specified in §§ 2.1093 and 5.1125 of this chapter. Equipment authorized for use in the Medical Device Radiocommunication Service (MedRadio) as a medical implant or body-worn transmitter (as defined in Appendix 1 to Subpart E of part 95 of this chapter) is subject to routine environmental evaluation for RF exposure prior to equipment authorization, as specified in § 2.1093 of this chapter by finite difference time domain computational modeling or laboratory measurement techniques. Where a showing is based on computational modeling, the Commission retains the discretion to request that specific absorption rate measurement data be submitted. All other mobile, portable, and unlicensed transmitting devices are categorically excluded from routine environmental evaluation for RF exposure under §§ 2.1091, 2.1093 of this chapter except as specified in paragraphs (c) and (d) of this section.

* * * * *

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

3. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

4. Section 2.1091 is amended by revising paragraph (c) to read as follows:

§ 2.1091 Radiofrequency radiation exposure evaluation: mobile devices.

* * * * *

(c) Mobile devices that operate in the Cellular Radiotelephone Service, the Personal Communications Services, the Satellite Communications Services, the Wireless Communications Service, the

Maritime Services, the Specialized Mobile Radio Service, and the Signal Booster Radio Service authorized under Subpart H of part 22, parts 24, 25, 27, 80 (ship earth stations devices only), 90 and 95 of this chapter are subject to routine environmental evaluation for RF exposure prior to equipment authorization or use if they operate at frequencies of 1.5 GHz or below and their effective radiated power (ERP) is 1.5 watts or more, or if they operate at frequencies above 1.5 GHz and their ERP is 3 watts or more. Unlicensed personal communications service devices, unlicensed milllimeter wave devices and unlicensed NII devices authorized under §§ 15.253, 15.255, and 15.257, and subparts D and E of part 15 of this chapter are also subject to routine environmental evaluation for RF exposure prior to equipment authorization or use if their ERP is 3 watts or more or if they meet the definition of a portable device as specified in § 2.1093(b) requiring evaluation under the provisions of that section. All other mobile and unlicensed transmitting devices are categorically excluded from routine environmental evaluation for RF exposure prior to equipment authorization or use, except as specified in §§ 1.1307(c) and 1.1307(d) of this chapter. Applications for equipment authorization of mobile and unlicensed transmitting devices subject to routine environmental evaluation must contain a statement confirming compliance with the limits specified in paragraph (d) of this section as part of their application. Technical information showing the basis for this statement must be submitted to the Commission upon request.

* * * * *

PART 22—PUBLIC MOBILE SERVICES

5. The authority citation for part 22 continues to read as follows:

Authority: 47 U.S.C. 154, 222, 303, 309, and 332.

6. Section 22.9 is added under Subpart A to read as follows:

§ 22.9 Operation of certificated signal boosters.

Individuals and non-individuals may operate certificated signal boosters on frequencies regulated under this part provided that such operation complies with all applicable rules under this part and all applicable rules under Subpart M, part 95 of this chapter (Signal Booster Radio Service). Failure to comply with all applicable rules voids the authority to operate a signal booster.

PART 24—PERSONAL COMMUNICATION SERVICES

7. The authority citation for part 24 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 309, and 332.

8. Section § 24.9 is added under Subpart A read as follows:

§ 24.9 Operation of certificated signal boosters.

Individuals and non-individuals may operate certificated signal boosters on frequencies regulated under this part provided that such operation complies with all applicable rules under this part and all applicable rules under Subpart M, part 95 of this chapter (Signal Booster Radio Service). Failure to comply with all applicable rules voids the authority to operate a signal booster.

PART 27—MISCELLANEOUS WIRELESS COMMUNICATION SERVICES

9. The authority citation for part 27 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 307, 309, 332, 336, and 337 unless otherwise noted.

10. Section 27.9 is added under Subpart A to read as follows:

§ 27.9 Operation of certificated signal boosters.

Individuals and non-individuals may operate certificated signal boosters on frequencies regulated under this part provided that such operation complies with all applicable rules under this part and all applicable rules under Subpart M, part 95 of this chapter (Signal Booster Radio Service). Failure to comply with all applicable rules voids the authority to operate a signal booster.

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

11. The authority citation for part 90 continues to read as follows:

Authority: Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7).

12. Amend § 90.7 by adding a definition for "Signal amplifier" and by revising the definition of "Signal booster" to read as follows:

§ 90.7 Definitions.

* * * * *

Signal amplifier. A device that is installed between a radio transmitter and an external antenna, which amplifies the outgoing signal.

Signal booster. A device that automatically receives, amplifies, and retransmits on a bi-or unidirectional basis, the signals received from base, fixed, mobile, or portable stations, with no change in frequency or authorized bandwidth. Signal boosters may be either narrowband (Class A) or wideband (Class B). Class A narrowband signal boosters may be deployed at fixed locations or as mobile devices, and amplify signals only on those channels authorized to the licensee. Class B wideband signal boosters are restricted to fixed deployments in enclosed areas such as buildings, underground parking garages, and transit tunnels, and amplify all signals across an entire frequency band.

* * * * *

13. Section 90.219 is revised to read as follows:

§ 90.219 Use of signal boosters.

Licensees authorized to operate radio systems in the frequency bands above 150 MHz may operate signal boosters subject to the following conditions:

(a) *General requirements.* Signal boosters may only retransmit an amplified signal on the exact frequency (or frequencies, if applicable) of the originating base, fixed, mobile, or portable station. Signal boosters may only be used to fill in weak signal areas within an authorized license area and cannot extend the system's signal coverage area.

(b) *Class A requirements.* Class A (narrowband) signal boosters may be deployed at fixed locations or as mobile devices, and may amplify signals only on those channels authorized to the licensee. Class A boosters must include automatic level control circuitry. Class A boosters must not exceed an average effective radiated power (ERP) of 5 watts. Class A boosters must meet the out-of-band emission limits of § 90.210 for each narrowband channel that the booster is designed to amplify.

(c) *Class B requirements.* Class B (wideband) signal boosters are restricted to fixed deployments in enclosed areas such as buildings, underground parking garages, and transit tunnels, and amplify all signals across an entire frequency band. Class B boosters must not exceed an average ERP of 5 watts for each authorized channel that the booster is designed to amplify. Class B boosters must meet the emission limits of § 90.210 for frequencies outside of the booster's designed passband.

(d) *Operating authority.* Licensees are authorized to operate certificated signal boosters without separate authorization from the Commission. Individuals and non-individuals may operate certificated signal boosters on Part 90 frequencies that are used for the

provision of subscriber-based services subject to the conditions enumerated in subpart M, part 95 of this chapter. Only certificated equipment may be operated, and the operator must comply with all applicable rules.

(e) *Interference remediation.* Licensees and other operators of signal boosters must correct any harmful interference that the equipment may cause to other systems. Normal co-channel transmissions will not be considered harmful interference. Interference resolution is subject to the conditions in § 90.173(b).

PART 95—PERSONAL RADIO SERVICES

14. The authority citation for part 95 is revised to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

15. Section 95.401 is amended by adding paragraph (h) to read as follows:

§ 95.401 (CB Rule 1) What are the Citizens Band Radio Services?

* * * * *

(h) *Signal Booster Radio Service*—the use of bi-or unidirectional radio frequency amplifiers by licensees, individuals, and non-individuals for the purpose of enhancing their wireless radio service. The rules for this service are in subpart M of this part.

16. Part 95 is amended by adding Subpart M to read as follows:

Subpart M—Signal Booster Radio Service

Subpart M—Signal Booster Radio Service

§ 95.1601 Basis and purpose.

(a) *Basis.* The rules in this Subpart are issued pursuant to the Communications Act of 1934, as amended, 47 U.S.C. 151 *et seq.*

(b) *Purpose.* The purpose of the rules in this subpart is to establish the requirements and conditions under which signal boosters may be certificated, marketed, sold, and operated.

§ 95.1603 Scope.

This subpart contains rules governing signal boosters used to enhance wireless radio service on frequencies used for the provision of subscriber-based services.

§ 95.1605 Definitions.

The following terms and definitions apply to the rules in this subpart.

Signal booster. A device that automatically receives, amplifies, and retransmits on a bi-or unidirectional basis, the signals received from base, fixed, mobile, or portable stations, with no change in frequency or authorized bandwidth.

Uplink. The portion of a signal booster that receives signals from a wireless device and amplifies and transmits them to a wireless system.

§ 95.1611 Authorization to operate certificated signal boosters.

(a) Section 95.401(h) and this part authorize individuals and non-individuals to operate certificated signal boosters without individual licenses. Any individual or non-individual, other than a representative of a foreign government, may operate a certificated signal booster pursuant to this subpart and subject to the specific requirements of § 95.1623.

(b) A signal booster can only be certificated and operated if it complies with all applicable rules in this subpart and all applicable technical rules for the frequency band(s) of operation including, but not limited to: § 22.355, Public Mobile Services, frequency tolerance; § 22.913, Cellular Radiotelephone Service effective radiated power limits; § 22.917, Cellular Radiotelephone Service, emission limitations for cellular equipment; § 24.232, Broadband Personal Communications Service, power and antenna height limits; § 24.238, Broadband Personal Communications Service, emission limitations for Broadband PCS equipment; § 27.50, Miscellaneous Wireless Communications Services, power and antenna height limits; § 27.53, Miscellaneous Wireless Communications Services, emission limits; § 90.205, Private Land Mobile Radio Services, power and antenna height limits; § 90.210, Private Land Mobile Radio Services, emission masks; § 90.219, Private Land Mobile Radio Services, use of signal boosters; and § 90.247, Private Land Mobile Radio Services, mobile repeater stations.

(c) Signal boosters operated in portable RF exposure conditions as described in § 2.1093 that are designed to be used so that the radiating structure(s) is/are within 20 centimeters of the user or other persons are prohibited.

§ 95.1613 Operator responsibility.

(a) The operator of a signal booster must comply with all applicable rules in this part and any other applicable part under this chapter. The operator is the person or persons with control over the functioning of the signal booster, or the person or persons with the ability to deactivate it in the event of technical malfunctioning or harmful interference to a primary radio service.

(b) Failure to comply with all applicable rules in this subpart and all applicable technical rules for the frequency band(s) of operation voids the authority to operate a signal booster.

§ 95.1615 Operation on a secondary, non-interfering basis.

Operation of signal boosters under this subpart is on a secondary, non-interference basis to primary services licensed for the frequency bands on which they transmit, and to primary services licensed for the adjacent frequency bands that might be affected by their transmissions.

(a) The operation of signal boosters must not cause harmful interference to the communications of any primary licensed service.

(b) If an FCC representative directs the operator to deactivate the signal booster, the operator must deactivate the booster immediately, or as soon as practicable, if immediate deactivation is not possible.

§ 95.1617 Authorized locations.

Unless otherwise specified in this chapter, signal boosters may be operated in any location where CB stations may be operated under § 95.405.

§ 95.1619 Fixed signal booster coordination.

Prior to commencing operation of a signal booster at a fixed location, an operator must also coordinate frequency selection and power levels with each licensee or lessee authorized to operate on the frequencies in the registered area of operation.

§ 95.1621 Frequency bands.

Signal boosters may be operated on frequencies used for the provision of subscriber-based services under parts 22, 24, 27, and 90 of this chapter.

§ 95.1623 Interference safeguards.

Signal boosters must include features to prevent harmful interference including, at a minimum, those enumerated in this section. These features may not be deactivated by the operator and must be enabled and

operating at all times the signal booster is in use.

(a) *Self-monitoring.* Signal boosters must automatically self-monitor their operation to ensure compliance with all applicable technical parameters and shut down automatically within 10 seconds (or less) if their operation exceeds any of those parameters. A signal booster must remain off for a minimum of 60 seconds before restarting. If after 5 restarts, a device is still not operating in compliance with all applicable technical parameters, it must shut off and not resume operation until manually reset.

(b) *Feedback or oscillation.* Signal boosters must be able to detect feedback or oscillation (such as may result from insufficient isolation between the antennas) and deactivate the uplink transmitter within 10 seconds of detection. After such deactivation, the booster must not resume operation until manually reset.

(c) *Mobile signal boosters.* Signal boosters operated in a mobile environment must automatically power down or cease amplification as they approach the base station with which they are communicating.

§ 95.1625 Labeling requirements.

(a) Signal booster manufacturers, distributors, and retailers must ensure that all signal boosters marketed on or after [insert date six months after the effective date of this rule] include the following advisories in 12-point or greater typeface:

(1) In any marketing materials,

(2) In the owner's manual,

(3) On the outside packaging of the device, and

(4) On a label affixed to the device:

WARNING. Operation of this device is on a secondary non-interference basis and must cease immediately if requested by the FCC or a licensed wireless service provider.

(b) In addition to the warning in paragraph (a) of this section, signal boosters intended for fixed operation must include the following advisory in 12-point or greater typeface:

(1) In any marketing materials,

(2) In the owner's manual,

(3) On the outside packaging of the device, and

(4) On a label affixed to the device:

WARNING. Operation of this device must be coordinated with, and information on channel selection and operating power must be obtained from, the applicable spectrum licensees authorized in the area of deployment. Licensee information is available at *www.fcc.gov/signalboosters.*

§ 95.1627 RF exposure.

(a) Signal boosters are subject to the radio frequency radiation exposure requirements specified in §§ 1.1307(b) and 2.1091 of this chapter. Signal boosters operating in fixed and mobile exposure conditions are subject to routine environmental evaluation pursuant to the above sections. Applications for equipment authorization of signal boosters with respect to §§ 1.1307(b) and 2.1091 must contain a statement confirming compliance with these requirements for both fundamental emissions and unwanted emissions; and technical information showing the basis for this statement must be submitted to the Commission upon request.

(b) Signal boosters operated in portable RF exposure conditions as described in § 2.1093 that are designed to be used so that the radiating structure(s) is/are within 20 centimeters of the user or other persons are prohibited.

[FR Doc. 2011–11135 Filed 5–9–11; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 531 and 533

[Docket No. NHTSA–2011–0056]

Notice of Intent To Prepare an Environmental Impact Statement for New Corporate Average Fuel Economy Standards

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

ACTION: Notice of intent; request for scoping comments.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA), NHTSA plans to prepare an Environmental Impact Statement (EIS) to analyze the potential environmental impacts of the agency's Corporate Average Fuel Economy program for passenger automobiles (referred to herein as "passenger cars") and non-passenger automobiles (referred to herein as "light trucks"). The EIS will consider the potential environmental impacts of new fuel economy standards for model years 2017–2025 passenger cars and light trucks that NHTSA will be proposing pursuant to the Energy Independence and Security Act of 2007.

This notice initiates the NEPA scoping process by inviting comments from Federal, State, and local agencies, Indian tribes, and the public to help identify the environmental issues and reasonable alternatives to be examined in the EIS. This notice also provides guidance for participating in the scoping process and additional information about the alternatives NHTSA expects to consider in its NEPA analysis. In preparing this notice, NHTSA has shared the document with the Council on Environmental Quality (CEQ), the Environmental Protection Agency (EPA), and the Department of Energy (DOE).

DATES: The scoping process will culminate in the preparation and issuance of a Draft EIS, which will be made available for public comment. To ensure that NHTSA has an opportunity to fully consider scoping comments and to facilitate NHTSA's prompt preparation of the Draft EIS, scoping comments should be received on or before June 9, 2011. NHTSA will try to consider comments received after that date to the extent the rulemaking schedule allows.

ADDRESSES: 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, M–30, U.S. Department of Transportation, West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery or Courier:* U.S. Department of Transportation, West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m. Eastern time, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

Regardless of how you submit your comments, you should mention the docket number of this document.

You may call the Docket at 202–366–9324.

Note that all comments received, including any personal information provided, will be posted without change to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For technical issues, contact Angel Jackson, Fuel Economy Division, Office of International Vehicle, Fuel Economy and Consumer Standards, telephone: 202–366–0154; for legal issues, contact Carrie Gage, Legislation & General Law Division, Office of the Chief Counsel, telephone: 202–366–1834, at the National Highway Traffic Safety

Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: In a forthcoming notice of proposed rulemaking (NPRM), NHTSA intends to propose Corporate Average Fuel Economy (CAFE) standards for model years (MYs) 2017–2025 passenger cars and light trucks pursuant to the Energy Policy and Conservation Act (EPCA), as amended by the Energy Independence and Security Act of 2007 (EISA).[1] In connection with this action, NHTSA will prepare an Environmental Impact Statement (EIS) to analyze the potential environmental impacts of the proposed CAFE standards and reasonable alternative standards pursuant to the National Environmental Policy Act (NEPA) and implementing regulations issued by the Council on Environmental Quality (CEQ) and NHTSA.[2] NEPA instructs Federal agencies to consider the potential environmental impacts of their proposed actions and those of possible alternative actions. To inform decisionmakers and the public, the EIS will compare the potential environmental impacts of the agency's Preferred Alternative and a spectrum of alternatives, including a "no action" alternative. As required by NEPA, the EIS will consider direct, indirect, and cumulative impacts of the proposed action and alternatives and will discuss impacts in proportion to their significance.

Background. EPCA, as amended by EISA, sets forth extensive requirements concerning the establishment of CAFE standards. It requires the Secretary of Transportation [3] to establish average fuel economy standards at least 18 months before the beginning of each model year and to set them at "the maximum feasible average fuel economy level that the Secretary decides the manufacturers can achieve in that model year." [4] When setting "maximum feasible" fuel economy standards, the Secretary is required to "consider technological feasibility, economic practicability, the effect of other motor vehicle standards of the Government on fuel economy, and the need of the United States to conserve energy." [5] NHTSA construes the statutory factors as including environmental and safety considerations.[6]

As amended by EISA in December 2007, EPCA further directs the Secretary, after consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency (EPA), to establish average fuel economy standards separately for passenger cars and for light trucks manufactured in each model year beginning with MY 2011. In doing so, the Secretary of Transportation is required to comply with special provisions relating to the standards for model years 2011–2030. The Secretary is required to "prescribe annual fuel economy standard increases that increase the applicable average fuel economy standard ratably beginning with model year 2011 and ending with model year 2020," [7] and those standards must "achieve a combined fuel economy average for model year 2020 of at least 35 miles per gallon for the total fleet of passenger and non-passenger automobiles manufactured for sale in the United States for that model year." [8] For MYs 2021–2030, the passenger car and light truck standards must simply be the "maximum feasible" average fuel economy standard for each of those fleets for each model year.[9] Additionally, the standards for passenger cars and light trucks must be "based on 1 or more vehicle attributes related to fuel economy" and expressed "in the form of a mathematical function," and may be established for not more than five model years.[10] EISA also mandates a minimum standard for domestically manufactured passenger cars.[11]

On May 19, 2009, President Obama announced a new National Fuel Efficiency Policy for establishing consistent, harmonized, and streamlined requirements to improve fuel economy and reduce greenhouse gas (GHG) emissions for all new passenger cars and light trucks sold in the United States.[12] Pursuant to that announcement, NHTSA and EPA finalized the first-ever joint rulemaking to establish fuel economy standards and GHG standards for light duty vehicles on April 1, 2010. NHTSA established CAFE standards under EPCA/EISA and EPA established GHG emissions standards under the Clean Air Act.[13] The CAFE standards covered MY 2012–2016 passenger cars and light trucks and were estimated to require a combined average fleet-wide fuel economy of 34.1 mpg by 2016.[14]

Following the first phase of the National Program, in a Presidential Memorandum issued May 21, 2010, President Obama requested that EPA and NHTSA build on the first joint rulemaking to continue a coordinated National Program to improve fuel efficiency and reduce greenhouse gas emissions of light-duty vehicles for MYs 2017–2025.[15] The Memorandum stated that the National Program should seek to produce joint Federal standards that are harmonized with applicable State standards, achieve substantial annual progress in reducing transportation sector GHG emissions and fossil fuel consumption, and strengthen the industry and enhance job creation in the United States. As part of implementing this program, the President asked that the Administrators of EPA and NHTSA work with the State of California to develop a technical assessment to inform the rulemaking process.[16] The President also requested that the two agencies issue a Notice of Intent to Issue a Proposed Rule that announces plans for setting stringent fuel economy and

[1] EISA is Public Law 110–140, 121 Stat. 1492 (December 19, 2007). Portions of EPCA related to fuel economy are codified at 49 U.S.C. 32901 *et seq.*

[2] NEPA is codified at 42 U.S.C. 4321–4347. CEQ's NEPA implementing regulations are codified at 40 CFR Parts 1500–1508, and NHTSA's NEPA implementing regulations are codified at 49 CFR Part 520.

[3] NHTSA is delegated responsibility for implementing the EPCA fuel economy requirements assigned to the Secretary of Transportation. 49 CFR 1.50, 501.2(a)(8).

[4] 49 U.S.C. 32902(a).

[5] 49 U.S.C. 32902(f).

[6] For environmental considerations, *see Center for Auto Safety* v. *NHTSA,* 793 F.2d 1322, 1325 n. 12 (DCCir. 1986); *Public Citizen* v. *NHTSA,* 848 F.2d 256, 262–3 n. 27 (DCCir. 1988) (noting that "NHTSA itself has interpreted the factors it must consider in setting CAFE standards as including environmental effects"); *Center for Biological Diversity* v. *NHTSA,* 538 F.3d 1172, 1196 (9th Cir. 2008). For safety considerations, *see, e.g., Competitive Enterprise Inst.* v. *NHTSA,* 956 F.2d 321, 322 (DCCir. 1992) (*citing Competitive Enterprise Inst.* v. *NHTSA,* 901 F.2d 107, 120 n.11 (DCCir. 1990)).

[7] 49 U.S.C. 32902(b)(2)(C).

[8] *Id.* § 32902(b)(2)(A).

[9] *Id.* §§ 32902(b)(2)(B), 32902(f).

[10] *Id.* §§ 32902(b)(3)(A), 32902(b)(3)(B).

[11] *Id.* § 32902(b)(4) ("each manufacturer shall also meet the minimum standard for domestically manufactured passenger automobiles, which shall be the greater of (A) 27.5 miles per gallon; or (B) 92 percent of the average fuel economy projected by the Secretary for the combined domestic and non-domestic passenger automobile fleets manufactured for sale in the United States by all manufacturers in the model year * * *.").

[12] President Obama Announces National Fuel Efficiency Policy, The White House, May 19, 2009. Available at: *http://www.whitehouse.gov/the_press_office/President-Obama-Announces-National-Fuel-Efficiency-Policy/* (last visited Mar. 4, 2011).

[13] *See* 42 U.S.C. 7521(a).

[14] The EPA GHG standards were estimated to require a combined average fleet-wide level of 250 grams/mile CO_2-equivalent for MY 2016, which is equivalent to 35.5 mpg if all of the technologies used to reduce GHG emissions are tailpipe CO_2 reducing technologies. The 250 g/mi CO_2 equivalent level assumes the use of credits for air conditioning improvements worth 15 g/mi in MY 2016.

[15] *See* The White House, Office of the Press Secretary, *Presidential Memorandum Regarding Fuel Efficiency Standards* (May 21, 2010), *available at http://www.whitehouse.gov/the-press-office/presidential-memorandum-regarding-fuel-efficiency-standards* (last visited Mar. 8, 2011).

[16] *See Interim Joint Technical Assessment Report,* available at: *http://www.nhtsa.gov/staticfiles/rulemaking/pdf/cafe/2017+CAFE–GHG_Interim_TAR2.pdf* (Sept. 2010)

greenhouse gas emissions standards for light-duty vehicles for MY 2017 and beyond. On October 1, 2010, NHTSA and EPA jointly issued that notice concurrently with the Interim Joint Technical Assessment Report.[17]

In response to the President's call to provide greater certainty and incentives for long-term innovation by manufacturers, NHTSA is planning to set CAFE standards for MY 2017–2025 passenger cars and light-duty trucks, and NHTSA intends to do this in a joint rulemaking with EPA, in which EPA will set GHG standards for the same model years and vehicles. As noted above, however, NHTSA's statutory authority allows the agency to take final action prescribing CAFE standards in increments of no more than five model years.[18] In order to address this statutory limitation, NHTSA is considering proposing standards for the MY 2017–2025 timeframe, with the express condition that the standards for MYs 2022–2025 would be subject to a mid-term technology assessment and review. NHTSA would adopt standards for MYs 2017–2025, but standards for MYs 2022–2025 would not become effective at the established level unless and until NHTSA affirmed in a later rulemaking that they were, based on information available at the time of the later rulemaking, the maximum feasible standards for those model years. This condition would appear in the regulations. Because these two NHTSA actions would be proposed together to increase the efficiency of the light-duty fleet, and because they would be part of a joint NHTSA/EPA rulemaking for a coordinated National Program covering MYs 2017–2025, NHTSA plans to address the potential environmental impacts of the proposed alternatives for the full MY 2017–2025 period in a single EIS, notwithstanding the provision for a mid-term technology assessment and review.[19] NHTSA specifically seeks comment on the agency's proposed approach of analyzing the action for the MY 2017–2025 period in a single EIS.

As required by statute, NHTSA's upcoming NPRM will propose separate attribute-based standards for MY 2017–2025 passenger cars and for MY 2017–2025 light trucks.[20] As in the last CAFE rulemaking, NHTSA plans to propose vehicle footprint as the attribute. Each individual vehicle model would have a specific fuel economy target based on the fuel economy capability of those motor vehicles having the same footprint as that vehicle model.[21] Fuel economy targets would reflect, in part, NHTSA's analysis of the technological and economic capabilities of the industry within the rulemaking timeframe. A manufacturer's CAFE standard, in turn, would be based on the target levels set for its particular mix of vehicles in that model year. Compliance would be determined by comparing a manufacturer's harmonically averaged fleet fuel economy levels in a model year with a required fuel economy level calculated using the manufacturer's actual production levels and the targets for each vehicle it produces.[22]

Under NEPA, the purpose of and need for an agency's action inform the range of reasonable alternatives to be considered in its NEPA analysis.[23] In developing alternatives for analysis in the EIS, NHTSA must consider EPCA's requirements for setting CAFE standards. As discussed above, EPCA requires the agency to determine what level of CAFE stringency would be the "maximum feasible" for each model year, a determination the agency makes based on the consideration of four statutory factors: technological feasibility, economic practicability, the effect of other standards of the Government on fuel economy, and the need of the United States to conserve energy.[24]

The alternatives that NHTSA plans to consider are:

- A "no action" alternative, which assumes, for purposes of NEPA analysis, that NHTSA would not issue a rule regarding CAFE standards.[25] NEPA requires agencies to consider a "no action" alternative in their NEPA analyses and to compare the effects of not taking action with the effects of the reasonable action alternatives in order to demonstrate the different environmental effects of the action alternatives. The recent EISA amendments to EPCA direct NHTSA to set new CAFE standards and do not permit the agency to take no action on fuel economy.[26] This "No Action Alternative" is also referred to as the "baseline."
- Alternatives calculated at the upper point and at the lower point of the range between 2% and 7%, representing annual fuel economy stringency increases from the MY 2016 standards, from 2017 through 2025. The calculations and the related evaluation of impacts would be performed separately for passenger cars and light trucks at each of these points so as to demonstrate their effects independently, since car and truck standards could increase at different rates from one another and at different rates in different years. These alternatives would bracket the range of actions the agency may select.
- The Preferred Alternative, reflecting annual stringency increases for both passenger cars and light trucks that fall at levels between the upper and lower bounds identified above. NHTSA has not yet identified its Preferred Alternative.

Thus, NHTSA plans to analyze the impacts of eight different standards for the DEIS: Two points bracketing the possible action alternatives for cars (2% per year and 7% per year) and two points bracketing the possible alternatives for trucks (2% per year and 7% per year), as well as a No Action Alternative and Preferred Alternative for cars and a No Action Alternative and Preferred Alternative for trucks.

NHTSA has tentatively concluded that this range of annual percentage increases would satisfy EPCA's requirement that the standards be "maximum feasible" for each model year, based on the different ways NHTSA could weigh EPCA's four statutory factors. For example, the most stringent average annual increase NHTSA is considering for both passenger cars and light trucks (7%) weighs energy conservation and climate change considerations more heavily and technological feasibility and economic practicability less heavily. In contrast, the least stringent annual increase

[17] *See* 75 FR 62739 (Oct. 13, 2010).

[18] 49 U.S.C. 32902(b)(3)(B).

[19] *See* 40 CFR 1508.18(b)(3) (including as federal actions under NEPA "[a]doption of programs, such as a group of concerted actions to implement a specific policy or plan; systematic and connected agency decisions allocating agency resources to implement a specific statutory program or executive directive.").

[20] *See* 49 U.S.C. 32902(b)(3)(A).

[21] Vehicle models made by different manufacturers would have the same fuel economy target if they had the same quantity of the attribute upon which the standards are based.

[22] While manufacturers may use a variety of flexibility mechanisms to comply with CAFE, including credits earned for over-compliance and production of flexible-fuel vehicles, NHTSA is statutorily prohibited from considering manufacturers' ability to use flexibility mechanisms in determining what level of CAFE standards would be maximum feasible. *See* 49 U.S.C. 32902(h).

[23] 40 CFR 1502.13.

[24] *See* 49 U.S.C. 32902(f).

[25] *See* 40 CFR 1502.14(d).

[26] CEQ has explained that "[T]he regulations require the analysis of the no action alternative *even if the agency is under a court order or legislative command to act.* This analysis provides a benchmark, enabling decisionmakers to compare the magnitude of environmental effects of the action alternatives. . . . Inclusion of such an analysis in the EIS is necessary to inform the Congress, the public, and the President as intended by NEPA. [*See* 40 CFR 1500.1(a).]" *Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations,* 46 FR 18026 (1981) (emphasis added).

NHTSA is considering (2%) places more weight on technological feasibility and economic practicability.

This range reflects differences in the degree of technology adoption across the fleet, in costs to manufacturers and consumers, and in conservation of oil and related reductions in greenhouse gases. For example, the most stringent average annual increase NHTSA is evaluating would require greater adoption of technology across the fleet, including more advanced technology, than the least stringent annual increase NHTSA is evaluating. As a result, the most stringent annual increase would impose greater costs and achieve greater energy conservation and related reductions in greenhouse gases.

This range of stringencies, along with the analysis for the Preferred Alternative, would provide a broad range of information for NHTSA to use in evaluating and weighing the statutory factors of technological feasibility, economic practicability, and energy conservation. It would allow for consideration of differences and uncertainties in the way in which key economic inputs (e.g., the price of fuel and the social cost of carbon) and technological inputs are estimated or valued.

The agency may select one of the above-identified levels of average increase for passenger cars and one for light trucks as its Preferred Alternative or it may select a level of stringency that falls between those extremes. The percentage increases in stringency are "average" increases and may either be constant throughout the period or may vary from year to year, but the average yearly increase over that period will equal the percentage increase selected.

Within the range identified above, NHTSA may consider setting more stringent standards for the earlier years of the rule than for the later years, or, alternatively, setting less stringent standards for the earlier years of the rule than for the later years, depending on our assessment of what would be "maximum feasible" for those time periods for each fleet. In addition, NHTSA may consider setting standards for passenger cars and light trucks that increase at different rates between the high and low levels the agency is considering, depending on the agency's determination of the maximum feasible level for each fleet over time.

Planned Analysis: While the main focus of NHTSA's prior CAFE EIS for light duty vehicles (*i.e.,* the EIS for MYs 2012–2016) was the quantification of impacts to energy, air quality, and climate, and qualitative analysis of cumulative impacts resulting from climate change, it also addressed other potentially affected resources. NHTSA conducted a qualitative review of impacts of the alternatives on other potentially affected resources, such as water resources, biological resources, land use, hazardous materials, safety, noise, historic and cultural resources, and environmental justice.

Similar to past EIS practice, NHTSA plans to analyze environmental impacts related to fuel and energy use, emissions including GHGs and their effects on temperature and climate change, air quality, natural resources, and the human environment. NHTSA also will consider the cumulative impacts of the proposed standards for MY 2017–2025 automobiles together with any past, present, and reasonably foreseeable future actions.

NHTSA anticipates uncertainty in estimating the potential environmental impacts related to climate change. To account for this uncertainty, NHTSA plans to evaluate a range of potential global temperature changes that may result from changes in fuel and energy consumption and GHG emissions attributable to new CAFE standards. It is difficult to quantify how the specific impacts due to the potential temperature changes attributable to new CAFE standards may affect many aspects of the environment. NHTSA will endeavor to gather the key relevant and credible information.

NHTSA intends to rely upon the Intergovernmental Panel on Climate Change (IPCC) 2007 Fourth Assessment Report and subsequent updates, Reports of the U.S. Climate Change Science Program (CCSP) and the current U.S. Global Change Research Program (U.S. GCRP), National Academies and National Research Council assessments of climate impacts, and the EPA Endangerment and Cause or Contribute Findings for Greenhouse Gases under Section 202(a) of the Clean Air Act and the accompanying Technical Support Document (referred to collectively hereinafter as the EPA Endangerment Finding), as sources for recent "summar[ies] of existing credible scientific evidence which is relevant to evaluating the reasonably foreseeable significant adverse impacts on the human environment."[27] NHTSA believes that the IPCC Fourth Assessment Report, the CCSP and U.S. GCRP Reports, the National Academies and National Research Council assessments, and the EPA Endangerment Finding are the most recent, most comprehensive summaries available, but recognizes that subsequent research may provide additional relevant and credible evidence not accounted for in these Reports. NHTSA may consider such subsequent information as well, to the extent that it provides relevant and credible evidence.

NHTSA expects to rely on previously published EISs, incorporating material by reference "when the effect will be to cut down on bulk without impeding agency and public review of the action."[28] Therefore, the NHTSA NEPA analysis and documentation will incorporate by reference relevant materials, including portions of the agency's prior NEPA documents, where appropriate.

Scoping and Public Participation: NHTSA's NEPA analysis for the MY 2017–2025 CAFE standards will consider the direct, indirect and cumulative environmental impacts of proposed standards and those of reasonable alternatives. The scoping process initiated by this notice seeks public comment on the range of alternatives under consideration, on the impacts to be considered, and on the most important issues for in-depth analysis in the EIS.[29]

NHTSA invites the public to participate in the scoping process[30] by submitting written comments concerning the appropriate scope of the NEPA analysis for the proposed CAFE standards to the docket number identified in the heading of this notice, using any of the methods described in the **ADDRESSES** section of this notice. NHTSA does not plan to hold a public scoping meeting, because written comments will be effective in identifying and narrowing the issues for analysis.

All comments to the relevant scoping process are welcome. NHTSA is especially interested in comments concerning the evaluation of climate change impacts. In particular, NHTSA requests:

[27] 40 CFR 1502.22(b)(3); *see* 40 CFR 1502.21. IPCC reports are available at *http://www.ipcc.ch/* (last visited Mar. 8, 2011).

[28] 40 CFR 1502.21.

[29] *See* 40 CFR 1500.5(d), 1501.7, 1508.25.

[30] Consistent with NEPA and implementing regulations, NHTSA is sending this notice directly to: (1) Federal agencies having jurisdiction by law or special expertise with respect to the environmental impacts involved or authorized to develop and enforce environmental standards; (2) the Governors of every State, to share with the appropriate agencies and offices within their administrations and with the local jurisdictions within their States; (3) organizations representing state and local governments and Indian tribes; and (4) other stakeholders that NHTSA reasonably expects to be interested in the NEPA analysis for the MYs 2017–2025 CAFE standards. *See* 42 U.S.C. 4332(2)(C); 49 CFR 520.21(g); 40 CFR 1501.7, 1506.6.

• Peer-reviewed scientific studies that have been issued since the EPA Endangerment Finding and that address or may inform: (a) The impacts of CO_2 and other GHG emissions that may be associated with any of the alternatives under consideration; (b) the impacts on climate change that may be associated with these emission changes; or (c) the time periods over which such impacts may occur. NHTSA is particularly interested in peer reviewed studies analyzing the potential impacts of climate change within the United States or in particular geographic areas of the United States.

• Comments on how NHTSA should estimate the potential changes in temperature that may result from the changes in CO_2 emissions projected from setting MY 2017–2025 CAFE standards, and comments on how NHTSA should estimate the potential impacts of temperature changes on the environment.

• Comments on how NHTSA should discuss or estimate any localized or regional impacts of potential increased penetration of alternative fuel vehicles, including upstream emissions and impacts regarding waste and disposal of advanced batteries.[31]

• Comments on what timeframe NHTSA should use to evaluate the environmental impacts that may result from setting MY 2017–2025 CAFE standards.

NHTSA is also interested in comments on how the agency is planning to structure the proposed alternatives. Subject to the statutory constraints of EPCA/EISA, a variety of potential alternatives could be considered within the purpose and need for the proposed rulemaking, each falling along a theoretically infinite continuum of potential standards. As described above, NHTSA plans to address this issue by identifying alternatives at the upper and lower bounds of a range within which we believe the statutory requirement for "maximum feasible" would be satisfied, as well as identifying and analyzing the impacts of a preferred alternative. In this way, NHTSA expects to bracket the potential environmental impacts of the standards it may select.[32]

NHTSA seeks comments on what criteria should be used to choose the Preferred Alternative, given the agency's statutory requirement of setting "maximum feasible" fuel economy standards that increase ratably.[33] When suggesting an approach, please explain how it would satisfy EPCA's factors (technological feasibility, economic practicability, the effect of other motor vehicle standards of the Government on fuel economy, and the need of the United States to conserve energy).[34]

Two important purposes of scoping are identifying the significant issues that merit in-depth analysis in the EIS and identifying and eliminating from detailed analysis the issues that are not significant and therefore require only a brief discussion in the EIS.[35] In light of these purposes, written comments should include an Internet citation (with a date last visited) to each study or report you cite in your comments if one is available. If a document you cite is not available to the public online, you should attach a copy to your comments. Your comments should indicate how each document you cite or attach to your comments is relevant to the NEPA analysis and indicate the specific pages and passages in the attachment that are most informative.

The more specific your comments are, and the more support you can provide by directing the agency to peer-reviewed scientific studies and reports as requested above, the more useful your comments will be to the agency. For example, if you identify an additional area of impact or environmental concern you believe NHTSA should analyze, or an analytical tool or model you believe NHTSA should use to evaluate these environmental impacts, you should clearly describe it and support your comments with a reference to a specific peer-reviewed scientific study, report, tool or model. Specific, well-supported comments will help the agency prepare an EIS that is focused and relevant and will serve NEPA's overarching aims of making high quality information available to decisionmakers and the public by "concentrat[ing] on the issues that are truly significant to the action in question, rather than amassing needless detail."[36] By contrast, mere assertions that the agency should evaluate broad lists or categories of concerns, without support, will not assist the scoping process for the proposed standards.

Please be sure to reference the docket number identified in the heading of this notice in your comments. NHTSA intends to provide notice to interested parties by e-mail. Thus, please also provide an e-mail address (or a mailing address if you decline e-mail communications).[37] These steps will help NHTSA manage a large volume of material during the NEPA process. All comments and materials received, including the names and addresses of the commenters who submit them, will become part of the administrative record and will be posted on the Web at *http://www.regulations.gov.*

Based on comments received during scoping, NHTSA expects to prepare a draft EIS for public comment by September 2011 and a final EIS by June 2012.[38] The agency expects to issue a final rule in July 2012.

Separate **Federal Register** notices will announce the availability of the draft EIS, which will be available for public comment, and the final EIS, which will be available for public inspection. NHTSA also plans to continue to post information about the NEPA process and this CAFE rulemaking on its Web site (*http://www.nhtsa.gov*).

Issued: May 4, 2011.

Christopher J. Bonanti,

Associate Administrator for Rulemaking.

[FR Doc. 2011–11278 Filed 5–9–11; 8:45 am]

BILLING CODE 4910–59–P

[31] In determining maximum feasibility, NHTSA may not consider the fuel economy of "dedicated vehicles," including vehicles that operate only on natural gas, hydrogen, and electricity. 49 U.S.C. 32901(a); 49 U.S.C. 32902(h). NHTSA, however, recognizes that potential future increases in alternative fuel vehicle penetration could cause environmental impacts relevant to this EIS.

[32] Should NHTSA ultimately choose to set standards at levels other than the Preferred Alternative, we believe that this bracketing will properly inform the decisionmaker, so long as the standards are set within its parameters.

[33] *See* 49 U.S.C. 32902(f).

[34] Note that NHTSA is statutorily prohibited from considering flexibility mechanisms in determining what standards would be maximum feasible. In determining maximum feasibility, NHTSA also must consider dual fueled vehicles to be operated only on gasoline or diesel fuel and, as noted above, may not consider the fuel economy of "dedicated vehicles," including vehicles that operate only on natural gas, hydrogen, and electricity. 49 U.S.C. 32901(a); 49 U.S.C. 32902(h).

[35] 40 CFR 1500.4(g), 1501.7(a).

[36] 40 CFR 1500.1(b).

[37] If you prefer to receive NHTSA's NEPA correspondence by U.S. mail, NHTSA plans to provide its NEPA publications via CD.

[38] 40 CFR 1506.10.

Notices

Federal Register
Vol. 76, No. 90
Tuesday, May 10, 2011

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

May 4, 2011.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. 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; (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: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections 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 (202) 720–8958.

An agency 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.

Animal and Plant Health Inspection Service

Title: National Animal Health Monitoring System; Feedlot 2011 Study.

OMB Control Number: 0579–0079.

Summary of Collection: Collection and dissemination of animal health and information is mandated by 7 U.S.C. 391, the Animal Industry Act of 1884, which established the precursor of the Animal and Plant Health Inspection Service (APHIS), Veterinary Services, the Bureau of Animal Industry. Collection, analysis, and dissemination of livestock and poultry health information on a national basis are consistent with the APHIS mission of protecting and improving American agriculture's productivity and competitiveness. The National Animal Health Monitoring System (NAHMS) will initiate the third national data collection for beef feedlot operations through the Feedlot 2011 study.

Need and Use of the Information: APHIS plans to conduct the feedlot study as part of an ongoing series of NAHMS studies on the U.S. beef feedlot population. APHIS will use the data collected to: (1) Establish national and regional production measures for producer, veterinary, and industry references, (2) Predict or detect nations and regional trends in diseases emergence and movement, (3) Address emerging issues, (4) Examine the economic impact of health management practices, (5) Provide estimates of both outcome (disease or other parameters) and exposure variables (risks) that can be used in analytic studies in the future by APHIS, and (6) Provide input into the design of a surveillance system for specific diseases.

Without this type of national data, the U.S.' ability to detect trends in management, production, and health status, either directly or indirectly, would be reduced or nonexistent.

Description of Respondents: Business or other for-profit.

Number of Respondents: 4,900.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 2,908.

Animal Plant and Health Inspection Service

Title: Update of the Nursery Stock Regulation.

OMB Control Number: 0579–0190.

Summary of Collection: Under the Plant Protection Act (PPA) (7 U.S.C. 7701 *et seq*), the Secretary of Agriculture is authorized to prohibit or restrict the importation, entry, exportation, or movement in interstate commerce of plant pests and other articles, to prevent the introduction of plant pests into the United States. Regulations authorized by the PPA concerning the importation of nursery stock, plants, roots, bulbs, seeds, and other plant products are contained in Title 7 of the Code of Federal Regulations, "Nursery Stock," 319.37 through 319.34–14. The nursery stock regulations require the Animal and Plant Health Inspection Service (APHIS) to collect information from a variety of individuals who are involved in growing, exporting, and importing nursery stock.

Need and Use of the Information: APHIS will collect information to ensure that plant pests are not introduced into the United States. The information APHIS collects serves as the supporting documentation needed to issue required PPQ forms and documents that allow importation of nursery stock.

APHIS requires a permit for the restricted articles to ensure that plant pest and plant diseases are not introduced into the United States. APHIS uses this information to implement and invoke the requirements of the Plant Protection Act.

Description of Respondents: Business or other for-profit.

Number of Respondents: 30.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 87.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2011–11297 Filed 5–9–11; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Light Light Solutions, LLC of Athens, Georgia, an exclusive license to U.S. Patent Application Serial No. 12/617,245, "Fluorescence Spectroscopy for Rapid Detection and Classification of Bacterial Pathogens," filed on November 12, 2009.

DATES: Comments must be received on or before June 9, 2011.

ADDRESSES: *Send comments to:* USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Rm. 4–1174, Beltsville, Maryland 20705–5131.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; *telephone:* 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights in this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as Light Light Solutions, LLC of Athens, Georgia has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within thirty (30) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Richard J. Brenner,

Assistant Administrator.

[FR Doc. 2011–11366 Filed 5–9–11; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to the Washington State Crop Improvement Association of Pullman, Washington, an exclusive license to the lentil variety named "Morena."

DATES: Comments must be received on or before June 9, 2011.

ADDRESSES: *Send comments to:* USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Rm. 4–1174, Beltsville, Maryland 20705–5131.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; *telephone:* 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's rights in this plant variety are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this variety as the Washington State Crop Improvement Association of Pullman, Washington has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within thirty (30) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Richard J. Brenner,

Assistant Administrator.

[FR Doc. 2011–11365 Filed 5–9–11; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; National Recreation Program Administration

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the new information collection, National Recreation Program Administration.

DATES: Comments must be received in writing on or before July 11, 2011 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Katie Donahue, Recreation, Heritage, and Volunteer Resources Staff, Mail Stop 1125, U.S. Forest Service, 1400 Independence Ave., SW., Washington, DC 20250.

Comments also may be submitted via facsimile to Katie Donahue (202) 205–1145 or by e-mail to: *recreation2300@fs.fed.us.*

The public may inspect comments received at the Office of the Director, Recreation, Heritage and Volunteer Resources Staff, 4th Floor South, Sidney R. Yates Federal Building, 14th and Independence Avenue, SW., Washington, DC 20024 on business days between the hours of 8:30 a.m. and 4 p.m. Visitors are encouraged to call ahead to (202) 205–1169 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: Katie Donahue, Recreation, Heritage, and Volunteer Resources Staff, at (202) 205–1169 or *recreation2300@fs.fed.us.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 twenty-four hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Title: National Recreation Program Administration.

OMB Number: 0596–New.

Expiration Date of Approval

Type of Request: New.

Abstract: The Federal Lands Recreation and Enhancement Act (16 U.S.C. 6801–6814) authorizes the Forest Service to issue permits and charge fees for recreation uses of Federal recreational lands and waters, such as group activities, recreation events and motorized recreational vehicle use. In addition, permits may be issued as a means to disperse use, protect natural and cultural resources, provide for the health and safety of visitors, allocate capacity, and/or help cover the higher costs of providing specialized services.

The FS–2300–47, National Recreation Application is a form used to apply for a recreation permit. Information collected for FS–2300–47 includes the applicant's name, address, phone number and e-mail address, location and activity type, date and time of requested use, itinerary, number in party, entry and exit points, day or overnight use, method of travel (if applicable), group organization or event name (if applicable), group leader name and contact information (if applicable),

vehicle or boat registration and license number and state of issue (if applicable), type and number of boats, stock or off-highway vehicles (if applicable), and assessed fee and method of payment (if applicable).

The FS–2300–48, National Recreation Permit, is a form used to authorize specific activities at particular facilities or areas. Information collected for FS–2300–48 includes the group or individual's name, responsible person's signature, address, phone number, date of permit, method of travel, license number and description of vehicle and tow type, payment method and amount, number and types of water craft (if applicable), number in a group at a cabin or campsite (if applicable), number and type of off-highway vehicles or other vehicles, and number and type of other use (if applicable).

This information is used to manage the application process and to issue permits for recreation uses of Federal recreational lands and waters. The information will be collected by Federal employees and agents who are authorized to collect recreation fees and/or issue recreation permits. Name and contact information will be used to inform applicants and permit holders of their success in securing a permit for a special area. Number in group, number and type of vehicles, water craft, or stock may be used to assure compliance with management area direction for recreational lands and waters and track visitation trends. A national forest may use ZIP codes to help determine where the national forest's visitor base originates. Activity information may be used to improve services. Personal information such as names, addresses, phone numbers, e-mails and vehicle registration information will be secured and maintained in accordance with the system of records, National Recreation Reservation System (NRRS) USDA/FS–55.

If unable to collect this information, national forests would not be able to manage their permit programs or disperse use, protect natural and cultural resources, provide for the health and safety of visitors, allocate capacity, and/or help cover the higher costs of providing specialized services on National Forest System recreational lands.

Estimate of Annual Burden: 15 minutes.

Type of Respondents: Individuals.

Estimated Annual Number of Respondents: 37,500.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 9,375 hours.

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (2) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the request for Office of Management and Budget approval.

Dated: April 29, 2011.

Joe L. Meade,

Acting Associate Deputy Chief National Forest System.

[FR Doc. 2011–11293 Filed 5–9–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Olympic Peninsula Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Olympic Peninsula Resource Advisory Committee will meet in Sequim, Washington. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with the title II of the Act. The meeting is open to the public. The purpose of the meeting is to review 2012 project proposals and provide the Designated Federal Official with a list of recommended projects to be funded.

DATES: The meeting will be held on June 9, 2011, from 9 a.m. until 5 p.m.

ADDRESSES: The meeting will be held at the Red Cedar Hall at the Jamestown S'Klallam Tribal Community Center, 1033 Old Blyn Highway, Sequim, Washington 98382. Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at 1835 Black Lake Blvd., SW., Olympia, WA 98512. Please call ahead to 360–956–2274 to facilitate entry into the building to view comments.

FOR FURTHER INFORMATION CONTACT: Donna Nemeth, Public Affairs Officer, Olympic National Forest, 360–956–2274, *dnemeth@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday. Requests for reasonable accomodation for access to the facility or procedings may be made by contacting the person listed in **FOR FURTHER INFORMATION.**

SUPPLEMENTARY INFORMATION: The following business will be conducted: Committee members will review 2012 project proposals and compile a list of recommended projects to be funded for the Designated Federal Official to approve. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by June 2, 2011, to be scheduled on the agenda. Written comments and requests for time for oral comments must be sent to Donna Nemeth, Olympic National Forest, 1835 Black Lake Blvd., SW., Olympia, WA 98512, or by e-mail to *dnemeth@fs.fed.us*, or via facsimile to 360–956–2330.

Dated: May 3, 2011.

Margaret Petersen,

Acting Forest Supervisor, Olympic National Forest.

[FR Doc. 2011–11342 Filed 5–9–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Meeting of the Agricultural Air Quality Task Force

AGENCY: Natural Resources Conservation Service (NRCS), United

States Department of Agriculture (USDA)

ACTION: Notice of meeting.

SUMMARY: The Agricultural Air Quality Task Force (AAQTF) will meet to continue discussions on critical air quality issues in relation to agriculture. Special emphasis will be placed on obtaining a greater understanding about the relationship between agricultural production and air quality. The meeting is open to the public, and a draft agenda is included in this notice.

DATES: The AAQTF meeting will convene on Wednesday, June 8, 2011, from 1 p.m. to 5 p.m. thru Friday, June 10, 2011, from 8 a.m. to 12 p.m. Individuals with written materials, and those who are requesting to make oral presentations, should contact Elvis Graves at (202) 720–1858 or e-mail: *elvis.graves@wdc.usda.gov.*

ADDRESSES: The meeting will be held at USDA, 1400 Independence Avenue, SW., Room 107–A Jamie L. Whitten Federal Building, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Questions and comments should be directed to Elvis L. Graves, Designated Federal Official, Department of Agriculture, Natural Resources Conservation Service, 1400 Independence Avenue, SW., Room 6165 South Building, Washington, DC 20250; *Telephone:* (202) 720–1858; *Fax:* (202) 720–2646; *E-mail: elvis.graves@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2. Additional information concerning AAQTF, including any revised agendas for the June 8–10, 2011, meeting that occurs after this **Federal Register** Notice is published, may be found at *http://www.airquality.nrcs.usda.gov/AAQTF/index.html.*

Draft Agenda—Meeting of the AAQTF—June 8–10, 2011

A. Welcome to Washington, DC
- USDA, NRCS, and local officials

B. Discussion of Federal Advisory Committee Act status

C. USDA Office of Ethics Updates

D. Federal Travel Regulations

E. Air Quality Issues/Concerns from Previous Task Force
- Discussion of goals for Task Force during this charter
- Committee Designations

F. Next Meeting, time/place
- Public Input (Time will be reserved at designated times to receive public comment. Individual presentations will be limited to 5 minutes.)

Procedural

The meeting is open to the public. At the discretion of the Chair, members of the public may give oral presentations during the meeting. Those persons wishing to make oral presentations should notify Elvis Graves at (202) 720–1858; *e-mail: elvis.graves@wdc.usda.gov.* If a person submitting material would like a copy distributed to each member of the committee in advance of the meeting, they should submit 50 copies to Elvis Graves no later than May 27, 2011.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, please contact Elvis Graves. USDA prohibits discrimination in its programs and activities on the basis of race, color, national origin, gender, religion, age, sexual orientation, or disability. Additionally, discrimination on the basis of political beliefs and marital or family status is also prohibited by statutes enforced by USDA. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternate means for communication of program information (Braille, large print, audio tape, etc.) should contact the USDA's Target Center at (202) 720–2000 (voice and TDD).

Signed this 3rd day of May 2011, in Washington, DC.

Dave White,

Chief, Natural Resources Conservation Service.

[FR Doc. 2011–11405 Filed 5–9–11; 8:45 am]

BILLING CODE 3410–16–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: State and Local Government Finance Forms.

OMB Control Number: 0607–0585.

Form Number(s): F–5, F–11, F–12, F–12(S), F–13, F–25, F–28, F–29, F–32, F–42.

Type of Request: Revision of a currently approved collection.

Burden Hours: 74,358.

Number of Respondents: 31,409.

Average Hours per Response: 2 hours and 22 minutes average across all forms.

Needs and Uses: This survey provides government finance data for state and local governments. It is the only known comprehensive source of state and local government finance data collected on a nationwide scale using uniform definitions, concepts, and procedures. This survey is conducted annually, as a national census every five years, and as a sample survey in each of the four intervening years. The Census Bureau provides these data to the Federal Reserve Board for constructing the Nation's Flow of Funds Accounts and the Bureau of Economic Analysis for the National Income and Product Accounts. The data are also used to monitor the government sector of the economy and to formulate, develop, and review public policy. Federal agencies, state and local governments, and the private sector all use these data. The respondents to this survey are state and local government officials.

Our planned form changes for FY2011 include adding additional tax collection line items on the F–5 form and collecting one additional market value item on the F–11, F–12, and F–12(S) forms. The expected burden hour estimate will remain unchanged for these forms. In addition, for the 2012 retirement F–11, F–12, and F–12(S) forms, we plan to add additional collection detail for membership and benefits for defined benefit plans, receipts/payments for defined benefit plans, holdings and investment for defined benefit plans, and actuarial information for defined benefit plans (F–12 only). The burden hour estimate will increase from 2.0 to 2.5 hours for each of the respective forms.

Affected Public: State, local or tribal government.

Frequency: Annually.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C., Sections 161 and 182.

OMB Desk Officer: Brian Harris-Kojetin, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dhynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent

within 30 days of publication of this notice to Brian Harris-Kojetin, OMB Desk Officer either by fax (202–395–7245) or e-mail (*bharrisk@omb.eop.gov*).

Dated: May 5, 2011.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2011–11338 Filed 5–9–11; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–807]

Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea: Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request for an expedited changed circumstances review from Toray Advanced Materials Korea, Inc. (TAMK), the Department of Commerce (the Department) is initiating a changed circumstances review of the antidumping duty order on polyethylene terephthalate film, sheet and strip (PET film) from the Republic of Korea (Korea) pursuant to section 751(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216 and 351.221(c)(3). We have preliminarily concluded TAMK is the successor-in-interest to Toray Saehan, Inc. (Toray Saehan) and, as a result, should be accorded the same treatment previously given to Toray Saehan with respect to the antidumping duty order on PET film from Korea. Interested parties are invited to comment on these preliminary results.

DATES: *Effective Date:* May 10, 2011.

FOR FURTHER INFORMATION CONTACT: Tyler Weinhold or Robert James, AD/CVD Operations Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Room 7866, Washington, DC 20230; *telephone:* (202) 482–1121 or (202) 482–0649, respectively.

Background

On June 5, 1991, the Department published the antidumping duty order and amended final determination of sales at less than fair value (LTFV) on PET film from Korea. *See Antidumping Duty Order and Amendment to Final Determination of Sales at Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea,* 56 FR 25669 (June 5, 1991). On September 26, 1997, the Department published the notice of final court decision and amended final determination on PET film from Korea. *See Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea; Notice of Final Court Decision and Amended Final Determination of Antidumping Duty Investigation,* 62 FR 50557 (September 26, 1997) (*Antidumping Duty Investigation Amended Final*). Based on the Department's redetermination on remand in *Antidumping Duty Investigation Amended Final,* Cheil Synthetics, Inc. (Cheil) was found to have been dumping at a margin of 36.33 percent.

On July 5, 1996, the Department revoked the antidumping duty order on PET film from Korea with respect to Cheil because Cheil had not sold the subject merchandise at LTFV for at least three consecutive periods of review. *See Polyethylene Terephthalate Film Sheet and Strip from the Republic of Korea; Final Results of Antidumping Duty Administrative Reviews and Notice of Revocation in Part,* 61 FR 35177 (July 5, 1996). Subsequently, prior to the first sunset review, the Department published the final results of a changed circumstances review in which it found that Saehan Industries, Inc., (Saehan) was the successor-in-interest to Cheil. *See Polyethylene Terephthalate Film, Sheet and Strip From the Republic of Korea; Final Results of Changed Circumstances Antidumping Duty Administrative Review,* 63 FR 3703 (January 26, 1998).

The Department conducted another changed circumstances review in May 2000 in which it determined that Toray Saehan was the successor-in-interest to Saehan (which, as explained above, was the successor-in-interest to Cheil). *See Polyethylene Terephthalate Film, Sheet and Strip From the Republic of Korea, Final Results of Changed Circumstances Antidumping Duty Administrative Review,* 65 FR 34661 (May 31, 2000) (*2000 Changed Circumstances Review*).

On December 21, 2010, TAMK filed a request for a changed circumstances review of the antidumping duty order on PET film from Korea. TAMK claims it is the successor-in-interest to Toray Saehan in accordance with section 751(b) of the Act and 19 CFR 351.216, and provided documentation supporting its assertion.

On February 4, 2011, the Department issued a questionnaire to TAMK seeking additional information related to its request for a changed circumstances review. On March 1, 2011, TAMK filed its response to the questionnaire. In response to TAMK's request, the Department is initiating a changed circumstances review of this order.

Scope of the Order

Imports covered by the order are shipments of all gauges of raw, pretreated, or primed polyethylene terephthalate film, sheet, and strip, whether extruded or coextruded. The films excluded from this review are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer more than 0.00001 inches (0.254 micrometers) thick.

Polyethylene terephthalate film, sheet, and strip is currently classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) subheading 3920.62.00. The HTSUS subheading is provided for convenience and for customs purposes. The written description remains dispositive as to the scope of the product coverage.

Initiation of Antidumping Duty Changed Circumstances Review

Pursuant to section 751(b)(1) of the Act, the Department will conduct a changed circumstances review upon receipt of a request from an interested party or receipt of information concerning an antidumping duty order which shows changed circumstances sufficient to warrant a review of the order. On December 21, 2010, TAMK submitted its request for a changed circumstances review claiming that it is the successor-in-interest to Toray Saehan. In its submission, TAMK explains that on May 3, 2010, it changed its name from Toray Saehan to TAMK. *See* TAMK's submission, dated December 21, 2010 at 2 and Exhibits 1 and 2.

No other interested parties commented on TAMK's submission. Based on the information submitted by TAMK on December 21, 2010, and on March 1, 2011, the Department has determined that changed circumstances sufficient to warrant a review exist. *See* 19 CFR 351.216(d). The Department also finds that expedited action is warranted in accordance with 19 CFR 351.221(c)(3)(ii), and therefore we are concurrently publishing this notice of initiation and preliminary results for this changed circumstances review. *See Ball Bearings and Parts Thereof from Japan: Initiation and Preliminary Results of Changed-Circumstances Review,* 71 FR 14679 (March 23, 2006).

Preliminary Results

In antidumping duty changed circumstances reviews involving a successor-in-interest determination, the Department typically examines several factors including, but not limited to: (1) Management; (2) production facilities; (3) supplier relationships; and (4) customer base. *See Brass Sheet and Strip from Canada: Final Results of Antidumping Duty Administrative Review,* 57 FR 20460, 20462 (May 13, 1992) and *Certain Cut-to-Length Carbon Steel Plate from Romania: Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review,* 70 FR 22847 (May 3, 2005) (*Plate from Romania*), unchanged in *Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Cut-to-Length Carbon Steel Plate from Romania* 70 FR 35624 (June 21, 2005). While no single factor or combination of factors will necessarily be dispositive, the Department generally will consider the new company to be the successor to the predecessor if the resulting operations are essentially the same as those of the predecessor company. *See, e.g., Industrial Phosphoric Acid from Israel: Final Results of Antidumping Duty Changed Circumstances Review,* 59 FR 6944, 6945 (February 14, 1994), and *Plate from Romania.* Thus, if the Department determines the new company operates as the same business entity as the predecessor company with respect to the production and sale of the subject merchandise, the Department may afford the new company the same treatment for antidumping purposes as its predecessor. *See, e.g., Fresh and Chilled Atlantic Salmon from Norway: Final Results of Changed Circumstances Antidumping Duty Administrative Review,* 64 FR 9979, 9980 (March 1, 1999).

In accordance with 19 CFR 351.221(c)(3)(i), we preliminarily determine that TAMK is the successor-in-interest to Toray Saehan. In its submission, TAMK provides documentation showing the transition from Toray Saehan to TAMK resulted in little or no change in management, production facilities, supplier relationships, or customer base.

In its initial submission, dated December 21, 2010, TAMK states that the change in name from Toray Saehan to TAMK is the result of an internal corporate decision for marketing and strategy purposes. TAMK further states that: (1) There was no change in the management of the company; (2) there were no changes in the suppliers of raw materials to the company; (3) there were no changes to the location where TAMK produces PET film, and; (4) the customer lists for Toray Saehan and TAMK show consistency in customers served.

TAMK further explains that the Department recognized that Toray Saehan was the successor-in-interest to Saehan, and by extension, to Cheil. *See 2000 Changed Circumstances Review.*

In performing our analysis, we first examined organization charts showing the management structure of TAMK and Toray Saehan prior to and after the name change. *See* TAMK submission, dated March 1, 2011 (Attachment 4–5). We then examined the management personnel of TAMK and Toray Saehan. TAMK submitted exhibits showing that the management of TAMK is substantially similar to that of Toray Saehan. *See* TAMK submission, dated March 1, 2011 (Attachment 1–3). As such, TAMK's management structure closely resembles that of Toray Saehan. *See id.*

Second, we reviewed production data of subject merchandise from production facilities of both TAMK and Toray Saehan covering periods prior to and following the change in name. TAMK demonstrated that TAMK maintained similar production capacity at the same production facilities as Toray Saehan. *See* TAMK submission, dated March 1, 2011 (Attachment 6–7).

Third, we examined the lists of major input suppliers to TAMK for the production of subject merchandise prior to and after the change in name. A comparison shows that the two lists are identical. *See* TAMK submission, dated December 21, 2010 (Attachment D).

Fourth, we reviewed the customer lists for TAMK's sales of subject merchandise prior to and following the change in name. A comparison of these two customer lists, both in the home market and in the United States, shows they are substantially unchanged. *See* TAMK submission, dated December 21, 2010 (Attachment E).

For the reasons described above, we preliminarily find that TAMK is the successor-in-interest to Toray Saehan in accordance with 19 CFR 351.221(c)(3)(i). If this preliminary determination is sustained in our final results, TAMK will be entitled to Toray Saehan's treatment under the antidumping duty order (*i.e.,* it will inherit Toray Saehan's revocation from the order). Should our final results remain the same as these preliminary results, effective the date of publication of the final results we will instruct U.S. Customs and Border Protection to liquidate entries of merchandise produced or exported by TAMK without regard to antidumping duties, as TAMK's predecessor, Toray Saehan, is revoked from the order.

Public Comment

Any interested party may request a hearing within 15 days of publication of this notice. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 25 days after the date of publication of this notice or the first working day thereafter, unless the Secretary alters the date. *See* 19 CFR 351.310(d)(1). Interested parties may submit case briefs not later than 15 days after the date of publication of this notice. *See* 19 CFR 351.309 (c)(ii). Rebuttal briefs, which must be limited to issues raised in case briefs, may be filed not later than 20 days after the date of publication of this notice. Parties who submit case briefs or rebuttal briefs in this changed circumstances review are requested to submit with each argument: (1) A statement of the issue; and (2) a brief summary of the argument. Consistent with 19 CFR 351.216(e), we will issue the final results of this changed-circumstances review no later than 270 days after the date on which this review was initiated, or within 45 days of publication of these preliminary results if all parties agree to our preliminary finding.

During the course of this antidumping duty changed circumstances review, the cash deposit requirements for the subject merchandise exported and manufactured by TAMK will continue to be the all-others rate established in the investigation. *See Antidumping Duty Investigation Amended Final,* 62 FR at 50558.

This notice of initiation and preliminary results is published in accordance with sections 751(b)(1) and 777(i)(1) of the Act, and 19 CFR 351.216 and 19 CFR 351.221(c)(3).

Dated: April 22, 2011.

Paul Piquado,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 2011–11389 Filed 5–9–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–918]

Steel Wire Garment Hangers From the People's Republic of China: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order and Extension of Final Determination

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

Preliminary Determination

We preliminarily determine that steel wire garment hangers ("garment hangers") exported by Angang Clothes Rack Manufacture Co., Ltd. ("Angang") and Quyky Yanglei International Co., Ltd. ("Quyky") are circumventing the antidumping duty order on garment hangers from the People's Republic of China ("PRC"), as provided in section 781(b) of the Tariff Act of 1930, as amended ("the Act"). *See Notice of Antidumping Duty Order: Steel Wire Garment Hangers from the People's Republic of China,* 73 FR 58111 (October 6, 2008) ("*Order*").

DATES: *Effective Date:* May 10, 2011.

FOR FURTHER INFORMATION CONTACT: Irene Gorelik or Jamie Blair-Walker, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482–6905 or (202) 482–2615, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 5, 2010, M&B Metal Products Co., ("Petitioner") requested that the Department of Commerce ("the Department") initiate an anti-circumvention inquiry pursuant to section 781(b) of the Act, and 19 CFR 351.225(h), to determine whether U.S. imports of garment hangers shipped from Vietnam by Angang and Quyky, and made from PRC-origin, semi-finished garment hangers [1] are circumventing the *Order.* In its request, Petitioner alleged that PRC manufacturers of subject merchandise have been circumventing the *Order* by using two Vietnamese companies to export their hangers.[2] Specifically, Petitioner indicated that it had evidence that: (1) Angang is exporting hangers from Vietnam made from components manufactured and supplied by its alleged Chinese owner, Shaoxing Gangyuan Metal Manufactured Co., Ltd. ("Gangyuan") [3]; (2) Quyky is exporting hangers from Vietnam made from components manufactured and supplied by a Chinese company, Shanghai Ruishan Metal Products Co., Ltd. ("Ruishan"); and (3) the evidence obtained by Petitioner supported a finding that these parties were circumventing the *Order* pursuant to section 781(b) of the Act.[4]

On May 20, 2010, the Department issued a letter to Petitioner with supplemental questions concerning both Angang and Quyky and Petitioner responded to this request on May 25, 2010. After reviewing Petitioner's submissions, on July 16, 2010, the Department initiated an anti-circumvention inquiry on imports of garment hangers from Vietnam exported by Angang and Quyky.[5] In the *Initiation Notice,* the Department stated that it would focus its analysis on the significance of the production process in Vietnam by Angang and Quyky.[6]

The Department issued questionnaires to Quyky and Angang on July 23, 2010. The Department has, to date, not received any responses to our requests for information from Quyky. The Department also issued multiple supplemental questionnaires to Angang between August 2010 and March 2011. On December 22, 2010, Angang requested that the Department preliminarily rule that it was not circumventing the *Order* and submitted arguments regarding its hanger production facilities and exports as they relate to the statutory criteria for anti-circumvention proceedings. Angang has stated on the record that its affiliates [7] in the PRC were the sole suppliers [8] of the PRC-origin semi-finished garment hangers [9], to which Angang added either PRC-origin powder coating or paint and paper attachments such as tubes and then exported [10] this merchandise to the United States.

Scope of the Antidumping Duty Order

The merchandise that is subject to the order is steel wire garment hangers, fabricated from carbon steel wire, whether or not galvanized or painted, whether or not coated with latex or epoxy or similar gripping materials, and/or whether or not fashioned with paper covers or capes (with or without printing) and/or nonslip features such as saddles or tubes. These products may also be referred to by a commercial designation, such as shirt, suit, strut, caped, or latex (industrial) hangers. Specifically excluded from the scope of the order are wooden, plastic, and other garment hangers that are not made of steel wire. Also excluded from the scope of the order are chrome-plated steel wire garment hangers with a diameter of 3.4 mm or greater. The products subject to the order are currently classified under Harmonized Tariff Schedule of the United States ("HTSUS") subheadings 7326.20.0020, 7323.99.9060 and 7323.99.9080.

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Scope of the Anti-Circumvention Inquiry

The products covered by this inquiry are hangers, as described in the "Scope of the Antidumping Duty Order" section above, that are exported from Vietnam, but manufactured from PRC-origin, semi-finished garment hangers and completed in Vietnam with PRC-origin, paper attachments and other direct materials such as latex or glue. While we acknowledge that Angang has repeatedly stated on the record that it also self-produces garment hangers from

[1] *See* Petitioner's Requests for Circumvention Inquiries dated May 5, 2010. In this proceeding, semi-finished steel wire garment hangers ("semi-finished hangers") refer to both shirt hangers and strut hangers that have not been "finished" with coating powder or paint and paper capes or paper tubes.

[2] *See* Petitioner's Requests for Circumvention Inquiries dated May 5, 2010.

[3] The names of Angang's actual parent company in the PRC and another affiliated company, (hereinafter referred to as "Company X") are business proprietary information. For further details, see "Memorandum to the File through Catherine Bertrand, Program Manager, Office 9 from Irene Gorelik, Senior Analyst, re; Circumvention Inquiry on Steel Wire Garment Hangers from the People's Republic of China: Proprietary Analysis of Certain Statutory Factors for Angang Clothes Rack Manufacture Co., Ltd. for the Preliminary Determination," ("Angang Prelim Analysis Memo"), dated concurrently with this **Federal Register** notice.

[4] *See id.*

[5] *See Steel Wire Garment Hangers From the People's Republic of China: Initiation of Anti-Circumvention Inquiry,* 75 FR 42685 (July 22, 2010) ("*Initiation Notice*").

[6] *See id.* at 42689.

[7] Angang has stated on the record that it is affiliated with Company X. *See* Angang's Questionnaire Response dated September 17, 2010 at 2–3 and Exhibit 3. The name of this affiliated company is business proprietary information.

[8] *See* Angang's Questionnaire Response dated November 19, 2010, at 27–28.

[9] For the purposes of these circumvention inquiries, we refer to the PRC-origin uncoated, paper-less hanger-shaped steel wire as "semi finished" steel wire hangers.

[10] *See, e.g.,* Angang's Questionnaire Response dated October 8, 2010 at Exhibit 1; Angang's Questionnaire Response dated November 19, 2010, at 13.

steel wire rod [11], the focus and intent of this proceeding is to determine whether the semi-finished garment hangers: (1) Manufactured in the PRC; (2) exported to Angang's facility in Vietnam for completion (by adding PRC-origin paper attachments, such as tubes, PRC-origin latex or glue) [12]; and (3) then exported by Angang to the United States as Vietnamese-origin steel wire garment hangers constitutes circumvention of the *Order* under section 781(b) of the Act.

Surrogate Country and Factor Valuation Comments

In this case, both the country that produced the semi-finished garment hangers and the country that produced the steel wire hangers from the semi-finished garment hangers are considered to be non-market economy ("NME") countries by the Department. 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.[13] No party has challenged the designation of the PRC or Vietnam as an NME country in this anti-circumvention inquiry. Therefore, we continue to treat the PRC and Vietnam as NME countries for purposes of the preliminary determination of this anti-circumvention inquiry.

On January 7, 2011, the Department determined that India, the Philippines, Indonesia, Thailand, Ukraine, and Peru are countries comparable to the PRC and also determined that Bangladesh, Pakistan, India, Sri Lanka, the Philippines, and Indonesia are countries comparable to Vietnam in terms of economic development.[14] On January 12, 2011, the Department solicited comments from interested parties regarding the selection of a surrogate country and of surrogate factor valuations. On February 11, 2011, Petitioner submitted comments on the selection of a surrogate country. No other interested party commented on the selection of a surrogate country. On February 18, 2011, Petitioner submitted surrogate factor valuation comments. No other interested party submitted surrogate factor valuation comments.

Extension of Determination Deadline

On February 28, 2011, the Department extended the final determination deadline of this anti-circumvention inquiry to November 1, 2011.

Affirmative Preliminary Determination of Circumvention

For the reasons described below, we preliminarily determine that, pursuant to section 781(b) of the Act, circumvention of the *Order* is occurring by reason of exports of semi-finished garment hangers from the PRC imported by, or sold to, Angang and Quyky, and which subsequently undergo further assembly in Vietnam before exportation to the United States.

Quyky

Facts Available

Section 776(a) of the Act requires the Department to rely on facts otherwise available if necessary information is not available on the record or an interested party or any other person: (A) Withholds information requested by the Department; (B) fails to provide requested information by the deadlines for submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides requested information, but the information cannot be verified as provided in section 782(i) of the Act. One of the Vietnamese companies subject to this anti-circumvention inquiry, Quyky, failed to respond to any of the Department's requests for information. Therefore, we preliminarily find that, pursuant to sections 776(a)(2)(A) and (B) of the Act, it is appropriate to apply facts available to Quyky. In addition, section 776(b) of the Act permits the Department to use an inference that is adverse to the interests of an interested party if that party fails to cooperate by not acting to the best of its ability to comply with a request for information. Such an adverse inference may include reliance on information derived from the petition, a final determination in the less-than-fair-value investigation, any previous administrative review, or any other information placed on the record.

At no point during this entire proceeding, did Quyky notify the Department that it was unable to comply with our requests. Quyky's refusal to respond to our questionnaire precludes the Department from making an informed determination based on record evidence as to whether it is (or is not) circumventing the *Order.* In addition, because Quyky failed to provide the Department with any information at all, we are also unable to distinguish between its imports or purchase of semi-finished garment hangers from the PRC for purposes other than assembly into merchandise covered by the *Order.* Consequently, because Quyky refused to comply with the Department's request for information, we find that it failed to cooperate to the best of its ability, and therefore, that an adverse inference is warranted pursuant to section 776(b) of the Act. Accordingly, as an adverse inference, the Department preliminarily finds that all of the hangers produced and/or exported by Quyky to the United States are circumventing the *Order.*

Angang

Applicable Statute

Section 781 of the Act addresses circumvention of antidumping or countervailing duty orders. With respect to merchandise assembled or completed in a third country, section 781(b)(1) of the Act provides that if: (A) The merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is the subject of an antidumping duty order; (B) before importation into the United States, such imported merchandise is completed or assembled in a third country from merchandise which is subject to such an order or is produced in the foreign country with respect to which such order applies; (C) the process of assembly or completion in a third country is minor or insignificant; (D) the value of the merchandise produced in the foreign country to which the antidumping duty order applies is a significant portion of the total value of the merchandise exported to the United States; and (E) the Department determines that action is appropriate to prevent evasion of an order. The Department, after taking into account any advice provided by the United States International Trade Commission ("ITC"), under section 781(e) of the Act, may include such imported

[11] *See, e.g.,* Angang's Questionnaire Response dated January 19, 2011 at 5; Angang's Questionnaire Response dated February 1, 2011 at Exhibit 9; and Angang's Comments dated December 22, 2010 at 2–5.

[12] Angang has reported that the direct materials applied to the PRC-origin, semi-finished hangers are also manufactured in, and supplied from, the PRC. *See, e.g.,* Angang's Questionnaire Response dated November 19, at Exhibit 5; Angang's Questionnaire Response dated March 21, 2011 at 4.

[13] *See, e.g., Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People's Republic of China,* 72 FR 30758, 30760 (June 4, 2007), unchanged in *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China,* 72 FR 60632 (October 25, 2007); *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of the Second Administrative,* 72 FR 13242 (March 21, 2007) ("*Fish Fillets Anticircumvention*").

[14] *See* "Memorandum from Carole Showers, Director, Office of Policy, to Catherine Bertrand, Program Manager, China/NME Group, Office 9; Anti-Circumvention Inquiry of the Antidumping Duty Order of Steel Wire Garment Hangers from the People's Republic of China ("PRC"): Request for a List of Surrogate Countries," dated January 7, 2011 ("Surrogate Country List").

merchandise within the scope of an order at any time an order is in effect.

In determining whether the process of assembly or completion in a third country is minor or insignificant under section 781(b)(1)(C) of the Act, section 781(b)(2) of the Act directs the Department to consider: (A) The level of investment in the third country; (B) the level of research and development in the third country; (C) the nature of the production process in the third country; (D) the extent of production facilities in the third country; and (E) whether the value of processing performed in the third country represents a small proportion of the value of the merchandise imported into the United States. However, none of these five factors, by itself, is controlling on the Department's determination of whether the process of assembly or completion in a third country is minor or insignificant.[15] Accordingly, it is the Department's practice to evaluate each of these factors as they exist in the third country depending on the particular anti-circumvention inquiry.[16] Further, section 781(b)(3) of the Act sets forth the factors to consider in determining whether to include merchandise assembled or completed in a third country in an antidumping duty order. Specifically, the Department shall take into account such factors as: (A) The pattern of trade, including sourcing patterns; (B) whether the manufacturer or exporter of the merchandise is affiliated with the person who, in the third country, uses the merchandise to complete or assemble in the merchandise which is subsequently imported into the United States; and (C) whether imports into the third country of the merchandise have increased after the initiation of the investigation which resulted in the issuance of an order.

Statutory Analysis

(A) Whether Merchandise Imported Into the United States Is of the Same Class or Kind as Other Merchandise That is Subject to the Order

The *Order* covers garment hangers produced from carbon steel wire, whether or not galvanized or painted, whether or not coated with latex or epoxy or similar gripping materials, and/or whether or not fashioned with paper covers or capes (with or without printing) and/or nonslip features such as saddles or tubes. These products may also be referred to by a commercial designation, such as shirt, suit, strut, caped, or latex (industrial) hangers. The merchandise subject to this inquiry is garment hangers exported to the United States by Angang produced from PRC-origin, semi-finished garment hangers.

The Department has reviewed the information provided by Angang in its questionnaire responses and finds that this evidence indicates that Angang's garment hangers, produced from PRC-origin, semi-finished garment hangers and exported to the United States meet the written description of the products subject to the *Order.*[17] Specifically, Angang submitted a product list showing that all the garment hanger types it produced and exported to the United States, which fit the description of the merchandise subject to the *Order.*[18] Further, we preliminarily find that the products identified and described in the product list are no different than those identified in the scope of the *Order.*[19] Angang also indicated that 100 percent of its production is steel wire garment hangers, that 100 percent of its production is for export to the United States, and provided sample invoices and packing lists which show the description of the exported merchandise, which we find also matches the descriptions in the scope of the *Order.*[20] Finally, we note that Angang itself admitted that, from September 2008 through August 2010, it sold steel wire hangers that meet the scope of the *Order.*[21] Accordingly, we find that the merchandise subject to this inquiry is the same class or kind of merchandise as that subject to the *Order.*

(B) Whether, Before Importation Into the United States, Such Imported Merchandise Is Completed or Assembled in A Third Country From Merchandise Which Is Subject to the Order or Produced in the Foreign Country That Is Subject to the Order

As noted above, the merchandise subject to this proceeding are garment hangers exported to the United States that are finished or processed in Vietnam from PRC-origin, semi-finished garment hangers. As stated above, although Angang has repeatedly noted on the record that it also self-produces garment hangers from steel wire rod,[22] we find the fact that Angang self-produces garment hangers from wire rod is irrelevant here. As stated above, the merchandise subject to this proceeding are Angang's exported garment hangers that were further processed from semi-finished garment hangers obtained from the PRC. Angang has also plainly stated on the record that between April 2009 and August 2010, it purchased semi-finished garment hangers from the PRC as a main input and further processed these semi-finished garment hangers by applying either PRC-origin paint or powder coating and paper attachments, which were then packaged as Vietnamese-origin and exported to the United States.[23] Accordingly, we find that the merchandise subject to this anti-circumvention inquiry was completed or assembled in Vietnam from PRC-origin merchandise which is subject to the *Order.*

Whether the Process of Assembly or Completion in the Third Country is Minor or Insignificant

Under section 781(b)(1)(C) of the Act, section 781(b)(2) of the Act provides the criteria for determining whether the process of assembly or completion is minor or insignificant. These criteria are:

(A) The level of investment in the third country;

(B) The level of research and development in the third country;

(C) The nature of the production process in the third country;

(D) The extent of the production facilities in the third country; and

(E) Whether the value of the processing performed in the third country represents a small proportion of the value of the merchandise imported into the United States.

The SAA at 893 explains that no single factor listed in section 781(b)(2) of the Act will be controlling. Accordingly, it is the Department's practice to evaluate each of the factors as they exist in the United States or foreign country depending on the

[15] *See* SAA at 893.

[16] *See Certain Tissue Paper Products from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order,* 73 FR 57591, 57592 (October 3, 2008) ("*Tissue Paper Anti-Circumvention 2008 Final*").

[17] *See* Angang's Questionnaire Response dated September 7, 2010 at 6–11.

[18] *See id.*

[19] As the product descriptions in the product list are business proprietary information, *see* Angang Prelim Analysis Memo for further detail.

[20] *See* Angang's Questionnaire Response dated October 12, 2010 at 3 and Exhibit 3.

[21] *See* Angang's Questionnaire Response dated November 22, 2010 at 5.

[22] *See e.g.,* Angang's Comments dated December 22, 2010, at 2–5. The Department notes that the fact that Angang also produces hangers from wire rod is irrelevant here because the products subject to this proceeding are Angang's exported garment hangers that were further processed from semi-finished hangers obtained from the PRC.

[23] *See* Angang's Questionnaire Response dated October 8, 2010, at Exhibit 1; Angang's Questionnaire Response dated November 19, 2010, at 10; Angang's Questionnaire Response dated October 1, 2010, at Exhibit 1.

particular anti-circumvention inquiry.[24] In this anti-circumvention inquiry, based on the record, we have considered and evaluated each statutory criterion and all factors in determining whether the process of converting the PRC-origin, semi-finished garment hangers in Vietnam were minor or insignificant, in accordance with section 781(b)(2) of the Act, consistent with our analysis in prior anti-circumvention inquiries.[25]

781(b)(2)(A): The Level of Investment in Vietnam

For purposes of this anti-circumvention inquiry, we analyzed the level of investment in Angang by its Chinese parent company that is associated with converting the PRC-origin, semi-finished garment hangers into finished garment hangers for export to the United States. Specifically, we reviewed the level of investment in Angang for the conversion process by Angang's Chinese parent company and the parent company's Chinese affiliate, Company X, and Angang's investment on its own behalf. Angang reported that its operations in Vietnam for converting PRC-origin, semi-finished garment hangers into garment hangers are comprised of capital investment and equipment sourced in two ways: (1) Equipment and machinery that Angang purchased from its Chinese parent company; and (2) equipment that Angang purchased from other PRC companies.[26] Angang stated that its total investment from the Chinese parent company included capital investment and equipment investment.[27] Angang also stated that it made its own equipment investment in October 2008.[28] However, we note that Angang also clearly states that "all of these investments were made by its (Chinese) parent company."[29] Additionally, Angang identified the types of equipment and where that equipment was used in the production of finished garment hangers, (*i.e.,* Angang identified what type of equipment, such as powder coating, painting, paper tube and paper cape attaching, were used in the processing workshop where the PRC-origin, semi-finished garment hangers were converted to finished garment hangers).[30]

With respect to the equipment investment, Angang stated that "all equipment was fully invested by" its Chinese parent company and that "all equipment is brand-new and made by" its parent company.[31] However, while Angang provided a listing of machinery[32] obtained for its facility, there were no equipment purchase invoices or receipts provided to the Department, except for one oven and other non-hanger specific machines purchased by Angang.[33] Thus, we find that there is no information on the record of this proceeding to support Angang's claim that the hanger-making machinery supplied by its Chinese parent company was "brand new." The only information placed on the record with respect to Angang obtaining machines specific to garment hanger production is limited to a Vietnamese customs declaration, which: (1) Does not indicate an invoice value; (2) if the machines were even purchased; or (3) whether the machines are brand new or previously used by a PRC company.[34] Thus, without any other information on the record to substantiate its claim that the machinery supplied by the parent company, apart from one oven and a few non-hanger specific machines,[35] was brand new, we find that the totality of the record does not support Angang's claim that the Chinese parent company's investment in Angang's production equipment was new investment.[36]

Moreover, Angang has stated that all the direct materials required to complete the PRC-origin, semi-finished garment hangers were supplied by the Chinese parent company or affiliated Company X.[37] Accordingly, based on the totality of the record evidence, we find that the level of investment by Angang for equipment and direct materials used in converting the semi-finished garment hangers to finished garment hangers is minor or insignificant compared to the level of investment provided by the Chinese parent company and its affiliated Chinese Company X.

781(b)(2)(B): The Level of Research and Development ("R&D") in Vietnam

We find that the record evidence for this anti-circumvention inquiry demonstrates that Angang has not undertaken a significant level of R&D in order to process finished garment hangers. In describing the level of R&D in the garment hanger industry in Vietnam, Angang reported that R&D efforts are focused on quality control, work efficiency, and other efforts that were not substantiated by any supporting documentation.[38] However, according to Angang, its production of garment hangers began within two months of the set-up of the operations and management teams,[39] which we find is not indicative of a young industry that requires significant time for R&D prior to initial production. Furthermore, Angang reported that its Chairman, General Manager, and Production Manager are all previously employed by either the Chinese parent company or its affiliated Chinese Company X.[40] Accordingly, based on the facts on the record of this anti-circumvention inquiry, we find that the level of R&D in Vietnam was low because Angang employs senior individuals previously employed by its Chinese parent or affiliated producer of garment hangers and because there is no record evidence otherwise demonstrating that the level of R&D in Vietnam was high.

[24] *See Tissue Paper Anti-Circumvention 2008 Final.*

[25] *See, e.g., Anti-Circumvention Inquiry of the Antidumping and Countervailing Duty Orders on Certain Pasta From Italy: Affirmative Preliminary Determinations of Circumvention of Antidumping and Countervailing Duty Orders,* 68 FR 46571 (August 6, 2003) ("*Pasta Circumvention Prelim*") (unchanged in *Anti-Circumvention Inquiry of the Antidumping and Countervailing Duty Orders on Certain Pasta From Italy: Affirmative Final Determinations of Circumvention of Antidumping and Countervailing Duty Orders,* 68 FR 54888 (September 19, 2003) (*Pasta Circumvention Final*"); and *Hot-Rolled Lead and Bismuth Carbon Steel Products From Germany and the United Kingdom; Negative Final Determination of Circumvention of Antidumping and Countervailing Duty Orders,* 64 FR 40336, 40347–48 (July 26, 1999) (explaining that Congress has directed the Department to focus more on the nature of the production process and less on the difference in value between the subject merchandise and the parts and the imported parts or components and that any attempt to establish a numerical standard would be contrary to the intent of Congress).

[26] *See, e.g.,* Angang's Questionnaire Response dated September 17, 2010, at 10–12, and Exhibits 10–12; Angang's Questionnaire Response dated November 19, 2010, at 23–24.

[27] *See* Angang's Questionnaire Response dated September 17, 2010, at 7.

[28] *See id.*

[29] *See id.*

[30] *See id.,* at 14–21.

[31] *See id.,* at 12.

[32] *See id.,* at Exhibit 10.

[33] *See* Angang's Questionnaire Response dated November 19, 2010 at Exhibit 10.

[34] *See* Angang's Questionnaire Response dated September 17, 2010, at Exhibit 11.

[35] *See* Angang's Questionnaire Response dated November 19, 2010, at Exhibit 10, for the value-added tax ("VAT") invoice of the fuel oven first reported on page 11 of the September 17, 2010, questionnaire response. Angang also provided several VAT invoices for machines that were not previously noted in the September 17, 2010, response, as equipment investments. There is no indication on the record that these machines are used solely for garment hanger production. *See* Angang Prelim Analysis Memo.

[36] *See* Angang Prelim Analysis Memo at Attachment I.

[37] *See* Angang's Questionnaire Response dated November 19, 2010, at Exhibit 5.

[38] *See* Angang's Questionnaire Response dated September 17, 2010, at 13.

[39] *See id.,* at 10.

[40] *See* Angang's Questionnaire Response dated September 3, 2010, at 1–2; *see also* Angang's Questionnaire Response dated September 17, 2010, at 2.

781(b)(2)(C): The Nature of the Production Process in Vietnam

As discussed above, the element of Angang's garment hanger production process in Vietnam that we are reviewing is the conversion of the PRC-origin, semi-finished garment hangers to finished garment hangers. According to Angang, the entire process to produce such garment hangers from steel wire rod occurs in twelve stages.[41] Angang has reported that the process to produce semi-finished garment hangers comprises the first two steps of the twelve-step process and that these two steps are performed in the PRC, while the processes performed in Vietnam to produce "finished" garment hangers comprise the latter ten steps reported.[42] Angang also provides a very detailed description of each stage of garment hanger production.[43]

First, the Department notes that Angang's description of the Chinese production processes for the first two steps (wire drawing stage and wire shaping forming stage) appear to be understated in its response compared to information we are placing on the record.[44] According to Angang, the equipment and labor involved in the wire drawing, cutting, and shaping stages of the production process (which occur in the PRC) are limited, simple, and fully automated.[45] However, the information we are placing on the record in conjunction with these preliminary results regarding certain garment hanger production processes, indicates that drawing wire rod into wire, cutting wire into pre-determined sizes, and shaping/forming the cut wire into semi-finished garment hangers are more material-labor-energy intensive than intimated by Angang in its responses.[46]

Moreover, Angang's narrative describing these two stages shows an apparent de-emphasis of the importance of these stages. Unlike the other stages (performed in Vietnam), such as paint dipping and glue application, which, according to Angang, are "technically critical" and require "experienced" workers,[47] Angang provides scant description of the requirements for the Chinese wire drawing, cutting, and shaping stages. However, the Department notes that, based on information we are placing on the record, gauge and length of the drawn wire are directly and crucially associated with the product code (and the Department's CONNUM), which are determined in the wire drawing, cutting, and shaping/forming processes.[48] Accordingly, we find that the production processes in Vietnam conducted by Angang in converting the PRC-origin, semi-finished garment hangers to finished garment hangers are minor when compared to the Chinese production process of the steel wire drawing, cutting, and shaping process, which result in the semi-finished garment hanger, the main input to Angang's processing of PRC-origin semi-finished garment hangers.

781(b)(2)(D): The Extent of Production Facilities in Vietnam

In analyzing the extent of Angang's production facilities, we have considered the capital equipment used in the production process, the types of employees, and whether the facilities used by Angang in the conversion process were permanent facilities. Angang states that when it first rented the space in 2007 for a five-year lease term,[49] the facility had a workshop used to convert PRC-origin, semi-finished garment hangers into finished garment hangers.[50] A review of the record of the equipment at Angang's rented facility shows that the capital equipment used to convert PRC-origin, semi-finished garment hangers to finished garment hangers only consisted of: (1) Fuel ovens used to dry the powder coating applied to the semi-finished garment hangers; (2) paint vats into which the semi-finished garment hangers are manually dipped while suspended from a metal rod, then dried and "baked"; (3) machines to coat paper tubes with glue, then dried; and (4) machines to attach the paper tubes; (5) and manual paper cape attachment to shirt garment hangers.[51] Packing labor, packing materials, and "warehouse management" were also alleged by Angang to be "crucial" steps in the production process.[52] However, the Department finds that Angang has overstated the importance of these steps vis-a-vis the steps relating to wire drawing, wire cutting, and wire shaping/forming, which Angang significantly understated[53] when reviewing these same steps in the information we are placing on the record.

Second, the Department is not persuaded by Angang's emphasis on the production steps performed in Vietnam, as several of the steps identified by Angang actually occur within a single step. For example, while Angang identifies stage 3 of the process alone as "Dipping painting and blowing dry,"[54] Angang's detailed description of stage 3 shows "Stage 3 of the process (including stage 5 and stage 7): Dipping painting and blowing dry (including baking at high temperature and low temperature) * * *."[55] Angang reported several steps of the production process in this overlapping manner, such that, we find the actual stages of converting semi-finished garment hangers to finished garment hangers to be actually less than the twelve individual stages reported by Angang. Another example of Angang's emphasis of the Vietnam production process is Angang's inclusion of Stage 9: "paper wrapping and packing," as a production stage, which, while may be relevant to Angang's self-produced garment hangers, is not relevant to Angang's completion of PRC-origin, semi-finished garment hangers.[56] Moreover, Angang included stages of production that are typically not comprised of workers that fit in the "direct labor" category, such as Warehouse Management, Packing, and Loading/Shipping.[57] We find that Angang's inclusion of these "stages" as actual production stages indicates that Angang has attempted to overstate the nature of the Vietnamese production process for completing PRC-origin, semi-finished garment hangers, which is further contradicted by the information we are placing on the record.[58]

Based on the above descriptions and information we placed on the record, we find that, in contrast to Angang's

[41] *See id.,* at 14. Although Angang reported all twelve stages of production, the first two stages, described as steel wire drawing and molding, were performed in the PRC by Company X.

[42] *See id.*

[43] *See id.,* at 14–21.

[44] *See* Angang Prelim Analysis Memo at Attachment I.

[45] *See* Angang's Questionnaire Response dated September 17, 2010, at 14–15 (where Angang stated that "the process of wire drawing is technically simple and fully automatic" * * * and "the process of molding is technically simple and fully automatic.")

[46] *See id.* The information we compared shows that the production of the same products in the PRC requires a fraction of the steps identified by Angang.

[47] *See id.*

[48] *See* Angang Prelim Analysis Memo at Attachment II.

[49] *See* Angang's Questionnaire Response dated September 17, 2010, at 10.

[50] *See id.,* at 10–11.

[51] *See* Angang's Questionnaire Response dated November 19, 2010, at 7–9.

[52] *See* Angang's Questionnaire Response dated September 17, 2010, at 15–17.

[53] *See id.,* at 14–15.

[54] *See id.,* at 14.

[55] *See* Angang's Questionnaire Response dated September 17, 2010, at 15.

[56] *See, e.g.,* Angang's Questionnaire Response dated March 21, 2011, at Exhibit 13.

[57] *See* Angang's Questionnaire Response dated September 17, 2010, at 14, 17. *See also* the Department's supplemental questionnaire dated December 22, 2010, where we individually defined direct labor, indirect labor and packing labor.

[58] *See* Angang Prelim Analysis Memo at Attachment I, II, and III.

description of the first two Chinese stages (wire drawing, wire cutting, and wire molding) of the overall production process, the first two Chinese stages require significant equipment and the largest direct material input involved in the process, the remaining Vietnamese stages of the overall production process (conversion of PRC-origin, semi-finished garment hangers using materials that are also produced in the PRC) are limited to painting and drying the semi-finished garment hangers or coating and drying the semi-finished garment hangers, and attaching tubes (affixed with glue and dried) to semi-finished garment hangers.

Angang further stated that intensive training was provided to unskilled workers [59] in Vietnam before they engaged in processing the semi-finished garment hangers into finished garment hangers.[60] With regard to the level of employees involved in the conversion of PRC-origin, semi-finished garment hangers to finished garment hangers, Angang reported that experienced, skilled, and responsible workers are necessary for jobs such as "Stage 11: warehouse management" or, "Stage 12: loading and shipping." [61] However, Angang's narrative describing the stages for drawing wire into wire rod, cutting the drawn wire, and shaping the wire into hanger forms does not discuss the same requirement for "skilled," "responsible," or "experienced" workers, despite, as we stated above, these stages being crucial to the finished product with respect to wire gauge and length.[62]

Further, we find that Angang over-emphasizes the skill level of its Vietnamese workers, who, according to Angang were trained to be "experienced" and "skilled" with the ability to perform crucial production functions, considering that Angang trained these workers within the reported two-month time period of operations/management set-up (May 2008) and the start of production (July 2008).[63] Thus, based on Angang's submissions and the information we are placing on the record, the Department finds that the cost and labor involved in the stages for the production of the semi-finished garment hangers, as performed in the PRC in this case, requires as much, if not more, skill than attributed to these stages by Angang, especially when compared to the production stages performed in Vietnam, such as dip-painting or coating paper tubes with latex or glue.[64]

The totality of the information reported by Angang, when compared with the information we are placing on the record, indicates that Angang's stages of the production process for completing PRC-origin, semi-finished garment hangers are overstated to emphasize the Vietnamese production process versus that of Company X in the PRC, the sole producer of Angang's imported, semi-finished garment hangers.

781(b)(2)(E): Whether the Value of the Processing Performed in Vietnam Represents a Small Portion of the Value of the Merchandise Imported Into the United States

In prior anti-circumvention inquiries, the Department has explained that Congress directed the agency to focus more on the nature of the production process and less on the difference in value between the subject merchandise and the parts and components imported into the processing country.[65] Additionally, the Department has explained that, following the Uruguay Round Agreements Act, Congress redirected the agency's focus away from a rigid numerical calculation of value-added toward a more qualitative focus on the nature of the production process.[66] In this anti-circumvention inquiry, we note that semi-finished garment hangers as well as certain paper attachments and the other direct material inputs added to the semi-finished garment hangers in Vietnam were manufactured and supplied by Company X in the PRC.[67] Petitioner's request for an anti-circumvention inquiry contains clear evidence that the production process of garment hangers rests mainly with the production of the main (and largest) direct material input: steel wire.[68] The data therein shows that consumption of steel wire far outweighs the relative consumption of all other inputs.[69] Thus, because the production process of the semi-finished garment hangers, which involves production of the main input, as well as the source of all the other direct materials, are of PRC-origin, we preliminarily find that the total value of processing performed in the PRC is significant compared to the assembly or completion performed in Vietnam. Therefore, because the entirety of production of the semi-finished garment hangers and the other direct materials applied to those semi-finished garment hangers are of PRC-origin and are supplied by Company X using the main direct material input and significant labor, energy, and equipment,[70] we find that the processing performed in Vietnam represents a small portion of the total manufacture of the merchandise sold in the United States.

Summary of Analysis of Whether the Process of Assembly or Completion in Vietnam is Minor or Insignificant (Sections 781(b)(1)(C) and 781(b)(2) of the Act)

In sum, pursuant to section 781(b)(1)(C) of the Act, we preliminarily conclude that the record evidence of this anti-circumvention inquiry supports a finding that the process or completion of the PRC-origin, semi-finished garment hangers to finished garment hangers in Vietnam is minor or insignificant. Pursuant to section 781(b)(2)(A) of the Act, we find that the level of investment in Vietnam by Angang in the equipment used to complete the PRC-origin, semi-finished garment hangers is minor compared to the level of investment, both capital and equipment, in the PRC provided by the parent company and its affiliate, Company X. Pursuant to section 781(b)(2)(B) of the Act, we find that the lack of evidence of R&D initiatives by Angang in the production of garment hangers shows that R&D is not a significant factor in Angang's completion of PRC-origin, semi-finished garment hangers. Pursuant to section 781(b)(2)(C) of the Act, we find that the portion of the overall production process of garment hangers conducted by Angang in assembling or completing

[59] *See* Angang's Questionnaire Response dated November 19, 2010, at 29, where Angang stated that the unskilled Vietnamese workers it hired "knew nothing about the production of wire hangers, and they did not understand the function of the equipment and their operation." Angang further stated that the intensive training they provided to the unskilled workers took from 15 to 30 days depending on an individual's learning capabilities.

[60] *See* Angang's Questionnaire Response dated September 17, 2010, at 12.

[61] *See id.,* at 15–17.

[62] *See id.,* at 14–15

[63] *See id.,* at 10.

[64] *See id.,* at 15–17; *see also* Angang Prelim Analysis Memo at Attachment II.

[65] *See, e.g., Pasta Circumvention Prelim,* 68 FR at 46575 (unchanged in *Pasta Circumvention Final,* 68 FR 54888); and *Lead and Bismuth from Germany and the UK,* 64 FR at 40347. We note that, although these cases involved assembly or processing in the United States under section 781(a) of the Act, the language regarding the value of processing or assembly is essentially the same under both sections 781(a)(2)(E) and (b)(2)(E) of the Act. Accordingly, we find that our prior rationale is equally applicable to value of assembly or processing in a third-country under section 781(b)(2)(E) of the Act.

[66] *See Pasta Circumvention Prelim,* 68 FR at 46575; and *Lead and Bismuth from Germany and the UK,* 64 FR at 40348.

[67] *See, e.g.,* Angang's Questionnaire Response dated November 19, at Exhibit 5; Angang's Questionnaire Response dated March 21, 2011 at 4.

[68] *See* Petitioner's May 5, 2010, request for an circumvention inquiry at Exhibit 5.

[69] *See id.*

[70] *See* Angang Prelim Analysis Memo at Attachment III, page 8, where information we placed on the record indicates that wire rod is the major cost factor of a finished garment hanger.

the PRC-origin, semi-finished garment hangers into finished garment hangers is limited and minor compared to the Chinese parent company's and Chinese affiliate Company X's share of the overall production process in the production of the semi-finished garment hangers and the other direct materials they supply to Angang to finish the semi-finished garment hangers in Vietnam. Pursuant to section 781(b)(2)(D) of the Act, we find that the extent of Angang's production facilities is minor with respect to completing PRC-origin, semi-finished garment hangers to finished garment hangers because the energy, labor, and capital equipment used by Angang in converting the PRC-origin, semi-finished garment hangers into finished garment hangers is not substantial in comparison to the materials, labor, energy, and capital equipment used by Company X to produce the semi-finished garment hangers. Despite Angang's contention that its labor force is composed of skilled labor, we note that Angang hired primarily unskilled workers,[71] and Angang's facilities were leased, not permanent. Finally, pursuant to section 781(b)(2)(E) of the Act, we find that the value of the processing performed by Angang to convert the PRC-origin, semi-finished garment hangers into finished garment hangers represents a small proportion of the value of the finished merchandise imported into the United States.

Therefore, we preliminarily find that, pursuant to sections 781(b)(2)(A)–(E) of the Act, Angang's processing operation to convert PRC-origin, semi-finished garment hangers into finished garment hangers in Vietnam is minor or insignificant. We have based our decision as to whether the processing operation to convert PRC-origin, semi-finished garment hangers into finished garment hangers is minor or insignificant based on the totality of the record evidence of this anti-circumvention inquiry and have compared the relative information regarding the production processes for Angang and Company X. Specifically, the legislative history to section 781(b) indicates that Congress intended the Department to make determinations regarding circumvention on a case-by-case basis in recognition that the facts of individual cases and the nature of specific industries vary widely.[72]

(C) Whether the Value of the Merchandise Produced in the Foreign Country to Which the Order Applies Is a Significant Portion of the Total Value of the Merchandise Exported to the United States

Under section 781(b)(1)(D) of the Act, the value of the merchandise produced in the foreign country to which an antidumping duty order applies must be a significant portion of the total value of the merchandise exported to the United States in order to find circumvention. The major parts and components that consist of the total value of the finished garment hangers exported to the United States are: Semi-Finished garment hangers, coating powder or paint, paper attachments such as tubes, and packaging materials. As discussed in the section "*Whether Merchandise Sold in the United States Is Completed or Assembled in Another Foreign Country from Merchandise Which is Subject to the Order or Produced In The Foreign Country That is Subject to the Order,*" in all instances the semi-finished garment hangers, the coating powder and paint, and paper attachments such as tubes, and glue are all supplied to Angang by either the parent company or the affiliate, Company X, both located in the PRC. Additionally, with the production of these direct materials occurring in the PRC, the remaining production processes to complete or assemble a garment hanger are limited to the application of these imported materials to the PRC-origin, semi-finished hanger, using only some machinery and manual labor. As discussed above, we find that the nature of the production process in the PRC to manufacture the main inputs and the fact that all the direct materials are sourced from the PRC, in addition to the limited production process in Vietnam, shows that a great majority of the value of the finished merchandise is based on the PRC-production of the semi-finished garment hangers and the other direct materials which are applied to those PRC-origin, semi-finished hangers in Vietnam. Based on our analysis and record evidence, we find that the value of the PRC-origin, semi-finished garment hangers taken as a whole constitutes a significant portion of the value of the finished product ultimately exported to the United States.

Other Factors To Consider

In making a determination whether to include merchandise assembled or completed in a foreign country within an order, section 781(b)(3) of the Act instructs us to take into account such factors as: (A) The pattern of trade, including sourcing patterns; (B) whether affiliation exists between the manufacturer or exporter of the merchandise in the country subject to the order and the person who uses the merchandise to assemble or complete in the third country the merchandise that is exported to the United States; and (C) whether imports into the third country of the merchandise described in section 781(b)(1)(B) have increased since the initiation of the original investigation. Each of these factors is examined below.

(A) Pattern of Trade and Sourcing

The first factor to consider under section 781(b)(3) is changes in the pattern of trade, including changes in the sourcing patterns. To evaluate the pattern of trade in this case, we examined the method in which Angang obtained the semi-finished garment hangers. According to Angang, it started sourcing PRC-origin, semi-finished garment hangers from its Chinese parent company and affiliate Company X in April 2009, to produce garment hangers that Angang exported to the United States.[73] Additionally, Angang has stated on the record that it did not purchase PRC-origin, semi-finished garment hangers from any other supplier.[74] Based on the facts on the record, we find that the fact that Angang sourced all of the semi-finished garment hangers that it purchased from a PRC supplier to produce finished garment hangers that were exported to the United States, supports a finding that circumvention was occurring during this period.

We also examined the timing and quantities of Angang's exports to the United States of garment hangers that were produced from PRC-origin, semi-finished garment hangers since the initiation of the LTFV investigation in September 2007. We note that, based on Angang's reported export data, Angang did not export any garment hangers to the United States until the amended final determination [75] of the LTFV investigation which determined the dumping rates assigned to the PRC producers/exporters subject to the LTFV investigation.[76] Further, a review of Angang's quarterly exports shows that from September 2008 to August 2010, Angang's exports of garment hangers significantly increased with the

[71] *See* Angang's Questionnaire Response dated November 19, 2010, at 29.

[72] *See S. Rep. No. 103–412* (1994), at 81–82.

[73] *See, e.g.,* Angang's Questionnaire Response dated October 1, 2010, at Exhibit 1.

[74] *See* Angang's Questionnaire Response dated November 19, 2010, at 27–28.

[75] *See Steel Wire Garment Hangers From the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value,* 73 FR 53188 (September 15, 2008).

[76] *See, e.g.,* Angang's Questionnaire Response dated October 8, 2010, at Exhibit 1a.

additional purchases of PRC-origin, semi-finished garment hangers completed in Vietnam prior to exportation to the United States.[77] These data indicate that the quarterly volume of Angang's exports of garment hangers produced from PRC-origin, semi-finished garment hangers to the United States was significant subsequent to the initiation of the LTFV investigation. Additionally, we examined import data obtained from the Global Trade Atlas ("GTA") noting the timing and quantities of exports of garment hangers from the PRC to the United States between 2008 and 2009, and exports of garment hangers from Vietnam to the United States between 2008 and 2009, using only HTSUS 7326.20.0020: Garment Wire Hangers Of Iron Or Steel.[78] A review of the data shows that PRC exports of garment hangers to the United States under this HTSUS category, which is specific to the subject merchandise, decreased by 89 percent between 2008 and 2010, whereas imports to the United States from Vietnam under the identical HTSUS category increased by 777 percent between 2008 and 2010, while there were zero imports from Vietnam under this HTSUS category in 2007.[79] Accordingly, we find that the data show that PRC exports have decreased significantly whereas Vietnamese exports have increased exponentially since the initiation of the LTFV investigation. Therefore, based on the facts on the record, we find that the pattern of trade has changed since the initiation of the LTFV investigation and the imposition of the *Order* and thus, supports a finding that circumvention has occurred.

(B) Affiliation

The second factor to consider under section 781(b)(3) of the Act is whether the manufacturer or exporter of the semi-finished garment hangers in the country subject to the order is affiliated with the entity that assembles or completes the merchandise exported to the United States. Generally, we consider circumvention to be more likely to occur when the manufacturer of the covered merchandise is related to the third country assembler and is a critical element in our evaluation of circumvention.[80] The record evidence of this anti-circumvention inquiry clearly shows that, Angang, a Vietnamese entity, that converted the PRC-origin, semi-finished garment hangers into finished garment hangers, is a wholly-owned subsidiary of a PRC company,[81] which in turn, is affiliated with Company X.[82] Accordingly, because Angang is wholly owned by the Chinese parent company, we find that Angang, the Chinese parent company, and Company X are affiliated, pursuant to section 771(33) of the Act. Additionally, the record evidence shows that the Chinese parent company and Company X were Angang's sole suppliers of PRC-origin, semi-finished garment hangers, which were produced by Company X in its production facility.[83] Further, Company X also produced some of the paper attachments, and both the Chinese parent company and Company X supplied all of the direct materials to Angang, which were used to complete the semi-finished garment hangers in Vietnam.[84] In sum, we find that the record evidence demonstrates that the relationship between Angang, its Chinese parent company and Company X supports a finding that circumvention of the *Order* may have occurred. For a detailed affiliation analysis, *see* Angang Prelim Analysis Memo.

(C) Whether Imports Have Increased

The third factor to consider under section 781(b)(3) is whether imports into the third country of the merchandise described in section 781(b)(1)(B) have increased since the initiation of the LTFV investigation. Generally, we consider circumvention to be more likely when imports of semi-finished garment hangers, the merchandise imported from the PRC, have increased into Vietnam.[85] Because Angang began importing semi-finished garment hangers from the PRC in April 2009, which is six months after the issuance of the *Order,* under a basket category in the PRC's Harmonized Tariff Schedule ("HTSCN"): HTSCN 8308.90.9000: "Claps, Buckles & Like, Beads & Spangles of Base Metal," we reviewed Angang's imports of PRC-origin, semi-finished garment hangers, which shows a steady increase in PRC exports to Vietnam since 2007.[86] The Department finds that Angang's imports of PRC-origin, semi-finished garment hangers, under the HTSCN number reported by Angang, were at their highest levels in the months after the issuance of the *Order* in 2008 through 2010.[87] Although HTSCN 8308.90.9000 does not necessarily provide PRC export data specific to semi-finished garment hangers, we find that Angang's description of the imported PRC-origin, semi-finished garment hangers accompanied by sample invoices from affiliated Company X to Angang were sufficient for us to determine that there were exports from the PRC to Vietnam of merchandise that fits the description of the scope of the *Order.*

In any case, upon review of PRC exports of HTSCN 8308.90.9000 between 2007 and 2010, the Department finds that PRC exports to Vietnam have steadily increased since the initiation of the LTFV investigation. Specifically, the Department finds that the PRC total exports of HTSCN 8308.90.9000 to Vietnam increased by 28.77 percent between 2007 and 2009, and a 15.31 percent increase between 2008 and 2010. This increase corresponds with the initiation of the LTFV investigation and issuance of the *Order.* Accordingly, we find that both the increase in Angang's imports of PRC-origin, semi-finished garment hangers and the increase in PRC exports to Vietnam since the initiation of the LTFV investigation supports a finding that circumvention may have occurred.

Summary of Analysis

As discussed above, in order to make an affirmative determination of

[77] *See* Angang's Questionnaire Response dated October 8, 2010 at Exhibit 1a; Angang's Questionnaire Response dated October 1, 2010 at Exhibit 1.

[78] *See* Angang Prelim Analysis Memo at Attachment IV. We used a 2008 to 2010 comparison because there was no import data from Vietnam for this HTSUS category in 2007.

[79] *See id.*

[80] *See, e.g., Certain Tissue Paper Products From the People's Republic of China: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order and Extension of Final Determination,* 73 FR 21580, 21586 (April 22, 2008) ("*Tissue Paper Anti-Circumvention 2008 Prelim*") unchanged in *Tissue Paper Anti-Circumvention 2008 Final; Color Picture Tubes from Canada, Japan, Republic of Korea & Singapore: Negative Final Determinations of Circumvention of Antidumping Duty Orders,* 56 FR 9667 (March 7, 1991) and accompanying Issues and Decision Memorandum at Comment 8.

[81] The names of the Chinese parent company and affiliated Company X in the PRC are business proprietary information. For a detailed affiliation analysis, *see* Angang Prelim Analysis Memo.

[82] For a detailed affiliation analysis, *see* Angang Prelim Analysis Memo.

[83] *See* Angang's Questionnaire Response dated September 17, 2010, at 8.

[84] *See* Angang's Questionnaire Response dated March 21, 2011, at 4.

[85] *See, e.g., Tissue Paper Anti-Circumvention 2008 Prelim* unchanged in *Tissue Paper Anti-Circumvention 2008 Final.*

[86] *See* Angang Prelim Analysis Memo at Attachment IV. We acknowledge that the HTS number provided by Angang for its imports of PRC-origin, semi-finished hangers is a basket category; nevertheless, the import quantities still show a steady increase from 2007 through 2010. This is also consistent with the import quantities of HTSCN 7236.20.90: "Articles Of Iron/Steel Wire, Nes, Not For Technical Use," which is similar to the "clean" HTSUS that is part of the scope of the *Order.*

[87] *See id.*

circumvention, all the elements under sections 781(b)(1) of the Act must be satisfied, taking into account the factors under section 781(b)(2). In addition, section 781(b)(3) of the Act instructs the Department to consider, in determining whether to include merchandise assembled or completed in a foreign country within the scope of an order, such factors as: pattern of trade, affiliation, and whether imports into the foreign country of the merchandise described in section 781(b)(1)(B) have increased after the initiation of the investigation.

With respect to Quyky, we preliminarily find that Quyky has circumvented the *Order* because it failed to provide the Department with any information at all, thus we are unable to distinguish between its imports or purchase of semi-finished garment hangers from the PRC for purposes other than assembly into merchandise covered by the *Order.* Consequently, because Quyky refused to comply with the Department's request for information, we find that it failed to cooperate to the best of its ability, and, therefore, that an adverse inference is warranted pursuant to section 776(b) of the Act. Accordingly, as stated above, as an adverse inference the Department preliminarily finds that all of the garment hangers produced and/or exported by Quyky to the United States are circumventing the *Order.* Therefore, in light of our preliminary determination, the Department will instruct U.S. Customs and Border Protection ("CBP") to suspend liquidation on all entries of garment hangers produced and/or exported by Quyky that were entered, or withdrawn from warehouse, for consumption on or after the date of initiation of the anti-circumvention inquiry.

Further, with respect to Angang, we preliminarily find that Angang has circumvented the *Order* in accordance with section 781(b)(1) and (2) of the Act. Pursuant to section 781(b)(1) of the Act, we find that the merchandise sold in the United States is within the same class or kind of merchandise that is subject to the *Order* and was completed or assembled in a third country. Additionally, pursuant to section 781(b)(2), we find that the process or assembly of the PRC-origin semi-finished garment hangers into finished garment hangers by Angang is minor and insignificant. Furthermore, in accordance with section 781(b)(1)(D) of the Act, we find that the value of the merchandise produced in the PRC is a significant portion of the total value of the merchandise exported to the United States. While Angang did provide documentation showing quantity and value for PRC-origin, semi-finished garment hangers and the garment hangers it self-produces in Vietnam,[88] Angang has also reported that it "cannot further differentiate the source of each final product because the pre-formed steel wire that Angang procures from the PRC are stored in the same warehouse as the hanger forms that Angang itself fashions from purchased steel wire rod." [89] Therefore, because it appears from the record that Angang's garment hangers are commingled prior to exportation to the United States, we preliminarily determine that Angang has not demonstrated on the record that there is a way for CBP to distinguish between the garment hangers which we preliminarily find to be circumventing the *Order* and the garment hangers which are self-produced by Angang. Furthermore, the Department has an obligation to administer the law in a manner that prevents evasion of the *Order.*[90] Section 781(b)(1)(E) of the Act directs the Department to take necessary action to "prevent evasion" of antidumping and countervailing duty orders when it concludes that "merchandise has been completed or assembled in other foreign countries" and is circumventing an order, therefore, we find that action is appropriate to prevent evasion of the *Order.*

Thus, we find affirmative evidence of circumvention in accordance with section 781(b)(1) and (2) of the Act. Moreover, we find the factors required by section 781(b)(3) of the Act indicate that there is circumvention of the *Order.* Consequently, our statutory analysis leads us to find that during the period of time examined there was circumvention of the *Order* as a result of Angang's assembly of the PRC-origin, semi-finished garment hangers into finished garment hangers in Vietnam for export to the United States, as discussed above. Therefore, in light of our preliminary determination, the Department will instruct CBP to suspend liquidation on all entries of garment hangers produced and/or exported by Angang that were entered, or withdrawn from warehouse, for consumption on or after the date of initiation of the anti-circumvention inquiry.

[88] *See* Angang's Questionnaire Response dated October 8, 2010, at Exhibit 1.

[89] *See* Angang's Questionnaire Response dated November 19, 2011, at 12–13

[90] *See, e.g., Tung Mung Development* v. *United States,* 219 F. Supp. 2d 1333, 1343 (CIT 2002), affirmed 354 F.3d 1371 (January 15, 2004) (finding that the Department has a responsibility to prevent the evasion of payment of antidumping duties).

Should the Department conduct an administrative review of the *Order* in the future, both Quyky and Angang will have the opportunity to provide information related to their use of PRC-origin or self-produced garment hangers so that the appropriate assessment rate can be determined.

Suspension of Liquidation

As stated above, the Department has made a preliminary affirmative finding of circumvention of the *Order* by both Quyky and Angang. In accordance with section 733(d) of the Act, the Department will direct CBP to suspend liquidation and to require a cash deposit of estimated duties, at the PRC-wide rate of 187.25 percent, on all unliquidated entries of garment hangers produced and/or exported by Angang and Quyky that were entered, or withdrawn from warehouse, for consumption on or after July 16, 2010, the date of initiation of the anti-circumvention inquiry.

Notification to the International Trade Commission

The Department, consistent with section 781(e) of the Act, has notified the ITC of this preliminary determination to include the merchandise subject to this anti-circumvention inquiry within the antidumping duty order on garment hangers from the PRC. Pursuant to section 781(e) of the Act, the ITC may request consultations concerning the Department's proposed inclusion of the subject merchandise. If, after consultations, the ITC believes that a significant injury issue is presented by the proposed inclusion, it will have 15 days to provide written advice to the Department.

Public Comment

Because the Department may seek additional information, the Department will establish the case and rebuttal brief schedule at a later time, and will notify parties of the schedule in accordance with 19 CFR 351.309.

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 after the date of publication of this notice, pursuant to 19 CFR 351.310. Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief and may make rebuttal presentations only on arguments included in that party's

rebuttal brief. If a hearing is requested, we will notify those parties that requested a hearing of a hearing date and time.

Final Determination

The final determination with respect to this anti-circumvention inquiry will be issued no later than November 1, 2011, including the results of the Department's analysis of any written comments. This preliminary affirmative circumvention determination is published in accordance with section 781(b) of the Act and 19 CFR 351.225.

Dated: May 3, 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2011–11394 Filed 5–9–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 110425262–1258–02]

Evaluating Test Procedures for Voting Systems

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: NIST is soliciting interest in supplying voting equipment used in an election in 2008 or later and/or certified (or submitted for certification) by the Election Assistance Commission for use by NIST in research to develop and assess NIST's test procedures for voting equipment. Manufacturers interested in participating in this research will be asked to execute a Letter of Understanding. Interested parties are invited to contact NIST for information regarding participation, Letters of Understanding and shipping.

DATES: Manufacturers who wish to participate in the program must submit a request and an executed Letter of Understanding by 5 p.m. Eastern Standard Time on July 11, 2011.

ADDRESSES: Letters of Understanding may be obtained from and should be submitted to Benjamin Long, National Institute of Standards and Technology, Software and Systems Division, Building 222, Room B306, 100 Bureau Drive, Mail Stop 8970, Gaithersburg, MD 20899–8970. Letters of Understanding may be faxed to: Benjamin Long at (301) 975–6097.

FOR FURTHER INFORMATION CONTACT: For shipping and further information, you may telephone Benjamin Long at (301) 975–2816, or *e-mail: blong@nist.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the provisions of the Help America Vote Act (Pub. L. 107–252), the National Institute of Standards and Technology (NIST) will be conducting research on voting equipment used in an election in 2008 or later and/or certified (or submitted for certification) by the Election Assistance Commission to develop and assess NIST test protocols for voting equipment. NIST research is designed to: (1) Develop advanced test protocols, (2) validate test protocols, and (3) support additional research and test protocol development for next generation voluntary voting system guidelines. NIST may also examine relevant instructions, documentation, and error messages, without doing any direct studies thereon.

NIST is soliciting interest in supplying voting equipment used in an election in 2008 or later and/or certified (or submitted for certification) by the Election Assistance Commission for use by NIST in research to develop and assess NIST's test procedures for voting equipment. Interested manufacturers should contact NIST at the address given above. NIST will supply a Letter of Understanding, which the manufacturer must execute and send back to NIST. The Letters of Understanding will be entered into pursuant to the authorities granted NIST under 15 U.S.C. 3710a. NIST will then provide the manufacturer with shipping instructions for the manufacturer's equipment. NIST anticipates that it will take approximately two years to conduct all necessary experiments to the equipment. No modification to the equipment is permitted during the testing process beyond that which is necessary and sufficient for performing test method validation activities. Manufacturers should be aware that some of the testing could damage or destroy the equipment, although NIST expects only normal wear and tear. NIST may transport equipment to locations off site from NIST's main campus as required for the purpose of conducting usability tests. NIST will ensure that all off site benchmark testing locations have the same or higher level of security and equipment protection procedures as the on-site NIST labs located in the Voting System Laboratory in Gaithersburg, MD. At the conclusion of the experiments, the equipment will be returned to the manufacturer in its post-testing condition. NIST, the Election Assistance Commission, and/or the Technical Guidelines Development Committee, will not be responsible for the condition of the equipment when returned to the manufacturer. As a condition for participating in this program, each manufacturer must agree in advance to hold harmless all of these parties for the condition of the equipment.

Information acquired during the tests regarding potential problems will be reported to the respective manufacturer. Testing results for identifiable vendor equipment will not be released subject to the terms and conditions in the Letters of Understanding. Comparative information (e.g., testing results from unidentified machine A, B, and C) may be released in a blind manner. Performance standards, benchmarks and conformance test procedures will be made publicly available.

Participating manufacturers should include or provide a technical tutorial on the setup and deployment of the equipment. NIST will pay all shipping costs except those not permitted by law (such as shipping insurance, which, if desired, must be purchased by the manufacturer). Unless the manufacturer desires to pay such shipping insurance costs, there is no other cost to the manufacturer for the testing.

Voting equipment used in an election in 2008 or later and/or certified (or submitted for certification) by the Election Assistance Commission that will be accepted for the experiments may include direct record electronic systems, optical scan systems, accessible voting systems, tabulation and reporting systems, ballot-on-demand, or electronic poll book systems as well as software used for ballot design and creation.

Dated: May 4, 2011.

Charles H. Romine,

Acting Associate Director for Laboratory Programs.

[FR Doc. 2011–11443 Filed 5–9–11; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA420

Endangered and Threatened Species; Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Applications for two new scientific research permits.

SUMMARY: Notice is hereby given that NMFS has received two scientific research permit application requests relating to Pacific salmon. The proposed research would increase knowledge of species listed under the Endangered Species Act (ESA) and help guide management and conservation efforts.

DATES: Comments or requests for a public hearing on the applications must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific standard time on June 9, 2011.

ADDRESSES: Written comments on the applications should be sent to the Protected Resources Division, NMFS, 1201 NE. Lloyd Blvd., Suite 1100, Portland, OR 97232–1274. Comments may also be sent via fax to 503–230–5441 or by e-mail to *nmfs.nwr.apps@noaa.gov.* The applications may be viewed online at: *https://apps.nmfs.noaa.gov/preview/preview_open_for_comment.cfm.* Permit application instructions are available from the address above, or online at *https://apps.nmfs.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Garth Griffin, Portland, OR, ph.: 503–231–2005, fax: 503–230–5441, e-mail: *Garth.Griffin@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

The following listed species are covered in this notice:

Chinook salmon (*Oncorhynchus tshawytscha*): Threatened upper Willamette River (UWR); threatened lower Columbia River (LCR).

Steelhead (*O. mykiss*): Threatened UWR, threatened LCR.

Chum salmon (*O. nerka*): Threatened Columbia River CR.

Coho salmon (*O. kisutch*): Threatened LCR.

Authority

Scientific research permits are issued in accordance with section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 *et seq.*) and regulations governing listed fish and wildlife permits (50 CFR 222–226). NMFS issues permits based on findings that such permits: (1) Are applied for in good faith; (2) if granted and exercised, would not operate to the disadvantage of the listed species that are the subject of the permit; and (3) are consistent with the purposes and policy of section 2 of the ESA. The authority to take listed species is subject to conditions set forth in the permits.

Anyone requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). Such hearings are held at the discretion of the Assistant Administrator for Fisheries, NMFS.

Applications Received

Permit 15611

The Washington Department of Fish and Wildlife (WDFW) is seeking a 5-year permit to take adult LCR Chinook salmon, LCR steelhead, LCR coho salmon, and CR chum salmon while operating a fish collection facility on the North Fork Toutle River in Washington State. The fish collection facility is located at river mile 47.5, approximately 1.3 miles downstream from the Mount St. Helens Sediment Retention Structure. The purpose of the project is to trap and haul salmon and steelhead around the sediment retention structure. The WDFW would also collect scientific information and tag a portion of the fish to monitor migration patterns and spawning success. The activities' primary benefit would be to allow listed salmon and steelhead to spawn in historically accessible habitat upstream of the sediment retention structure. Also, researchers would collect information that would increase our understanding of the various species' spawning habits. The WDFW proposes to operate the trap several days a week during the species' upstream migration. Captured fish would be transported in a tanker truck and released upstream of the sediment retention structure. The WDFW does not intend to kill any fish being captured but some may die as an unintentional result of the activities.

Permit 16290

The Oregon Department of Fish and Wildlife (ODFW) is seeking a 5-year permit to take listed salmonids while conducting research on the Oregon chub. The purpose of the research is to study the distribution, abundance, and factors limiting the recovery of Oregon chub. The ODFW would capture, handle, and release juvenile UWR Chinook salmon, UWR steelhead, LCR Chinook salmon, LCR steelhead, LCR coho salmon, and CR chum salmon while conducting the research. The Oregon chub is endemic to the Willamette Valley of Oregon and the habitats it depends on are also important to salmonids. Research on the Oregon chub would benefit listed salmonids by helping managers recover habitats the species share. The ODFW would use boat electrofishing equipment, minnow traps, beach seines, dip nets, hoop nets, and fyke nets to capture juvenile fish. Researchers would avoid contact with adult fish. If listed salmonids are captured during the research they would be released immediately. The researchers do not expect to kill any listed salmonids but a small number may die as an unintended result of the research activities.

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the applications, associated documents, and comments submitted to determine whether the applications meet the requirements of section 10(a) of the ESA and Federal regulations. The final permit decisions will not be made until after the end of the 30-day comment period. NMFS will publish notice of its final action in the **Federal Register.**

Dated: May 5, 2011.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2011–11451 Filed 5–9–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA419

Endangered and Threatened Species; Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Applications for one new scientific research permit and four research permit renewals.

SUMMARY: Notice is hereby given that NMFS has received five scientific research permit application requests relating to Pacific salmon, the southern Distinct Population Segment of eulachon, and Puget Sound/Georgia Basin rockfish. The proposed research is intended to increase knowledge of species listed under the Endangered Species Act (ESA) and to help guide management and conservation efforts.

DATES: Comments or requests for a public hearing on the applications must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific standard time on June 9, 2011.

ADDRESSES: Written comments on the applications should be sent to the Protected Resources Division, NMFS, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232–1274. Comments may also be sent via fax to 503–230–

5441 or by e-mail to *nmfs.nwr.apps@noaa.gov.* The applications may be viewed online at: *https://apps.nmfs.noaa.gov/preview/preview_open_for_comment.cfm.* Permit application instructions are available from the address above, or online at *https://apps.nmfs.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Garth Griffin, Portland, OR, *ph.:* 503–231–2005, *Fax:* 503–230–5441, *e-mail: Garth.Griffin@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

The following listed species are covered in this notice:

Chinook salmon (*Oncorhynchus tshawytscha*): threatened Puget Sound (PS).

Steelhead (*O. mykiss*): threatened PS.

Chum salmon (*O. nerka*): Hood Canal (HC) summer-run.

Rockfish: Puget Sound/Georgia Basin (PS/GB) bocaccio (*Sebastes paucispinis*); PS/GB canary rockfish (*Sebastes pinniger*), and PS/GB yelloweye rockfish (*Sebastes ruberrimus*).

Eulachon: the southern Distinct Populations Segment (DPS) of pacific eulachon (*Thaleichthys pacificus*).

Authority

Scientific research permits are issued in accordance with section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 *et seq.*) and regulations governing listed fish and wildlife permits (50 CFR 222–226). NMFS issues permits based on findings that such permits: (1) Are applied for in good faith; (2) if granted and exercised, would not operate to the disadvantage of the listed species that are the subject of the permit; and (3) are consistent with the purposes and policy of section 2 of the ESA. The authority to take listed species is subject to conditions set forth in the permits.

Anyone requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). Such hearings are held at the discretion of the Assistant Administrator for Fisheries, NMFS.

Applications Received

Permit 1564–4R

The University of Washington (UW) is seeking to renew for five years a research permit that currently allows them to take juvenile PS Chinook salmon and PS steelhead. The research is designed to monitor the success of habitat restoration projects in the Duwamish River estuary, the Snohomish River estuary, and Shilshole Bay, Washington. The goal of these projects is to understand changes in population characteristics among Chinook salmon in response to estuarine habitat restoration actions. The habitat restoration work would be conducted by several entities, but primarily by the Port of Seattle and the City of Seattle. The habitat restoration projects are designed to improve habitats that Chinook salmon use for rearing and migration. Monitoring the restoration sites will help determine the projects' effectiveness and thereby guide future restoration projects for the benefit of listed salmonids in the area. The UW proposes to capture fish using enclosure nets and beach seines. The captured fish would be held in buckets with aerators and juvenile Chinook salmon would be checked for external marks and internal coded-wire tags, measured, and released. Some individuals would have their stomach contents sampled via non-lethal gastric lavage. The UW does not propose to kill any fish being captured but some may die as an unintentional result of the activities.

Permit 1585–3R

The Washington State Department of Natural Resources (DNR) is seeking to renew for five years a research permit that currently allows them to take juvenile PS Chinook salmon, HC summer-run chum salmon, and PS steelhead. The work would be carried out in the central Puget Sound Basin and would include surveys in many tributaries to the Sound from the Olympic and Cascade Mountain Ranges in Mason, Kitsap, King, Pierce, Thurston, Snohomish, and Lewis Counties, Washington. The purpose of the research is to determine fish presence or absence in streams greater than two feet in width between ordinary high water marks and with gradients of less than 20 percent. The information gathered would be used to determine salmonid presence and distribution and thereby inform land management decisions on DNR holdings. The DNR would use the information on fish-bearing streams to benefit the species by removing existing human-made fish barriers or possibly replacing them with structures that fish can pass over or through. They would annually use backpack electrofishing equipment to capture fish from several streams in the counties listed above. The captured fish would be identified and released back to the pools from which they came. In some cases, the researchers may not actually capture any fish, but merely to note their presence instead. The DNR does not propose to kill any of the fish being captured, but a small number may die as an unintended result of the activities.

Permit 1586–3R

The Northwest Fisheries Science Center (NWFSC) is seeking to renew for five years a research permit that currently allows them to take PS Chinook salmon, HC summer-run chum salmon, PS steelhead, and PS/GB bocaccio. The NWFSC research may also cause them to take the following species for which there are currently no ESA take prohibitions: The southern Distinct Population Segment of Pacific eulachon (*Thaleichthys pacificus*), PS/GB canary rockfish (*Sebastes pinniger*), and PS/GB yelloweye rockfish (*Sebastes ruberrimus*). The research is designed to determine how wild, juvenile PS Chinook salmon use nearshore habitats in the various oceanographic basins of Puget Sound, the Straits of Juan de Fuca, and the San Juan Islands. The study's additional goals are to define what life history strategies are present in these areas and identify their residence time, distribution, movement, timing, diet, health, age, and origin. This research would benefit the listed species by helping managers develop protection and restoration strategies and monitor the effects of recovery actions. The NMFSC would capture fish on a monthly basis using a variety of sampling gear (primarily beach seines and surface trawls), temporarily hold fish in live-wells, mesh pens, aerated buckets (or in the bag of the net). The captured fish would be anesthetized, measured, weighed, checked for tags, marks, and fin clips, allowed to recover from anesthesia, and released. A small portion of the captured juvenile PS Chinook would be killed for whole body analysis, but most are not intended to be sacrificed. Any fish unintentionally killed during the research would be used in place of a fish that would otherwise be sacrificed.

Permit 1587–4R

The U.S. Geological Survey (USGS) is seeking to renew for five years a research permit that currently allows them to take juvenile PS Chinook salmon and PS steelhead. The work would take place in the northern Puget Sound (San Juan Island and Samish Bay), the Whidbey Basin (Skagit Bay), the southern Puget Sound (Nisqually Delta), Admiralty Inlet (including Foulweather Bluff), and the Strait of San Juan de Fuca. The research would be divided into two projects: (1) Restoration of Puget Sound deltas and (2) effects of urbanization on nearshore ecosystems. The studies' goals are to

understand large river delta ecosystems and the physio-chemical processes associated with altering nearshore habitats, e.g., trophic web effects, plant and animal community dynamics, and forage fish population fluctuations. The USGS would sample once per month in each area from April through September, but extra sampling (1–8 days per quarter) may sometimes be needed. Lampara nets would be the primary capture method, but beach seines, dip nets, gill nets, and angling may also be used. The researchers would identify, weigh, and measure any captured fish. All captured salmonids would immediately be processed and released near their capture location. Forage fish would be counted, measured, weighed, and some may be sacrificed for otoliths, genetics, and fish health assays. All sampling plans would be reviewed and approved by the USGS Institutional Animal Care and Use Committee before being implemented. The researchers do not propose to kill any of the listed salmonids being captured, but a small number may die as an unintended result of the activities.

Permit 16302

The UW is seeking a 3-year research permit to annually take juvenile PS Chinook salmon and PS steelhead. The UW would conduct fish surveys along the Elliott Bay seawall between piers 48 and 70, with reference sites in other parts of Elliott Bay. The purpose of the survey is to determine fish presence, use, and behavior in the Elliot Bay seawall reconstruction project area. It would also help establish pre-construction baseline conditions for the Elliott Bay seawall project and support the development of the project's environmental impact statement and other supporting environmental documentation. The fieldwork would continue for at least 18 months, with sampling every month. The work would benefit the fish by helping managers minimize or mitigate any impact the seawall project may have on them as it goes forward. The UW would capture fish using purse seines and beach seines. The majority (75%) of the juvenile Chinook salmon and steelhead would be counted, checked for external marks and internal coded-wire tags, measured, and released. The other 25% of the captured juvenile Chinook and steelhead would have their stomach contents sampled before being released. The UW does not propose to kill any fish being captured but some may die as an unintentional result of the activities.

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the applications, associated documents, and comments submitted to determine whether the applications meet the requirements of section 10(a) of the ESA and Federal regulations. The final permit decisions will not be made until after the end of the 30-day comment period. NMFS will publish notice of its final action in the **Federal Register.**

Dated: May 5, 2011.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2011–11449 Filed 5–9–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA422

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) Squid, Mackerel, Butterfish Monitoring Committee will hold a public meeting.

DATES: The meeting will be held on May 27, 2011 from 9 a.m. until 12 p.m.

ADDRESSES: The meeting will be held via webinar with a listening station also available at the Council address below. Webinar registration: *https://www1.gotomeeting.com/register/406935464.*

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 meeting is to develop recommendations for the Council regarding the management of Atlantic mackerel, butterfish, *Loligo* and *Illex* Squids for 2012, including annual catch limits, annual catch targets, and accountability measures.

Special Accommodations

The meeting is 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: May 5, 2011.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2011–11324 Filed 5–9–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Interagency Ocean Observation Committee, Meeting of the Data Management and Communications Steering Team

AGENCY: National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce (DOC).

ACTION: Notice of open meeting.

SUMMARY: NOAA's Integrated Ocean Observing System (IOOS) Program publishes this notice on behalf of the Interagency Ocean Observation Committee (IOOC) to announce a formal meeting of the IOOC's Data Management and Communications Steering Team (DMAC–ST). The DMAC–ST membership is comprised of IOOC-approved federal agency representatives who will discuss issues outlined in the agenda.

DATES: The meeting is scheduled for May 11, 2011, between 9 a.m. and 5 p.m. and May 12, 2011 between 9 a.m. and 1 p.m., Eastern Daylight Time.

ADDRESSES: The meeting will be broadcast via a conference telephone call. Public access is available at 1100 Wayne Avenue, Suite 1225, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: For further information about this notice, please contact the U.S. IOOS Program (Samuel Walker, 301–427–2450, *sam.walker@noaa.gov*) or the IOOC Support Office (Joshua Young, 202–787–1622, *jyoung@oceanleadership.org*).

SUPPLEMENTARY INFORMATION: The IOOC was established by Congress under the Integrated Coastal and Ocean Observation System Act of 2009 and created under the National Ocean Research Leadership Council (NORLC). The DMAC–ST was subsequently chartered by the IOOC in December 2010 to assist with technical guidance with respect to the management of ocean data collected under the U.S.

IOOS. The IOOC's Web site *(http://www.iooc.us/)* contains more information about their charter and responsibilities. A summary of the DMAC–ST meetings, documentations, activities and terms of reference can also be found on-line, at the following address: *http://www.iooc.us/committee-news/dmac.*

Date: May 3, 2011.

Christopher C. Cartwright,

Associate Assistant Administrator for Management and CFO/CAO, Ocean Services and Coastal Zone Management.

[FR Doc. 2011–11317 Filed 5–9–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Climate Assessment and Development Advisory Committee (NCADAC); Notice of Open Public Meeting

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of open public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the DoC NOAA National Climate Assessment and Development Advisory Committee (NCADAC).

The members will discuss and provide advice on issues outlined below.

Date and Time: The meeting is scheduled for: Friday, May 20, from 1–5 p.m. Eastern Time.

ADDRESSES: Conference call. Public access will be available at the office of the U.S. Global Change Research Program, Conference Room A, Suite 250, 1717 Pennsylvania Avenue NW., Washington, DC 20006. Please check the National Climate Assessment Web site for additional information at *http://www.globalchange.gov/what-we-do/assessment.*

FOR FURTHER INFORMATION CONTACT: Dr. Cynthia Decker, Designated Federal Official, National Climate Assessment and Development Advisory Board, NOAA, Rm. 11230, 1315 East-West Highway, Silver Spring, Maryland 20910. (*Phone:* 301–734–1156, *Fax:* 301–713–1459, *E-mail: Cynthia.decker@noaa.gov*). Individuals planning to attend are requested to RSVP to Dr. Decker because space may be limited at the venue.

SUPPLEMENTARY INFORMATION: The National Climate Assessment and Development Advisory Committee was established in December 2010. The committee's mission is to synthesize and summarize the science and information pertaining to current and future impacts of climate change upon the United States; and to provide advice and recommendations toward the development of an ongoing, sustainable national assessment of global change impacts and adaptation and mitigation strategies for the Nation. Within the scope of its mission, the committee's specific objective is to produce a National Climate Assessment.

Matters To Be Considered

Consideration of white papers provided by ad hoc working groups on the subjects of:

1. The National Climate Assessment Interim Strategy, the NCA Draft Outline, and Federal Activities.

2. Engagement Strategy and Requests for Information.

3. Scenarios and Regional Summaries.

4. Peer Review, Data Management and Development of a NCA Portal.

Status: The meeting will be open to public participation with a 10-minute public comment period from 4:45–4:55 p.m. The NCADAC expects that public statements presented at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of two minutes. Written comments should be received in the NCADAC DFO's office by May 16, 2011 to provide sufficient time for NCADAC review. Written comments received by the NCADAC DFO after May 16, 2011, will be distributed to the NCADAC, but may not be reviewed prior to the meeting date.

Dated: May 4, 2011.

Mark E. Brown,

Chief Financial Officer/Chief Administrative Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2011–11442 Filed 5–9–11; 8:45 am]

BILLING CODE 3510–KD–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Representative and Address Provisions

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 11, 2011.

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

- *E-mail: InformationCollection@uspto.gov.* Include "0651–0035 comment" in the subject line of the message.
- *Mail:* Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.
- *Federal Rulemaking Portal: http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Raul Tamayo, Legal Advisor, Office of Patent Legal Administration, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–7728; or by e-mail to *Raul.Tamayo@uspto.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Under 35 U.S.C. 2 and 37 CFR 1.31–1.36, a patent applicant or assignee of record may grant power of attorney to a person who is registered to practice before the United States Patent and Trademark Office (USPTO) to act for them in a patent or application. A power of attorney may also be revoked, and a registered practitioner may also withdraw as attorney or agent of record under 37 CFR 1.36. The rules of practice (37 CFR 1.33) also provide for the applicant, assignee, or practitioner of record to supply a correspondence address and daytime telephone number for receiving notices, official letters, and other communications from the USPTO. Maintaining a correct and updated correspondence address is necessary so that official correspondence from the USPTO related to a patent or application will be properly received by the applicant, assignee, or practitioner.

The USPTO's Customer Number practice permits applicants, assignees, and practitioners of record to change the correspondence address or representatives of record for a number of patents or applications with one change request instead of filing separate requests for each patent or application.

Customers may request a Customer Number from the USPTO and associate this Customer Number with a correspondence address or a list of registered practitioners. Any changes to the address or practitioner information associated with a Customer Number will be applied to all patents and applications associated with that Customer Number.

The Customer Number practice is optional, in that changes of correspondence address or power of attorney may be filed separately for each patent or application without using a Customer Number. However, a Customer Number associated with the correspondence address for a patent application is required in order to access private information about the application using the Patent Application Information Retrieval (PAIR) system, which is available through the USPTO Web site. The PAIR system gives authorized individuals secure online access to application status information, but only for patent applications that are linked to a Customer Number. Customer Numbers may be associated with U.S. patent applications as well as international Patent Cooperation Treaty (PCT) applications. The use of a Customer Number is also required in order to grant power of attorney to more than ten practitioners or to establish a separate "fee address" for maintenance fee purposes that is different from the correspondence address for a patent or application.

In addition to the forms offered by the USPTO to assist customers with providing the information in this collection, customers may also format requests using a Customer Number Upload Spreadsheet to designate or change the correspondence address or fee address for a list of patents or applications by associating them with a Customer Number. The Customer Number Upload Spreadsheet must be submitted to the USPTO on a computer-readable diskette or compact disc (CD), accompanied by a signed cover letter requesting entry of the address changes for the listed patents and applications. The spreadsheet and cover letter must be mailed to the USPTO and cannot be filed electronically. Customers may download a Microsoft Excel template with instructions from the USPTO Web site to assist them in preparing the spreadsheet in the proper format. The Customer Number Upload Spreadsheet may not be used to change the power of attorney for patents or applications.

This information collection includes the information necessary to submit a request to grant or revoke power of attorney for an application, patent, or reexamination proceeding, and for a registered practitioner to withdraw as attorney or agent of record. This collection also includes the information necessary to change the correspondence address for an application, patent, or reexamination proceeding, to request a Customer Number and manage the correspondence address and list of practitioners associated with a Customer Number, and to designate or change the correspondence address or fee address for one or more patents or applications by using a Customer Number.

II. Method of Collection

By mail, facsimile, hand delivery, or electronically to the USPTO.

III. Data

OMB Number: 0651–0035.

Form Number(s): PTO/SB/80/81/81A/81B/81C/83/84, PTO/SB/122/123/123A/123B/124/125, and PTO–2248.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households; businesses or other for-profits; and not-for-profit institutions.

Estimated Number of Respondents: 592,315 responses per year.

Estimated Time per Response: The USPTO estimates that it will take the public approximately 3 minutes (0.05 hours) to 1.5 hours to submit the information in this collection, including the time to gather the necessary information, prepare the appropriate form or document, and submit the completed request to the USPTO.

Estimated Total Annual Respondent Burden Hours: 33,867 hours.

Estimated Total Annual Respondent Cost Burden: $4,167,705. The USPTO expects that Requests for Withdrawal as Attorney or Agent and the two petitions in this collection will be prepared by attorneys, while the other items in this collection will be prepared by paraprofessionals. Using the professional rate of $325 per hour for attorneys in private firms, the USPTO estimates that the respondent cost burden for submitting the withdrawal requests and the petitions will be $57,525 per year. Using the paraprofessional rate of $122 per hour, the USPTO estimates that the respondent cost burden for submitting the other items in this collection will be $4,110,180 per year. The estimated total respondent cost burden for this collection is $4,167,705 per year.

Item	Estimated time for response	Estimated annual responses	Estimated annual burden hours
Power of Attorney to Prosecute Applications Before the USPTO (PTO/SB/80)	3 minutes	3,600	180
Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address (PTO/SB/81).	3 minutes	433,000	21,650
Patent—Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address (PTO/SB/81A).	3 minutes	500	25
Reexamination—Patent Owner Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address (PTO/SB/81B).	3 minutes	400	20
Reexamination—Third Party Requester Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address (PTO/SB/81C).	3 minutes	100	5
Request for Withdrawal as Attorney or Agent and Change of Correspondence Address (PTO/SB/83).	12 minutes	760	152
Authorization to Act in a Representative Capacity (PTO/SB/84)	3 minutes	1,400	70
Petition Under 37 CFR 1.36(a) to Revoke Power of Attorney by Fewer than All the Applicants.	1 hour	15	15
Petition to Waive 37 CFR 1.32(b)(4) and Grant Power of Attorney by Fewer than All the Applicants.	1 hour	10	10
Change of Correspondence Address for Application or Patent (PTO/SB/122/123)	3 minutes	140,000	7,000
Patent Owner Change of Correspondence Address—Reexamination Proceeding (PTO/SB/123A).	3 minutes	130	7

Item	Estimated time for response	Estimated annual responses	Estimated annual burden hours
Third Party Requester Change of Correspondence Address—Reexamination Proceeding (PTO/SB/123B).	3 minutes	90	5
Request for Customer Number Data Change (PTO/SB/124)	12 minutes	2,400	480
Request for Customer Number (PTO/SB/125)	12 minutes	7,100	1,420
Customer Number Upload Spreadsheet	1 hour and 30 minutes.	1,700	2,550
Request to Update a PCT Application with a Customer Number (PTO–2248)	15 minutes	1,110	278
Totals		592,315	33,867

Estimated Total Annual Non-hour Respondent Cost Burden: $64,916. There are no capital start-up, maintenance, or recordkeeping costs associated with this information collection. However, this collection does have annual (non-hour) cost burden in the form of filing fees and postage costs.

The two petitions in this collection have associated filing fees. The filing fee for both the Petition Under 37 CFR 1.36(a) to Revoke Power of Attorney by Fewer than All the Applicants and the Petition to Waive 37 CFR 1.32(b)(4) and Grant Power of Attorney by Fewer than All the Applicants is currently $400 (37 CFR 1.17(f)). Using the $400 fee for the 25 responses for these petitions, the USPTO estimates that the total filing fees for this collection will be $10,000 per year.

The public may incur postage costs when submitting the information in this collection to the USPTO by mail. The USPTO estimates that the average first-class postage cost for a mailed submission will be 88 cents for all items except for the Customer Number Upload Spreadsheet and that approximately 59,062 of the non-spreadsheet items will be submitted to the USPTO by mail. Due to the additional materials required for Customer Number Upload Spreadsheet submissions, including the diskette or CD and cover letter, the USPTO estimates that the average first-class postage cost for the 1,700 spreadsheet submissions will be $1.73. Therefore, the total estimated postage cost for this collection is approximately $54,916 per year.

The total (non-hour) respondent cost burden for this collection in the form of filing fees and postage costs is estimated to be $64,916 per year.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, *e.g.,* the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 5, 2011.

Susan K. Fawcett,

Records Officer, USPTO, Office of the Chief Information Officer.

[FR Doc. 2011–11378 Filed 5–9–11; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 11–12]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

SUPPLEMENTARY INFORMATION: The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 11–12 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: May 4, 2011.

Morgan F. Park,

Alternate OSD Federal Register Liaison Officer, Dpartment of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON VA 22202-5408

APR 25 2011

The Honorable John Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 11-12, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance to The United Kingdom for defense articles and services estimated to cost $137 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

Richard A. Genaille, Jr.
Deputy Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Transmittal No. 11-12

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) Prospective Purchaser: United Kingdom

(ii) Total Estimated Value:

Major Defense Equipment*	$ 117 million
Other	$ 20 million
TOTAL	$ 137 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: 20 Block 1A to Block 1B Baseline 2 configuration Ordnance Alteration Kits and 16 Block 1B Baseline 1 to Baseline 2 Ordnance Alteration Kits for conversion and upgrades of MK15 PHALANX Close-In Weapon System (CIWS), spare and repair parts, support equipment, personnel training and training equipment, publications and technical documentation, software support, U.S. Government and contractor engineering, technical, and logistics support services, and all other related elements of program support

(iv) Military Department: Navy (FAH)

(v) Prior Related Cases, if any:
FMS case LCK-$15.8M-10 May82
FMS case LHO-$24.9M-20 Sep94
FMS case GAH-$.539M-30 Jul04

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex attached

(viii) Date Report Delivered to Congress: APR 25 2011

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

United Kingdom – MK 15 PHALANX Close-In Weapon System (CIWS) Block 1B Baseline 2

The Government of the United Kingdom (UK) has requested the sale of 20 Block 1A to Block 1B Baseline 2 configuration Ordnance Alteration Kits and 16 Block 1B Baseline 1 to Baseline 2 Ordnance Alteration Kits for conversion and upgrades of MK15 PHALANX Close-In Weapon System (CIWS), spare and repair parts, support equipment, personnel training and training equipment, publications and technical documentation, software support, U.S. Government and contractor engineering, technical, and logistics support services, and all other related elements of program support. The estimated cost is $137 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to maintain and improve the security of a key NATO partner that has been, and continues to be, an important force for political stability and economic power in Europe.

The MK 15 PHALANX CIWS overhauls/upgrades will be used for close-in ship self-defense against air and surface threats onboard the UK's naval combatants and auxiliaries. The MK 15 PHALANX CIWS Block 1B Baseline 2 upgrades will provide enhanced electro-optical and radiofrequency close-in detection, tracking and engagement capabilities over the UK's existing MK 15 PHALANX systems, while improving CIWS supportability, maintainability and interoperability with U.S. systems. The UK, which already has earlier versions of the MK 15 PHALANX in its inventory, will have no problem absorbing these upgrades and support into its armed forces.

The proposed sale of this equipment will not alter the basic military balance in the region.

The prime contractor will be Raytheon Systems Company in Tucson, Arizona. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to the UK.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 11-12

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

Annex
Item No. vii

(vii) Sensitivity of Technology:

1. A MK 15 PHALANX Close-in Weapon System Block 1B Baseline 2 is Unclassified. Each system includes a MK 15 CIWS (a fast-reaction, rapid fire, computer controlled electro optical/radar and 20mm gun system designed to engage threats at a short range), Remote Control Station (RCS), Local Control Station (LCS), Peculiar Support Equipment (PSE), General Purpose Electronic Test Equipment (GPETE), Printer Network Kit, W82 Cable (P/N 6660476), Blackshells and Connectors, and Shipping Skid and Cover. Technical documentation that supports the operation/maintenance of the weapon system is Confidential. Shipboard operation/firing guidance is Unclassified.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

[FR Doc. 2011–11274 Filed 5–9–11; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 11–13]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740

SUPPLEMENTARY INFORMATION: The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 11–13 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: May 4, 2011.

Morgan F. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

The Honorable John Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

APR 25 2011

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 11-13, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to Greece for defense articles and services estimated to cost $100 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

You will also find attached a certification as required by Section 620C(d) of the Foreign Assistance Act of 1961, as amended, that this action is consistent with the principles set forth in subsection 620C(b) of that Act as codified in section 2373 of title 22, United States Code.

Sincerely,

Richard A. Genaille Jr.

Richard A. Genaille, Jr.
Deputy Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Section 620C(d)

Transmittal No. 11-13

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) Prospective Purchaser: Greece

(ii) Total Estimated Value:

Major Defense Equipment*	$ 0 million
Other	$ 100 million
TOTAL	$ 100 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: Spare parts and services for F100-PW-229 engines for Hellenic Air Force F-16 aircraft, to include: Inlet/Fan Modules, Core Engine Modules, Rear Compressor Drive Turbines, Fan Drive Turbine Modules, Augmentor Duct and Nozzle Modules, and Gearbox Modules. In addition, the proposed sale will include support equipment, publications and technical documentation, U.S. Government and contractor technical, engineering, logistics support services, and other related elements of program support.

(iv) Military Department: Air Force (QCF)

(v) Prior Related Cases, if any: None

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: None

(viii) Date Report Delivered to Congress: APR 25 2011

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Greece – Spare Parts and Services for F-16 Aircraft

The Government of Greece requests spare parts and services for F100-PW-229 engines for Hellenic Air Force F-16 aircraft, to include: Inlet/Fan Modules, Core Engine Modules, Rear Compressor Drive Turbines, Fan Drive Turbine Modules, Augmentor Duct and Nozzle Modules, and Gearbox Modules. In addition, the proposed sale will include support equipment, publications and technical documentation, U.S. Government and contractor technical, engineering, logistics support services, and other related elements of program support. The estimated cost is $100 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a NATO ally.

The uninterrupted supply of spare parts and support will ensure the Hellenic Air Force keeps its aircraft fleet at the highest state of readiness.

The proposed sale of this equipment will not alter the basic military balance in the region.

The proposed sale will involve many contractors providing similar items to the U.S. armed forces. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Greece.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

CERTIFICATION PURSUANT TO § 620C(d)
OF THE FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED

Pursuant to Section 620C(d) of the Foreign Assistance Act of 1961, as amended (the Act), Executive Order 12163 and State Department Delegation of Authority No. 293-1, I hereby certify that the furnishing to Greece of spare parts and services for F100-PW-229 engines for the Hellenic Air Force F-16 aircraft is consistent with the principles contained in Section 620C(b) of the Act.

This certification will be made part of the notification to Congress under Section 36(b) of the Arms Export Control Act, as amended, regarding the proposed sale of the above-named articles and services and is based on the justification accompanying such notification, of which such justification constitutes a full explanation.

Ellen O. Tauscher
Under Secretary of State
for Arms Control and International
Security

[FR Doc. 2011–11275 Filed 5–9–11; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare a Supplemental Environmental Impact Statement for the Indianapolis, White River (North), IN, Flood Damage Reduction Project

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA), the U.S. Army Corps of Engineers (Corps), Louisville District will prepare a Supplemental Environmental Impact Statement (SEIS) to disclose potential impacts to the natural, physical, and human environment resulting from implementation of alternatives formulated to address reliability risks associated with Indianapolis, White River (North), IN, Flood Damage Reduction Project. The currently authorized and partially completed project does not meet current performance standards nor does it provide the level of protection for which the project was authorized. A full array of alternatives will be formulated to meet the purpose and need of this study. After full consideration of all alternatives, the best plan will be selected to achieve acceptable risk levels.

FOR FURTHER INFORMATION CONTACT: Address all written comments and suggestions concerning completion of this SEIS for the already partially constructed flood reduction project to Michael Turner, CELRL–PM–P–E, U.S. Army Corps of Engineers, Huntington District, P.O. Box 59, Louisville, KY 40201–0059. *Telephone:* 502–315–6900. *E-mail: michael.turner@usace.army.mil.*

Requests to be placed on the mailing list should also be sent to this address.

SUPPLEMENTARY INFORMATION: The U.S. Army Corps of Engineers, Louisville District (Corps), under authority of the Flood Control Act (FCA) of 1936 as amended by the FCA of 1948, completed a General Reevaluation (i.e. Feasibility) Report (GRR) and Environmental Impact Statement (EIS) in 1996, entitled Indianapolis, White River (North) Flood Damage Reduction Project for implementation of flood damage reduction measures in northern Indianapolis (Marion County), Indiana.

In February, 2011, the Corps released an Environmental Assessment (EA) addressing completion of Section 3B and environmental mitigation. The EA addressed one alignment along the White River and the canal. As a result of extensive public interest and comments made regarding the proposed alignment, a decision has been made to prepare a supplement to the 1996 EIS for the completion of the flood reduction project. This SEIS will address four alternatives for Section 3B: (1) The alignment as identified in the EA or along Westfield Boulevard and the Indianapolis Water Canal, (2) a modification moving the gate structure on the canal downstream approximately 600 ft, (3) a levee protecting the Town of Rocky Ripple, and (4) the no action alternative, i.e., do not complete Section 3B. The SEIS will also discuss possible changes in the already completed sections of the project related to requirements implemented since Hurricane Katrina. Specifically, three alternatives will be evaluated: (1) Clearing of all woody vegetation 20 ft on each side of the toe of the existing levee, (2) a variance requiring clearing of all woody vegetation 20 ft horizontally from the crown of the completed sections, and (3) no action, i.e., no additional clearing. The SEIS will also identify any environmental mitigation requirements that may be needed as a result of implementation of any of the alternatives considered. The SEIS will concentrate on impacts related to the identified alternatives, especially aesthetics, communities, economics, biological and cultural resources, public safety, and water supply.

Public Participation: The Corps received many comments from the public and elected officials in response to the EA. These concerns are reflected in the preceding two paragraphs. Should there be any additional resources and/or impacts that the Corps should address, the Louisville District seeks input from interested agencies, organizations, and the general public concerning the content, issues and impacts to be addressed in the SEIS. As the Corps will participate in at least one public meeting held by local agencies and/or elected officials in the coming month or two and as extensive public comment has already been received in response to the EA, the Louisville District does not intend to hold a separate public scoping meeting regarding the content of the draft SEIS.

Public comments are welcomed anytime throughout the NEPA process. Opportunities for public participation and/or comment will include as a minimum two review periods for the draft and final SEIS lasting a minimum of 45 and 30 days respectively. Comments may be made anytime during the NEPA process via mail, telephone or e-mail. Interested parties should submit contact information to be included on the mailing list for public distribution of any meeting announcements and documents, e.g., the draft and final SEIS.

Schedule: The Draft SEIS is scheduled to be released for public review and comment in June 2011.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2011–11347 Filed 5–9–11; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the U.S. Naval Academy Board of Visitors

AGENCY: Department of the Navy, DoD.

ACTION: Notice of Partially Closed Meeting.

SUMMARY: The U.S. Naval Academy Board of Visitors will meet to make such inquiry, as the Board shall deem necessary, into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy. The executive session of this meeting from 11 a.m. to 12 p.m. on June 6, 2011, will include discussions of disciplinary matters, law enforcement investigations into allegations of criminal activity, and personnel issues at the Naval Academy, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. For this reason, the executive session of this meeting will be closed to the public.

DATES: The open session of the meeting will be held on June 6, 2011, from 8 a.m. to 11 a.m. The closed session of this meeting will be the executive session held from 11 a.m. to 12 p.m.

ADDRESSES: The meeting will be held in the Bo Coppedge Room of Alumni Hall, U.S. Naval Academy, Annapolis, Maryland. The meeting will be handicap accessible.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Travis Haire, USN, Executive Secretary to the Board of Visitors, Office of the Superintendent, U.S. Naval Academy, Annapolis, MD 21402–5000, 410–293–1503.

SUPPLEMENTARY INFORMATION: This notice of meeting is provided per the Federal Advisory Committee Act, as amended (5 U.S.C. App.). The executive session of the meeting from 11 a.m. to 12 p.m. on June 6, 2011, will consist of discussions of law enforcement investigations into allegations of criminal activity, new and pending administrative/minor disciplinary infractions and nonjudicial punishments involving the Midshipmen attending the Naval Academy to include but not limited to individual honor/conduct violations within the Brigade, and personnel issues. The discussion of such information cannot be adequately segregated from other topics, which precludes opening the executive session of this meeting to the public. Accordingly, the Secretary of the Navy has determined in writing that the meeting shall be partially closed to the public because the discussions during the executive session from 11 a.m. to 12 p.m. will be concerned with matters coming under sections 552b(c) (5), (6), and (7) of title 5, United States Code.

Dated: May 3, 2011.

D.J. Werner,

Lieutenant Commander, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2011–11328 Filed 5–9–11; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review

AGENCY: Department of Education.

ACTION: Comment Request.

SUMMARY: The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Interested persons are invited to submit comments on or before June 9, 2011.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, *Attention:* Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503, be faxed to (202) 395–5806 or e-mailed to *oira_submission@omb.eop.gov* with a cc: to *ICDocketMgr@ed.gov.* Please note that written comments received in response to this notice will be considered public records.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The OMB is particularly interested in comments which: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: May 5, 2011.

Darrin A. King,

Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

Office of Postsecondary Education

Type of Review: Revision.

Title of Collection: College Access Challenge Grant Program—Annual Performance Report.

OMB Control Number: 1840–0802.

Agency Form Number(s): N/A.

Frequency of Responses: Annually.

Affected Public: State, Local, or Tribal Government, State Educational Agencies or Local Educational Agencies.

Total Estimated Number of Annual Responses: 57.

Total Estimated Annual Burden Hours: 2,280.

Abstract: The College Access Challenge Grant statute requires grantees to submit an annual performance report that contains activities and services that have been implemented, the cost of providing such activities and services, the number of participating students, and contributions from private organizations. The U.S. Department of Education is collecting this information to ensure that states are complying with statutory requirements, grantees are making significant progress in meeting goals and objectives and that funds are being spent in an allowable, allocable, and reasonable manner.

Copies of the information collection submission for OMB review may be accessed from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or from the Department's Web site at *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 4506. When you access the information collection, click on "Download Attachments " to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to the Internet address *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2011–11393 Filed 5–9–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Comment request.

SUMMARY: The Department of Education (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the reporting burden on the public and helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 11, 2011.

ADDRESSES: Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov* or mailed to U.S. Department of Education, 400 Maryland Avenue, SW, LBJ, Washington, DC 20202–4537. Please note that written comments received in response to this notice will be considered public records.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that Federal agencies provide interested parties an early opportunity to comment on information collection requests. The Director, Information Collection Clearance Division, Information Management and Privacy Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: May 5, 2011.

Darrin A. King,

Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

Office of Elementary and Secondary Education

Type of Review: Extension.

Title of Collection: Impact Aid Program Application for Section 8003 Assistance.

OMB Control Number: 1810–0687.

Agency Form Number(s): N/A.

Frequency of Responses: Annually.

Affected Public: State, Local, or Tribal Government, State Educational Agencies or Local Educational Agencies.

Total Estimated Number of Annual Responses: 501,839.

Total Estimated Number of Annual Burden Hours: 142,942.

Abstract: The U.S. Department of Education is requesting approval for the Application for Assistance under Section 8003 of Title VIII of the Elementary and Secondary Education Act (ESEA), as amended. This application is for a grant program otherwise known as Impact Aid Basic Support Payments. Local Educational Agencies whose enrollments and revenues are adversely impacted by Federal activities use this form to request financial assistance. Regulations for the Impact Aid Program are found at 34 CFR 222.

The statute and regulations for this program require a variety of data from applicants annually to determine eligibility for the grants and the amount of grant payment under the statutory formula. The least burdensome method of collecting this required information is for each applicant to submit these data through a web-based electronic application hosted on the Department of Education's G5 Web site.

Copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 4529. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW, LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2011–11390 Filed 5–9–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review

AGENCY: Department of Education.

ACTION: Comment Request.

SUMMARY: The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Interested persons are invited to submit comments on or before June 9, 2011.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, *Attention:* Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503, be faxed to (202) 395–5806 or e-mailed to *oira_submission@omb.eop.gov* with a cc: to *ICDocketMgr@ed.gov.* Please note that written comments received in response to this notice will be considered public records.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The OMB is particularly interested in comments which: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: May 5, 2011.

Darrin A. King,

Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

Federal Student Aid

Type of Review: Revision.

Title of Collection: William D. Ford Federal Direct Loan (Direct Loan) Program: Application for Automatic Withdrawal of Payments.

OMB Control Number: 1845–0040.

Agency Form Number(s): N/A.

Frequency of Responses: On Occasion.

Affected Public: Individuals or households.

Total Estimated Number of Annual Responses: 706,200.

Total Estimated Annual Burden Hours: 23,516.

Abstract: The Application for Automatic Withdrawal of Payments serves as the means by which a Direct Loan borrower requests and authorizes the automatic debiting of monthly student loan payments from the borrower's checking or savings account. The application collects the necessary bank account information that allows the U.S. Department to debit the borrower's loan payments. Borrowers who enroll in automatic payment withdrawal receive a repayment incentive in the form of a 0.25% reduction in the interest rate on their Direct Loans during periods when payments are made by this method. Borrowers who do not wish to enroll in automatic debiting of all monthly payments may provide bank account information that allows them to authorize electronic debiting of individual monthly loan payments.

Copies of the information collection submission for OMB review may be accessed from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or from the Department's Web site at *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 4530. When you access the information collection, click on "Download Attachments " to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to the Internet address *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2011–11392 Filed 5–9–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review

AGENCY: Department of Education.

ACTION: Comment Request.

SUMMARY: The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Interested persons are invited to submit comments on or before June 9, 2011.

ADDRESSES: Written comments should be addressed to the Office of

Information and Regulatory Affairs, *Attention:* Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503, be faxed to (202) 395–5806 or e-mailed to *oira_submission@omb.eop.gov* with a cc: to *ICDocketMgr@ed.gov.* Please note that written comments received in response to this notice will be considered public records.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The OMB is particularly interested in comments which: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: May 4, 2011.

Darrin A. King,

Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

Office of Special Education and Rehabilitative Services

Type of Review: Extension.

Title of Collection: Protection and Advocacy of Individual Rights.

OMB Control Number: 1820–0627.

Agency Form Number(s): Form RSA–509.

Frequency of Responses: Annually.

Affected Public: Not-for-profit institutions.

Total Estimated Number of Annual Responses: 57.

Total Estimated Annual Burden Hours: 912.

Abstract: The Annual Protection and Advocacy of Individual Rights Program Performance Report (Form RSA–509) will be used to analyze and evaluate the effectiveness of eligible systems within individual states in meeting annual priorities and objectives. These systems provide services to eligible individuals with disabilities to protect their legal and human rights. Rehabilitation Services Administration (RSA) uses the form to meet specific data collection requirements of Section 509 of the Rehabilitation Act of 1973, as amended (the act), and its implementing federal regulations at 34 CFR part 381. PAIR programs must report annually using the form, which is due on or before December 30 each year. Form RSA–509 has enabled RSA to furnish the President and Congress with data on the provision of protection and advocacy services and has helped to establish a sound basis for future funding requests. These data also have been used to indicate trends in the provision of services from year to year.

Copies of the information collection submission for OMB review may be accessed from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or from the Department's Web site at *http://edicsweb.ed.gov,* by selecting the "Browse Pending Collections" link and by clicking on link number 4522. When you access the information collection, click on "Download Attachments " to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to the Internet address *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2011–11257 Filed 5–9–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Equity and Excellence Commission

AGENCY: Office for Civil Rights, U.S. Department of Education.

ACTION: Notice of an Open Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of an upcoming meeting of the Equity and Excellence Commission (Commission). The notice also describes the functions of the Commission. Notice of this meeting is required by section 10(a)(2) of the Federal Advisory Committee Act (FACA) and is intended to notify the public of their opportunity to attend.

DATES: May 23 and May 24, 2011.

Time: Noon to 5:30 p.m. (May 23rd); 8:30 a.m. to Noon (May 24th).

ADDRESSES: The Commission will meet in Washington, DC at 400 Maryland Avenue, SW., Washington, DC 20202, in the Barnard Auditorium.

FOR FURTHER INFORMATION CONTACT: Stephen Chen, Designated Federal Official, Equity and Excellence Commission, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202. *E-mail: equitycommission@ed.gov. Telephone:* (202) 453–6624.

SUPPLEMENTARY INFORMATION: The purpose of the Commission is to collect information, analyze issues, and obtain broad public input regarding how the Federal government can increase educational opportunity by improving school funding equity. The Commission will also make recommendations for restructuring school finance systems to achieve equity in the distribution of educational resources and further student performance, especially for the students at the lower end of the achievement gap. The Commission will examine the disparities in meaningful educational opportunities that give rise to the achievement gap, with a focus on systems of finance, and recommend appropriate ways in which Federal policies could address such disparities.

The agenda for the Commission's second meeting will include a discussion of the best framework for the report and the finalizing of outlines for each section of the report. The meeting will include a report of outreach activities conducted by the Commission in April and May. Due to time constraints, there will not be a public comment period at this meeting, but individuals wishing to comment may contact the Equity Commission via e-mail at *equitycommission@ed.gov.*

Individuals interested in attending the meeting must register in advance because seating may be limited. Please contact Kimberly Watkins-Foote at (202) 260–8197 or by e-mail at *equitycommission@ed.gov mailto:tracy.harris@ed.gov.* Individuals who will need accommodations for a disability in order to attend the meeting (*e.g.,* interpreting services, assistive listening devices, or materials in alternative format) should notify Watkins-Foote at (202) 260–8197 no later than May 16, 2011. We will attempt to meet requests for accommodations after this date but cannot guarantee their availability. The meeting site is accessible to individuals with disabilities.

Records are kept of all Commission proceedings and are available for public inspection at the Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202 from the hours of 9 a.m. to 5 p.m E.S.T.

Russlynn Ali,

Assistant Secretary, Office for Civil Rights.

[FR Doc. 2011–11256 Filed 5–9–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Regional Advisory Committees: Open Meeting

AGENCY: Office of Elementary and Secondary Education, U.S. Department of Education.

ACTION: Notice of an open meeting.

SUMMARY: This notice sets forth the date and agenda of the upcoming meeting of the 10 Regional Advisory Committees (RACs), and notifies the public of the opportunity to attend. This notice also describes the functions of the RACs. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act (FACA).

DATES: May 23 and May 24, 2011

Time: Monday, May 23: 11:15 a.m. until 5 p.m. Tuesday, May 24: 8:30 a.m. until 5 p.m.

ADDRESSES: Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, Virginia, 703–920–3230.

FOR FURTHER INFORMATION CONTACT: Fran Walter, U.S. Department Education, 400 Maryland Avenue SW., room 3W115, Washington, DC 20202. *Telephone:* 202–205–9198 or by e-mail at *fran.walter@ed.gov.*

SUPPLEMENTARY INFORMATION: The RACs are established under section 206 of the Education Technical Assistance Act of 2002 (20 U.S.C. 9605). The RACs were established to advise the Secretary by (1) conducting an educational needs assessment of each region described in section 174(b) of the Education Sciences Reform Act of 2002; and (2) submitting reports for each region based on the regional assessments no later than four months after the committees are first convened.

The purpose of the meeting is to initiate the process of conducting an educational needs assessment of each of the 10 RAC regions.

The public is welcome to attend the May 23 and May 24 meeting. Individuals who will need accommodations for a disability in order to attend the meeting (e.g., interpreting services, assistive listening devices, materials in an alternative format) should notify Stephanie Wright at 202–260–7405 or by e-mail at *stephanie.wright@ed.gov* no later than May 18, 2011. We will attempt to meet requests submitted after this date, but cannot guarantee availability of the requested accommodation. The meeting site is accessible to individuals with disabilities.

Public Comment: The agenda for May 24, 2011 includes time for public comment, from 11 a.m. until 12 p.m. Each speaker will be allowed to make comments to the RACs for three minutes to speak. Those members of the public interested in submitting written comments may send them to Fran Walter, Room 3W115, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202–6400 by May 23, 2011.

A summary of meeting activities will be available to the public online at *http://www.ed.gov/about/bdscomm/list/rac/index.html* within 14 days of the meeting and for public inspection at Room 3W221, 400 Maryland Avenue, SW., Washington, DC between the hours of 9 a.m. and 5 p.m.

Thelma Meléndez de Santa Ana,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2011–11441 Filed 5–9–11; 8:45 am]

BILLING CODE 4000–01–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: ER09–36–002.

Applicants: Prairie Wind Transmission LLC.

Description: Prairie Wind Transmission submits their Compliance filing in accordance with the Commission's December 2, 2008 Order.

Filed Date: 05/02/2011.

Accession Number: 20110502–5408.

Comment Date: 5 p.m. Eastern Time on Monday, May 23, 2011.

Docket Numbers: ER11–2275–003.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Compliance Filing of Midwest Independent Transmission System Operator, Inc.

Filed Date: 05/02/2011.

Accession Number: 20110502–5546.

Comment Date: 5 p.m. Eastern Time on Monday, May 23, 2011.

Docket Numbers: ER11–2906–001.

Applicants: New York Independent System Operator, Inc.

Description: New York Independent System Operator, Inc. submits tariff filing per 35: Compliance Filing to Define ACL Baseline Methodology for SCRs to be effective 4/11/2011.

Filed Date: 05/02/2011.

Accession Number: 20110502–5185.

Comment Date: 5 p.m. Eastern Time on Monday, May 23, 2011.

Docket Numbers: ER11–3484–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Company submits tariff filing per 35.13(a)(2)(iii: Amend Eldorado Sytm Optng Agmt, Amend NV Connect Agmt, Submit Mohave Switchyd Agmt to be effective 4/30/2011.

Filed Date: 05/02/2011.

Accession Number: 20110502–5000.

Comment Date: 5 p.m. Eastern Time on Monday, May 23, 2011.

Docket Numbers: ER11–3485–000.

Applicants: ArcelorMittal USA LLC.

Description: ArcelorMittal USA LLC submits tariff filing per 35.13(a)(2)(iii: AMU MBRA ETariff Rev 1 to be effective 4/30/2011.

Filed Date: 05/02/2011.

Accession Number: 20110502–5003.

Comment Date: 5 p.m. Eastern Time on Monday, May 23, 2011.

Docket Numbers: ER11–3486–000.

Applicants: Golden Spread Electric Cooperative, Inc.

Description: Golden Spread Electric Cooperative, Inc. submits tariff filing per 35: 2011 Annual Update to be effective 1/1/2011.

Filed Date: 05/02/2011.

Accession Number: 20110502–5162.

Comment Date: 5 p.m. Eastern Time on Monday, May 23, 2011.

Docket Numbers: ER11–3487–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits tariff filing per 35.13(a)(2)(iii: 1148R13 American Electric Power Service Corp. NITSA NOA to be effective 4/1/2011.

Filed Date: 05/02/2011.

Accession Number: 20110502–5197.

Comment Date: 5 p.m. Eastern Time on Monday, May 23, 2011.

Docket Numbers: ER11–3488–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits tariff filing per 35.13(a)(2)(iii: 2199 Grand River Dam Authority Point to Point to be effective 4/1/2011.

Filed Date: 05/02/2011.

Accession Number: 20110502–5199.

Comment Date: 5 p.m. Eastern Time on Monday, May 23, 2011.

Docket Numbers: ER11–3489–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits tariff filing per 35.13(a)(2)(iii: 1628R2 Western Farmers Electric Cooperative NITSA NOA to be effective 4/1/2011.

Filed Date: 05/02/2011.

Accession Number: 20110502–5237.

Comment Date: 5 p.m. Eastern Time on Monday, May 23, 2011.

Docket Numbers: ER11–3490–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits tariff filing per 35: Compliance Revisions to Entergy Seams Agreement Protocols in ER10–941–002, –003 to be effective 5/2/2011.

Filed Date: 05/02/2011.

Accession Number: 20110502–5248.

Comment Date: 5 p.m. Eastern Time on Monday, May 23, 2011.

Docket Numbers: ER11–3491–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii: Termination of PJM–FE Interregional Trans. Congestion Mgmt. in PJM's Tariff & OA to be effective 7/1/2011.

Filed Date: 05/02/2011.

Accession Number: 20110502–5334.

Comment Date: 5 p.m. Eastern Time on Monday, May 23, 2011.

Docket Numbers: ER11–3492–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. ("PJM") submits a filing to cancel the Redispatch Agreement between First Energy Solutions Corp. ("First Energy") and PJM, effective July 1, 2004 filed as FERC Rate Schedule No. 4.

Filed Date: 05/02/2011.

Accession Number: 20110502–5383.

Comment Date: 5 p.m. Eastern Time on Monday, May 23, 2011.

Docket Numbers: ER11–3493–000.

Applicants: Arizona Public Service Company.

Description: Arizona Public Service Company submits tariff filing per 35.13(a)(2)(iii: Amendment to Rate Schedule No. 217 to be effective 7/1/2011.

Filed Date: 05/02/2011.

Accession Number: 20110502–5385.

Comment Date: 5 p.m. Eastern Time on Monday, May 23, 2011.

Docket Numbers: ER11–3494–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits tariff filing per 35.13(a)(2)(iii: 2198 Kansas Power Pool NITSA NOA to be effective 4/1/2011.

Filed Date: 05/02/2011.

Accession Number: 20110502–5388.

Comment Date: 5 p.m. Eastern Time on Monday, May 23, 2011.

Docket Numbers: ER11–3495–000.

Applicants: Central Maine Power Company.

Description: Central Maine Power Company submits tariff filing per 35.13(a)(2)(iii: Central Maine Power Company—Spruce Mountain Wind, LLC Interconnection Agrmt to be effective 4/8/2011.

Filed Date: 05/02/2011.

Accession Number: 20110502–5394.

Comment Date: 5 p.m. Eastern Time on Monday, May 23, 2011.

Docket Numbers: ER11–3496–000.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii: V1–026 and V1–027 Interim ISA—Original Service Agreement No. 2860 to be effective 4/4/2011.

Filed Date: 05/02/2011.

Accession Number: 20110502–5395.

Comment Date: 5 p.m. Eastern Time on Monday, May 23, 2011.

Docket Numbers: ER11–3497–000.

Applicants: Duke Energy Carolinas, LLC.

Description: Duke Energy Carolinas, LLC submits tariff filing per 35.13(a)(1): Revisions to RS No. 273 NCEMC Catawba IA to be effective 1/1/2012.

Filed Date: 05/02/2011.

Accession Number: 20110502–5398.

Comment Date: 5 p.m. Eastern Time on Monday, May 23, 2011.

Docket Numbers: ER11–3498–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits tariff filing per 35.13(a)(2)(iii: 2207 WindFarm 66 LLC GIA to be effective 4/18/2011.

Filed Date: 05/02/2011.

Accession Number: 20110502–5401.

Comment Date: 5 p.m. Eastern Time on Monday, May 23, 2011.

Docket Numbers: ER11–3499–000.

Applicants: Florida Power Corporation.

Description: Florida Power Corporation submits tariff filing per 35.13(a)(2)(iii: Annual update of cost factors for Florida Power Corp. Interchange Agreements to be effective 5/1/2011.

Filed Date: 05/02/2011.

Accession Number: 20110502–5402.

Comment Date: 5 p.m. Eastern Time on Monday, May 23, 2011.

Docket Numbers: ER11–3500–000.

Applicants: PacifiCorp.

Description: PacifiCorp submits tariff filing per 35.13(a)(2)(iii: Deseret TSOA to be effective 6/1/2011.

Filed Date: 05/02/2011.

Accession Number: 20110502–5403.

Comment Date: 5 p.m. Eastern Time on Monday, May 23, 2011.

Docket Numbers: ER11–3501–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits tariff filing per 35: Order No. 890–A Compliance Filing from Docket No. OA08–104 to be effective 7/26/2010.

Filed Date: 05/02/2011.

Accession Number: 20110502–5404.

Comment Date: 5 p.m. Eastern Time on Monday, May 23, 2011.

Docket Numbers: ER11–3502–000.

Applicants: Tampa Electric Company.

Description: Notice of Cancellation of Tampa Electric Company Service Schedule J with Reedy Creek Improvement District.

Filed Date: 05/02/2011.

Accession Number: 20110502–5548.

Comment Date: 5 p.m. Eastern Time on Monday, May 23, 2011.

Docket Numbers: ER11–3503–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc.'s Notice of Cancellation.

Filed Date: 05/02/2011.

Accession Number: 20110502–5549.

Comment Date: 5 p.m. Eastern Time on Monday, May 23, 2011.

Take notice that the Commission received the following land acquisition reports:

Docket Numbers: LA11–1–000.

Applicants: Goshen Phase II LLC.

Description: Quarterly Land Acquisition Report of Goshen Phase II LLC.

Filed Date: 05/02/2011.

Accession Number: 20110502–5200.

Comment Date: 5 p.m. Eastern Time on Monday, May 23, 2011.

Docket Numbers: LA11–1–000.

Applicants: BP Energy Company, BP West Coast Products LLC, Cedar Creek Wind Energy, LLC, Cedar Creek II LLC, Flat Ridge Wind Energy, LLC, Fowler Ridge II Wind Farm LLC, Fowler Ridge III Wind Farm LLC, Fowler Ridge Wind Farm LLC, Rolling Thunder I Power Partners, LLC, Watson Cogeneration Company, Whiting Clean Energy, Inc.

Description: Quarterly Land Acquisition Report of BP Energy Company, et al. *under LA11–1.*

Filed Date: 05/02/2011.

Accession Number: 20110502–5201.

Comment Date: 5 p.m. Eastern Time on Monday, May 23, 2011.

Docket Numbers: LA11–1–000.
Applicants: CalPeak Power LLC, CalPeak Power—Panoche LLC, CalPeak Power—Vaca Dixon LLC, CalPeak Power—El Cajon LLC, CalPeak Power—Enterprise LLC, CalPeak Power—Border LLC, Tyr Energy, LLC, Commonwealth Chesapeake Company, LLC, Fox Energy Company, LLC, Kansas Energy, LLC.
Description: CalPeak Power LLC, CalPeak Entities, Tyr Energy, LLC, Commonwealth Chesapeake Company, LLC, Fox Energy Company, LLC, and Kansas Quarterly Report of Acquisition of Sites.
Filed Date: 05/02/2011.
Accession Number: 20110502–5202.
Comment Date: 5 p.m. Eastern Time on Monday, May 23, 2011.

Docket Numbers: LA11–1–000.
Applicants: Arlington Valley, LLC, Bluegrass Generation Company, L.L.C., DeSoto County Generating Company, LLC, Griffith Energy LLC, Las Vegas Power Company, LLC, LSP University Park, LLC, LSP Safe Harbor Holdings, LLC, LS Power Marketing, LLC, Renaissance Power, L.L.C., Riverside Generating Company, L.L.C., Rocky Road Power, LLC, Tilton Energy LLC, Wallingford Energy LLC.
Description: Quarterly Land Aquisition Report of Bluegrass Generation Company, L.L.C., et al.
Filed Date: 05/02/2011.
Accession Number: 20110502–5346.
Comment Date: 5 p.m. Eastern Time on Monday, May 23, 2011.

Docket Numbers: LA11–1–000.
Applicants: ANP Blackstone Energy Company, LLC, ANP Bellingham Energy Company, LLC, ANP Funding I, LLC, Armstrong Energy Limited Partnership, L.L.L.P., Calumet Energy Team LLC, Choctaw Gas Generating LLC, Choctaw Generation Limited Partnership, FirstLight Hydro Generating Corporation, FirstLight Power Resources Management, LLC, GDF SUEZ Energy Marketing NA, Inc., Hopewell Cogeneration Limited Partnership, Hot Spring Power Company, LLC, IPA Trading, Inc., Milford Power Limited Partnership, Mt. Tom Generating Company, LLC, Northeastern Power Company, Pinetree Power—Tamworth, Inc., Pleasants Energy, LLC, Syracuse Energy Corporation, Troy Energy, LLC, Waterbury Generation LLC.
Description: GDF SUEZ MBR Sellers' Quarterly Land Acquisition Report under LA11–1.
Filed Date: 05/02/2011.
Accession Number: 20110502–5533.
Comment Date: 5 p.m. Eastern Time on Monday, May 23, 2011.

Docket Numbers: LA11–1–000.
Applicants: J. Aron & Company, Power Receivable Finance, LLC.
Description: Land Acquisition Report of J. Aron & Company and Power Receivable Finance, LLC under LA11–1.
Filed Date: 05/02/2011.
Accession Number: 20110502–5534.
Comment Date: 5 p.m. Eastern Time on Monday, May 23, 2011.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification] simply provides notification that the entity making the filing has determined the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protest do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

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The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 03, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–11319 Filed 5–9–11; 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 rate filings:

Docket Numbers: ER11–3443–001.
Applicants: UNS Electric, Inc.
Description: UNS Electric, Inc. submits tariff filing per 35.17(b): Revision to Amendment to SGIA of UNSE to be effective 4/28/2011.
Filed Date: 04/29/2011.
Accession Number: 20110429–5242.
Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Docket Numbers: ER11–3444–001.
Applicants: Tucson Electric Power Company.
Description: Tucson Electric Power Company submits tariff filing per 35.17(b): Revision to Amendment to SGIA and LGIA of Tucson Electric Power to be effective 4/28/2011.
Filed Date: 04/29/2011.
Accession Number: 20110429–5241.
Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Docket Numbers: ER11–3465–000
Applicants: New York Independent System Operator, Inc, Niagara Mohawk Power Corporation.
Description: New York Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: TO agreement NiMo NYPA 1742 to be effective 2/1/2011.
Filed Date: 04/29/2011.
Accession Number: 20110429–5121.

Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Docket Numbers: ER11–3466–000.

Applicants: Duke Energy Carolinas, LLC.

Description: Duke Energy Carolinas, LLC submits tariff filing per 35.13(a)(2)(iii: PEMC NITSA to be effective 4/1/2011.

Filed Date: 04/29/2011.

Accession Number: 20110429–5126.

Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Docket Numbers: ER11–3467–000.

Applicants: BlueChip Energy LLC.

Description: BlueChip Energy LLC submits tariff filing per 35.12: MBR Authority Filing to be effective 4/29/2011.

Filed Date: 04/29/2011.

Accession Number: 20110429–5129.

Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Docket Numbers: ER11–3468–000.

Applicants: Arizona Public Service Company.

Description: Arizona Public Service Company submits tariff filing per 35.13(a)(2)(iii: Amortization and recovery of certain deferred vegetation management expenses to be effective 7/1/2011.

Filed Date: 04/29/2011.

Accession Number: 20110429–5155.

Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Docket Numbers: ER11–3469–000.

Applicants: Louisville Gas and Electric Company.

Description: Louisville Gas and Electric Company submits tariff filing per 35.13(a)(2)(iii: 04_29_11 Revs OATT Att A_A1_B to be effective 6/28/2011.

Filed Date: 04/29/2011.

Accession Number: 20110429–5341.

Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Docket Numbers: ER11–3470–000.

Applicants: ISO New England Inc.

Description: ISO New England Inc. submits tariff filing per 35.13(a)(2)(iii: CTMEEC Schedule 21 to be effective 6/1/2011.

Filed Date: 04/29/2011.

Accession Number: 20110429–5343.

Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES11–26–000.

Applicants: Entergy Louisiana, LLC.

Description: Application of Entergy Louisiana, LLC, for Authorization Under FPA Section 204.

Filed Date: 04/29/2011.

Accession Number: 20110429–5299.

Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Docket Numbers: ES11–27–000.

Applicants: Entergy Gulf States Louisiana, L.L.C.

Description: Application of Entergy Gulf States Louisiana, L.L.C., for Authorization Under FPA Section 204.

Filed Date: 04/29/2011.

Accession Number: 20110429–5317.

Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Docket Numbers: ES11–28–000.

Applicants: Entergy Mississippi, Inc.

Description: Application of Entergy Mississippi, Inc., for Authorization Under FPA Section 204.

Filed Date: 04/29/2011.

Accession Number: 20110429–5320.

Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Docket Numbers: ES11–29–000.

Applicants: Entergy Texas, Inc.

Description: Application of Entergy Texas, Inc., for Authorization Under FPA Section 204.

Filed Date: 04/29/2011.

Accession Number: 20110429–5321.

Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Docket Numbers: ES11–30–000.

Applicants: System Energy Resources, Inc.

Description: Application of System Energy Resources, Inc., for Authorization Under FPA Section 204.

Filed Date: 04/29/2011.

Accession Number: 20110429–5327.

Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Take notice that the Commission received the following land acquisition reports:

Docket Numbers: LA11–1–000.

Applicants: Spring Canyon Energy LLC, Judith Gap Energy LLC, Invenergy TN LLC, Wolverine Creek Energy LLC, Grays Harbor Energy LLC, Forward Energy LLC, Willow Creek Energy LLC, Sheldon Energy LLC, Hardee Power Partners Limited, Spindle Hill Energy LLC, Invenergy Cannon Falls LLC, Beech Ridge Energy LLC, Grand Ridge Energy LLC, Grand Ridge Energy II LLC, Grand Ridge Energy III LLC, Grand Ridge Energy IV LLC, Grand Ridge Energy V LLC, Vantage Wind Energy LLC, White Oak Energy LLC.

Description: Generation Site Report First Quarter 2011 of Spring Canyon Energy LLC, *et al.*

Filed Date: 04/29/2011.

Accession Number: 20110429–5205.

Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Docket Numbers: LA11–1–000.

Applicants: CinCap IV LLC, CinCap V, LLC, Cinergy Capital & Trading, Inc., Duke Energy Commercial Asset Management, Inc., Duke Midwest Operating Companies, Duke Energy Carolinas, LLC, Duke Energy Indiana, Inc., Duke Energy Kentucky, Inc., Duke Energy Ohio, Inc., Duke Energy Retail Sales, LLC, Duke Energy Trading and Marketing, LLC, Happy Jack Windpower, LLC, North Allegheny Wind, LLC, Silver Sage Windpower, LLC, St. Paul Cogeneration, LLC, Three Buttes Windpower, LLC, Kit Carson Windpower, LLC, Top of the World Energy, LLC.

Description: Q1 update of Duke Energy Corporation.

Filed Date: 04/29/2011.

Accession Number: 20110429–5301.

Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Docket Numbers: LA11–1–000.

Applicants: Alabama Electric Marketing, LLC, Big Sandy Peaker Plant, LLC, California Electric Marketing, LLC, Crete Energy Venture, LLC, High Desert Power Project, LLC, Kiowa Power Partners, LLC, Lincoln Generating Facility, LLC, New Covert Generating Company, LLC, New Mexico Electric Marketing, LLC, Rolling Hills Generating, L.L.C., Tenaska Alabama Partners, L.P., Tenaska Alabama II Partners, L.P., Tenaska Frontier Partners, Ltd., Tenaska Gateway Partners, Ltd., Tenaska Georgia Partners, L.P., Tenaska Power Services Co., Tenaska Virginia Partners, L.P., Tenaska Washington Partners, L.P., Texas Electric Marketing, LLC, TPF Generating Holdings, LLC, University Park Energy, LLC, Wolf Hills Energy, LLC.

Description: Report/Form of Rolling Hills Generating, LLC, et al.

Filed Date: 04/29/2011.

Accession Number: 20110429–5318.

Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

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not be served on persons other than the Applicant.

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Dated: April 29, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–11320 Filed 5–9–11; 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: EC11–76–000

Applicants: EAM Nelson Holding, LLC

Description: Application of EAM Nelson Holding, LLC for Authorization of Transaction Pursuant to Section 203 of the Federal Power Act and Request for Confidential Treatment.

Filed Date: 05/04/2011

Accession Number: 20110504–5137

Comment Date: 5 p.m. Eastern Time on Wednesday, May 25, 2011

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–2182–001

Applicants: Ameren Illinois Company

Description: Ameren Illinois Company submits tariff filing per 35: Compliance Filing for Ameren Illinois for Rate Schedules 125, 127 to be effective 5/5/2011.

Filed Date: 05/04/2011

Accession Number: 20110504–5000

Comment Date: 5 p.m. Eastern Time on Wednesday, May 25, 2011

Docket Numbers: ER11–2901–001

Applicants: Duke Energy Kentucky, Inc.

Description: Duke Energy Kentucky, Inc. submits tariff filing per 35.17(b): Answer to Deficiency Letter ER11–2901 to be effective 4/18/2011.

Filed Date: 05/04/2011

Accession Number: 20110504–5090

Comment Date: 5 p.m. Eastern Time on Wednesday, May 25, 2011

Docket Numbers: ER11–2902–001

Applicants: Duke Energy Indiana, Inc.

Description: Duke Energy Indiana, Inc. submits tariff filing per 35.17(b): Answer to Deficiency Letter ER11–2902 to be effective 4/18/2011.

Filed Date: 05/04/2011

Accession Number: 20110504–5094

Comment Date: 5 p.m. Eastern Time on Wednesday, May 25, 2011

Docket Numbers: ER11–3370–000

Applicants: Phalanx Energy Services, LLC

Description: Supplement to Application for Market-Based Rate Authorization under Section 205 of Phalanx Energy Services, LLC.

Filed Date: 04/27/2011

Accession Number: 20110427–5178

Comment Date: 5 p.m. Eastern Time on Monday, May 9, 2011

Docket Numbers: ER11–3510–001

Applicants: California Independent System Operator Corporation

Description: California Independent System Operator Corporation submits tariff filing per 35.17(b): 2011–05–04 Errata to Self-Provision of Regulation Amendment to be effective 5/24/2011.

Filed Date: 05/04/2011

Accession Number: 20110504–5112

Comment Date: 5 p.m. Eastern Time on Wednesday, May 25, 2011

Docket Numbers: ER11–3513–000

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii) Queue No. U2–077 & W1–001 Interim ISA, Original Service Agreement No. 2862 to be effective 4/6/2011.

Filed Date: 05/04/2011

Accession Number: 20110504–5040

Comment Date: 5 p.m. Eastern Time on Wednesday, May 25, 2011

Docket Numbers: ER11–3514–000

Applicants: Entergy Arkansas, Inc.

Description: Entergy Arkansas, Inc. submits tariff filing per 35.12: PLUM NLR DTOA to be effective 5/1/2011.

Filed Date: 05/04/2011

Accession Number: 20110504–5054

Comment Date: 5 p.m. Eastern Time on Wednesday, May 25, 2011

Docket Numbers: ER11–3515–000

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii) Queue No. W3–041; Original Service Agreement No. 2858 to be effective 4/11/2011.

Filed Date: 05/04/2011

Accession Number: 20110504–5065

Comment Date: 5 p.m. Eastern Time on Wednesday, May 25, 2011

Docket Numbers: ER11–3516–000

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, L.L.C. on May 3, 2011, PJM submitted to FERC a Request for Limited Tariff Waiver of Section 3.2.3(f) of Attachment K—Appendix of the PJM Tariff and the parallel provisions.

Filed Date: 05/03/2011

Accession Number: 20110503–5273

Comment Date: 5 p.m. Eastern Time on Tuesday, May 24, 2011

Docket Numbers: ER11–3518–000

Applicants: Florida Power & Light Company

Description: Florida Power & Light Company submits tariff filing per 35: Amendment to FPL's OATT Attachment C to be effective 3/31/2011.

Filed Date: 05/04/2011

Accession Number: 20110504–5100

Comment Date: 5 p.m. Eastern Time on Wednesday, May 25, 2011

Docket Numbers: ER11–3519–000
Applicants: NedPower Mount Storm, L.L.C.
Description: NedPower Mount Storm, L.L.C. submits tariff filing per 35: Compliance Filing—NedPower Sect. VI to be effective 5/5/2011.
Filed Date: 05/04/2011
Accession Number: 20110504–5111
Comment Date: 5 p.m. Eastern Time on Wednesday, May 25, 2011

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Dated: May 4, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–11373 Filed 5–9–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–2054–001
Applicants: Ameren Illinois Company
Descrption: Ameren Illinois Company submits tariff filing per 35: Compliance Filing of Ameren Illinois Company for Rate Schedules 114, 115, 130 to be effective 5/3/2011.
Filed Date: 05/03/2011
Accession Number: 20110503–5000
Comment Date: 5 p.m. Eastern Time on Tuesday, May 24, 2011

Docket Numbers: ER11–2093–001
Applicants: Ameren Illinois Company
Descrption: Ameren Illinois Company submits tariff filing per 35: Compliance Filing for Ameren Illinois for Rate Schedules 101, 108, 137, 138 to be effective 5/4/2011.
Filed Date: 05/03/2011
Accession Number: 20110503–5123
Comment Date: 5 p.m. Eastern Time on Tuesday, May 24, 2011

Docket Numbers: ER11–2181–001
Applicants: Ameren Illinois Company
Descrption: Ameren Illinois Company submits tariff filing per 35: Compliance Filing for Ameren Illinois for Rate Schedules 134, 135, 136 to be effective 5/4/2011.
Filed Date: 05/03/2011
Accession Number: 20110503–5137
Comment Date: 5 p.m. Eastern Time on Tuesday, May 24, 2011

Docket Numbers: ER11–3504–000
Applicants: Southwest Power Pool, Inc.
Descrption: Southwest Power Pool, Inc. submits tariff filing per 35.13(a)(2)(iii) Revision to Attachment AD Amended 2011 SWPA Agreement to be effective 4/1/2011.
Filed Date: 05/03/2011
Accession Number: 20110503–5074
Comment Date: 5 p.m. Eastern Time on Tuesday, May 24, 2011

Docket Numbers: ER11–3505–000
Applicants: Public Service Company of Colorado
Description: Public Service Company of Colorado submits tariff filing per 35.13(a)(2)(iii) 2011–5–3_Att-O_SPS_BPU_Filing to be effective 5/15/2011.
Filed Date: 05/03/2011
Accession Number: 20110503–5076
Comment Date: 5 p.m. Eastern Time on Tuesday, May 24, 2011

Docket Numbers: ER11–3506–000
Applicants: PJM Interconnection, L.L.C.
Descrption: PJM Interconnection, L.L.C. submits tariff filing per 35.13(a)(2)(iii) Queue No. W1–120; Original Service Agreement No. 2857 to be effective 4/7/2011.
Filed Date: 05/03/2011
Accession Number: 20110503–5082
Comment Date: 5 p.m. Eastern Time on Tuesday, May 24, 2011

Docket Numbers: ER11–3507–000
Applicants: Western Electricity Coordinating Council
Description: Notice to FERC of RMS Termination. Report/Form of Western Electricity Coordinating Council.
Filed Date: 05/03/2011
Accession Number: 20110503–5124
Comment Date: 5 p.m. Eastern Time on Tuesday, May 24, 2011

Docket Numbers: ER11–3508–000
Applicants: American Transmission Systems, Incorporated
Descrption: American Transmission Systems, Incorporated's 2011 Transmission Formula Rate Annual Update.
Filed Date: 05/02/2011
Accession Number: 20110502–5554
Comment Date: 5 p.m. Eastern Time on Monday, May 23, 2011

Docket Numbers: ER11–3509–000
Applicants: Southwest Power Pool, Inc.
Descrption: Southwest Power Pool, Inc. submits tariff filing per 35.13(a)(2)(iii) Ministerial Filing to Reflect Language Accepted in Docket No. OA08–61–002, –003 to be effective 7/26/2010.

Filed Date: 05/03/2011
Accession Number: 20110503–5168
Comment Date: 5 p.m. Eastern Time on Tuesday, May 24, 2011

Docket Numbers: ER11–3510–000
Applicants: California Independent System Operator Corporation
Descrption: California Independent System Operator Corporation submits tariff filing per 35.13(a)(2)(iii) 2011–05–03 CAISO Filing Clarify Provisions Relating to Self-Provisions Regulalated to be effective 5/24/2011
Filed Date: 05/03/2011
Accession Number: 20110503–5198
Comment Date: 5 p.m. Eastern Time on Tuesday, May 24, 2011

Docket Numbers: ER11–3511–000
Applicants: Southwest Power Pool, Inc.
Descrption: Southwest Power Pool, Inc. submits tariff filing per 35.13(a)(2)(iii) 549R6 Board of Public Utilities, Springfield, Missouri NITSA NOA to be effective 4/4/2011.
Filed Date: 05/03/2011
Accession Number: 20110503–5202
Comment Date: 5 p.m. Eastern Time on Tuesday, May 24, 2011

Docket Numbers: ER11–3512–000
Applicants: Pacific Gas and Electric Company
Descrption: Pacific Gas and Electric Company submits tariff filing per 35.13(a)(2)(iii) CCSF Crystal Springs Removal Agreement to be effective 7/5/2011.
Filed Date: 05/03/2011
Accession Number: 20110503–5247
Comment Date: 5 p.m. Eastern Time on Tuesday, May 24, 2011

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

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Dated: May 4, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–11372 Filed 5–9–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–3095–001.
Applicants: Deseret Generation & Transmission Co-operative, Inc.
Description: Deseret Generation & Transmission Co-operative, Inc. submits tariff filing per 35.17(b): Amendment to Section 205 Tariff Filing 4–29–2011 to be effective 4/1/2011.
Filed Date: 04/29/2011.
Accession Number: 20110429–5452.
Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Docket Numbers: ER11–3430–001.
Applicants: Arizona Public Service Company.
Description: Arizona Public Service Company submits tariff filing per 35.17(b): Amendment to Second WestConnect Participation Agreement Filing to be effective 7/1/2011.
Filed Date: 04/29/2011.
Accession Number: 20110429–5373
Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Docket Numbers: ER11–3471–000.
Applicants: Midwest Independent Transmission System Operative, Inc., MidAmerican Energy Company.
Description: Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: MidAmerican-CIPCO WDS SA 2334 to be effective 6/1/2011.
Filed Date: 04/29/2011.
Accession Number: 20110429–5344.
Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Docket Numbers: ER11–3472–000.
Applicants: Midwest Independent Transmission System Operative, Inc., MidAmerican Energy Company.
Description: Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: MidAmerican-IPL WDS SA 2335 to be effective 6/1/2011.
Filed Date: 04/29/2011.
Accession Number: 20110429–5345.
Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Docket Numbers: ER11–3473–000.
Applicants: Florida Power & Light Company.
Description: Florida Power & Light Company submits tariff filing per 35.12: FPL and GTC Rate Schedule FERC No. 321 to be effective 6/28/2011.
Filed Date: 04/29/2011.
Accession Number: 20110429–5346.
Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Docket Numbers: ER11–3474–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc. submits tariff filing per 35.13(a)(2)(iii: 1313R3 Oklahoma Gas and Electric Company NITSA NOA to be effective 4/1/2011.

Filed Date: 04/29/2011.
Accession Number: 20110429–5347.
Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Docket Numbers: ER11–3475–000.
Applicants: Bangor Hydro Electric Company, ISO New England Inc.
Description: Bangor Hydro Electric Company submits tariff filing per 35.13(a)(2)(iii: BHE New LSA Agreements and Notice of Cancellation in Docket ER10–111–000 to be effective 1/1/2011.
Filed Date: 04/29/2011.
Accession Number: 20110429–5348.
Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Docket Numbers: ER11–3476–000.
Applicants: New York Independent System Operator, Inc., Niagara Mohawk Power Corporation.
Description: New York Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: NiMo NYPA Agreement No. 1743 to be effective 2/1/2011.
Filed Date: 04/29/2011.
Accession Number: 20110429–5349.
Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Docket Numbers: ER11–3477–000.
Applicants: Midwest Independent Transmission System Operator, Inc.
Description: Midwest Independent Transmission System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 04–29–11 Att HH to be effective 6/29/2011.
Filed Date: 04/29/2011.
Accession Number: 20110429–5414.
Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Docket Numbers: ER11–3478–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc. submits tariff filing per 35.13(a)(2)(iii: 1166R13 Oklahoma Municipal Power Authority NITSA NOA to be effective 4/1/2011.
Filed Date: 04/29/2011.
Accession Number: 20110429–5439.
Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Docket Numbers: ER11–3479–000.
Applicants: Consolidated Edison Company of New York, Inc., New York Independent System Operator, Inc.
Description: Consolidated Edison Company of New York, Inc. submits tariff filing per 35.13(a)(2)(iii: LGIA Among NYISO, Con Edison, and Hudson Transmission Partners to be effective 4/20/2011.
Filed Date: 04/29/2011.
Accession Number: 20110429–5443.
Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Docket Numbers: ER11–3480–000.
Applicants: Wolverine Power Supply Cooperative, Inc.
Description: Wolverine Power Supply Cooperative, Inc. submits tariff filing per 35.13(a)(1): Request for Change in Rates to Distribution Cooperative Members-Owners to be effective 7/1/2011.
Filed Date: 04/29/2011.
Accession Number: 20110429–5507.
Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Docket Numbers: ER11–3481–000.
Applicants: Idaho Power Company.
Description: Idaho Power Company submits tariff filing per 35.13(a)(2)(iii: RTSA Baseline Corrections to be effective 5/2/2011.
Filed Date: 04/29/2011.
Accession Number: 20110429–5512.
Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Docket Numbers: ER11–3482–000.
Applicants: Idaho Power Company.
Description: Idaho Power Company submits tariff filing per 35.15: Termination of Revised Service Agreement for Imnaha to be effective 5/2/2011.
Filed Date: 04/29/2011.
Accession Number: 20110429–5543.
Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Docket Numbers: ER11–3483–000.
Applicants: New England Power Pool Participants Committee.
Description: New England Power Pool Participants Committee submits tariff filing per 35.13(a)(2)(iii: May 2011 Membership Filing to be effective 4/1/2011.
Filed Date: 04/29/2011.
Accession Number: 20110429–5546.
Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ER11–31–000.
Applicants: MDU Resources Group, Inc.
Description: Application of DU Resources Group, Inc. for authority to issue securities in connection with 401(k) plan.
Filed Date: 04/29/2011.
Accession Number: 20110429–5584.
Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Docket Numbers: ES11–32–000.
Applicants: Northern Indiana Public Service Company.
Description: Application of Northern Indiana Public Service Company for Authorization Under Section 204(a) of the FPA to Issue Short-Term Debt.
Filed Date: 04/29/2011.
Accession Number: 20110429–5589.
Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Take notice that the Commission received the following land acquisition reports:

Docket Numbers: LA11–1–000.
Applicants: Niagara Generation, LLC.
Description: Land Acquisition Report (1Q 2011) of Niagara Generation, LLC.
Filed Date: 04/29/2011.
Accession Number: 20110429–5230.
Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Docket Numbers: LA11–1–000.
Applicants: Eagle Creek Hydro Power, LLC.
Description: Site Acquisition Report of Eagle Creek Hydro Power, LLC.
Filed Date: 04/29/2011.
Accession Number: 20110429–5406.
Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Docket Numbers: LA11–1–000.
Applicants: AEE2, L.L.C., AES Alamitos, LLC, AES Armenia Mountain Wind, LLC, AES Creative Resources, L.P., AES Eastern Energy, L.P., AES Energy Storage, LLC, AES ES Westover, LLC, AES Huntington Beach, L.L.C., AES Ironwood, L.L.C., AES Laurel Mountain, LLC, AES Red Oak, L.L.C., AES Redondo Beach, L.L.C., Condo Wind Power, LLC, Mountain View Power Partners, LLC, Mountain View Power Partners, IV, LLC, Indianapolis Power & Light Company.
Description: Report of Site Acquisition of The AES Corporation.
Filed Date: 04/29/2011.
Accession Number: 20110429–5564.
Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Docket Numbers: LA11–1–000.
Applicants: East Coast Power Linden Holding, LLC, Cogen Technologies Linden Venture, L.P., Fox Energy Company, LLC, Birchwood Power Partners, L.P., Shady Hills Power Company, LLC, EFS Parlin Holdings, LLC, Inland Empire Energy Center, LLC.
Description: Site Acquisition Report of The GE Companies.
Filed Date: 04/29/2011.
Accession Number: 20110429–5583.
Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Docket Numbers: LA11–1–000.
Applicants: Arthur Kill Power LLC, Astoria Gas Turbine Power, LLC, Avenal Park LLC, Bayou Cove Peaking Power LLC, Big Cajun I Peaking Power LLC, Cabrillo Power I, LLC, Cabrillo Power II LLC, Conemaugh Power LLC, Connecticut Jet Power LLC, Cottonwood Energy LP, Devon Power LLC, Dunkirk Power LLC, El Segundo Power, LLC, El Segundo Power II, LLC, GenConn Devon

LLC, GenConn Energy LLC, GenGonn Middletown LLC, Green Mountain Energy Company, Huntley Power LLC, Indian River Power LLC, Keystone Power LLC, Long Beach Generation LLC, Long Beach Peakers, LLC, Louisiana Generating LLC, Middletown Power LLC, Montville Power LLC, NEO Freehold-Gen LLC, Norwalk Power LLC, NRG Energy Center Dover LLC, NRG Energy Center Paxton LLC, NRG New Jersey Energy Sales LLC, NRG Power Marketing LLC, NRG Rockford LLC, NRG Rockford II LLC, NRG Solar Blythe LLC, NRG Sterlington Power LLC, Oswego Harbor Power LLC, Saguaro Power Company, A Limited Partnership, Sand Drag LLC, Somerset Power LLC, Sun City Project LLC, Vienna Power LLC.

Description: Motion of NRG Power Marketing LLC et al., See Appendix A for a list of all Public Utilities and MBR Docket Numbers)Order 697–C Compliance Filing Regarding Site Control.

Filed Date: 04/29/2011.

Accession Number: 20110429–5588.

Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification] simply provides notification that the entity making the filing has determined the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protest do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 02, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–11322 Filed 5–9–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2026–002.

Applicants: Pacific Gas and Electric Company.

Description: Pacific Gas and Electric Company submits tariff filing per 35: Transmission Owner Rate Case 2011 (TO13) Settlement to be effective 3/1/2011.

Filed Date: 04/28/2011.

Accession Number; 20110428–5264.

Comment Date: 5 p.m. Eastern Time on Thursday, May 19, 2011.

Docket Numbers: ER11–3459–000.

Applicants: NRG Solar Roadrunner LLC.

Description: NRG Solar Roadrunner LLC submits tariff filing per 35.12: Market Based Rates Filing to be effective 7/1/2011.

Filed Date: 04/28/2011.

Accession Number; 20110428–5356.

Comment Date: 5 p.m. Eastern Time on Thursday, May 19, 2011.

Docket Numbers: ER11–3460–000.

Applicants: Bayonne Energy Center, LLC.

Description: Bayonne Energy Center, LLC submits tariff filing per 35.12: Market-Based Rate Application to be effective 4/28/2011.

Filed Date: 04/28/2011.

Accession Number; 20110428–5372.

Comment Date: 5 p.m. Eastern Time on Thursday, May 19, 2011.

Docket Numbers: ER11–3461–000.

Applicants: ArcelorMittal USA LLC.

Description: ArcelorMittal USA LLC submits tariff filing per 35.12: AMu MBRA ETariff Baseline to be effective 4/29/2011.

Filed Date: 04/29/2011.

Accession Number; 20110429–5003.

Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Docket Numbers: ER11–3462–000.

Applicants: Public Service Company of New Mexico.

Description: Public Service Company of New Mexico submits tariff filing per 35: Second WestConnect P to P Experiment Tariff to be effective 7/1/2011.

Filed Date: 04/29/2011.

Accession Number; 20110429–5004.

Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Docket Numbers: ER11–3463–000.

Applicants: Pacific Gas and Electric Company

Description: Pacific Gas and Electric Company submits tariff filing per 35.13(a)(2)(iii: CCSF IA—33rd Quarterly Filing of Facilities Agreements to be effective 3/31/2011.

Filed Date: 04/29/2011.

Accession Number; 20110429–5011.

Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Docket Numbers: ER11–3464–000.

Applicants: San Diego Gas & Electric Company, Sempra Generation.

Description: Joint Application of San Diego Gas & Electric Company and Sempra Generation.

Filed Date: 04/29/2011.

Accession Number; 20110429–5069.

Comment Date: 5 p.m. Eastern Time on Friday, May 20, 2011.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES10–34–001.

Applicants: Consumers Energy Company.

Description: Amendment of Original Application and request for expanded long-term securities authorization of Consumers Energy Company.

Filed Date: 04/28/2011.

Accession Number; 20110428–5404.

Comment Date: 5 p.m. Eastern Time on Thursday, May 19, 2011.

Docket Numbers: ES11–25–000.

Applicants: Entergy Arkansas, Inc.

Description: Application of Entergy Arkansas, Inc., for Authorization Pursuant to FPA Section 204.

Filed Date: 04/28/2011.

Accession Number; 20110428–5401.

Comment Date: 5 p.m. Eastern Time on Thursday, May 19, 2011.

Take notice that the Commission received the following land acquisition reports:

Docket Numbers: LA11–1–000.

Applicants: Munnsville Wind Farm, LLC, Pioneer Trail Wind Farm, LLC, Settlers Trail Wind Farm, LLC, Stony Creek Wind Farm, LLC.

Description: E.ON CRNA Quarterly Report (Q1 2011) under LA11–1.

Filed Date: 04/28/2011.

Accession Number; 20110428–5402.

Comment Date: 5 p.m. Eastern Time on Thursday, May 19, 2011.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

As it relates to any qualifying facility filings, the notices of self-certification [or self-recertification] listed above, do not institute a proceeding regarding qualifying facility status. A notice of self-certification [or self-recertification] simply provides notification that the entity making the filing has determined the facility named in the notice meets the applicable criteria to be a qualifying facility. Intervention and/or protest do not lie in dockets that are qualifying facility self-certifications or self-recertifications. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii). Intervention and protests may be filed in response to notices of qualifying facility dockets other than self-certifications and self-recertifications.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 29, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–11321 Filed 5–9–11; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R10–OPPT–2011–0378; FRL–9303–6]

Lead-Based Paint Renovation, Repair and Painting, and Pre-Renovation Education Activities in Target Housing and Child Occupied Facilities; State of Washington. Notice of Self-Certification Program Authorization, Request for Public Comment, Opportunity for Public Hearing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; program authorization, request for comments and opportunity for public hearing.

SUMMARY: This notice announces that on March 16, 2011, the State of Washington was deemed authorized under section 404(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2684(a), to administer and enforce requirements for a renovation, repair and painting program in accordance with section 402(c)(3) of TSCA, 15 U.S.C. 2682(c)(3), and a lead-based paint pre-renovation education program in accordance with section 406(b) of TSCA, 15 U.S.C. 2686(b). This notice also announces that EPA is seeking comment during a 45-day public comment period, and is providing an opportunity to request a public hearing within the first 15 days of this comment period, on whether these Washington programs are at least as protective as the Federal programs and provide for adequate enforcement. This notice also announces that the authorization of the Washington 402(c)(3) and 406(b) programs, which were deemed authorized by regulation and statute on March 16, 2011, will continue without further notice unless EPA, based on its own review and/or comments received during the comment period, disapproves one or both of these Washington program applications on or before September 12, 2011.

DATES: Comments, identified by docket control number EPA–R10–OPPT–2011–0378, must be received on or before June 24, 2011. In addition, a public hearing request must be submitted on or before May 25, 2011.

ADDRESSES: Comments and requests for a public hearing may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Section I of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is important that you identify docket control number EPA–R10–OPPT–2011–0378 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Barbara Ross, Technical Contact, OAWT, Solid Waste &Toxics, AWT–128, United States Environmental Protection Agency, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101, *telephone number:* (206) 553–1985; *e-mail address: ross.barbara@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, to entities offering Lead Safe Renovation courses, and to firms and individuals engaged in renovation and remodeling activities of pre-1978 housing and child-occupied facilities in the State of Washington. Individuals and firms falling under the North American Industrial Classification System (NAICS) codes 231118, 238210, 238220, 238320, 531120, 531210, 53131, *e.g.*, General Building Contractors/ Operative Builders, Renovation Firms, Individual Contractors, and Special Trade Contractors like Carpenters, Painters, Drywall workers and Plumbers, "Home Improvement" Contractors, as well as Property Management Firms and some Landlords are also affected by these rules. This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed here could also be affected. The 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 technical person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I get additional information, including copies of this document or other related documents?

1. Electronically: EPA has established an official record for this action under docket control number EPA–R10–OPPT–2011–0378. This docket may be accessed through *http://www.regulations.gov.* The official record consists of the documents specifically referenced in this action, this notice, the State of Washington 402(c)(3) and 406(b) program authorization applications, any public comments received during an applicable comment period, and other information related to this action.

2. In person: you may read this document, and certain other related documents, by visiting the Washington State Department of Commerce, Lead-Based Paint Program, 1011 Plum Street, SE., Olympia, WA 98504; contact person, Cynthia Sanderson—Manager Lead Programs, telephone number: (360) 725–2941 . You may also read this document, and certain other related documents, by visiting the United States Environmental Protection Agency (EPA) OAWT, Solid Waste & Toxics, AWT–128, 1200 Sixth Avenue, Seattle WA 98101. You should arrange your visit to the EPA office by contacting the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

C. How and to whom do I submit comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is important that you identify docket control number EPA–R10–OPPT–2011–0378 in the subject line on the first page of your response.

Submit your comments, by one of the following methods:

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

2. *By mail or in person or by courier:* Submit or deliver your comments and hearing requests to: Barbara Ross, Technical Contact, United States Environmental Protection Agency (EPA), OAWT, Solid Waste & Toxics, AWT–128, 1200 Sixth Avenue, Suite 900, Seattle WA 98101. The Regional office is open from 8 a.m. to 5 p.m., Monday through Friday, excluding legal holidays. The phone number for the office is (206) 553–1985.

3. *Electronically:* You may submit your comments and hearing requests electronically by e-mail to: *ross.barbara@epa.gov*, or mail your computer disk to the address identified above. Do not submit any information electronically that you consider Confidential Business Information (CBI). Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in Microsoft Word or ASCII file format.

Instructions: Direct your comments to Docket ID Number EPA–R10–OPPT–2011–0378. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters or 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 docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy.

D. How should I handle CBI information that I want to submit to the agency?

Do not submit this information to EPA through *http://www.regulations.gov* or e-mail. Clearly mark on each page the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM that you mail to EPA as CBI, and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. If you have any questions about CBI or the procedures for claiming CBI, please consult the technical person identified under **FOR FURTHER INFORMATION CONTACT**.

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

You may find the following suggestions helpful for preparing your comments.

1. Explain your views as clearly as possible.
2. Describe any assumptions that you use.
3. Provide copies of any technical information and/or data you use that support your views.
4. If you estimate potential burden or costs, explain how you arrive at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

A. What action is the agency taking?

EPA is announcing that on March 16, 2011, the State of Washington was deemed authorized under section 404(a) of TSCA, and 40 CFR 745.324(d)(2), to administer and enforce requirements for a renovation, repair and painting program in accordance with section 402(c)(3) of TSCA, and a lead-based paint pre-renovation education program in accordance with section 406(b) of TSCA. This notice also announces that EPA is seeking comment and providing an opportunity to request a public hearing on whether the State programs are at least as protective as the Federal programs and provide for adequate enforcement. The 402(c)(3) program ensures that training providers are accredited to teach renovation classes, that individuals performing renovation activities are properly trained and certified as renovators, that firms are certified as renovation firms, and that specific work practices are followed during renovation activities. The 406(b) program ensures that owners and occupants of target housing are provided information concerning potential hazards of lead-based paint exposure before certain renovations are begun. On March 16, 2011, Washington submitted an application under section 404 of TSCA requesting authorization to administer and enforce requirements for a renovation, repair and painting program in accordance with section 402(c)(3) of TSCA, and a pre-renovation education program in accordance with section 406(b) of TSCA, and submitted a self-certification that these programs are at least as protective as the Federal programs and provide for adequate enforcement. Therefore, pursuant to section 404(a) of TSCA, and 40 CFR 745.324(d)(2), the Washington renovation program and pre-renovation education program are deemed authorized as of the date of submission and until such time as the Agency disapproves the program application or withdraws program authorization. Pursuant to section 404(b) of TSCA and 40 CFR 745.324(e)(2), EPA is providing notice, opportunity for public comment and opportunity for a public hearing on whether the State program application is at least as protective as the Federal programs and provides for adequate enforcement. If a hearing is requested and granted, EPA will issue a **Federal Register** notice announcing the date, time and place of the hearing. The authorization of the Washington 402(c)(3) and 406(b) programs, which were deemed authorized by regulation and statute on March 16, 2011, will continue without further notice unless EPA, based on its own review and/or comments received during the comment period, disapproves one or both of these Washington program applications.

B. What is the agency's authority for taking this action?

On October 28, 1992, the Housing and Community Development Act of 1992, Public Law 102–550, became law. Title X of that statute was the Residential Lead-Based Paint Hazard Reduction Act of 1992. That Act amended TSCA (15 U.S.C. 2601 et seq.) by adding Title IV (15 U.S.C. 2681–2692), entitled Lead Exposure Reduction. In the **Federal Register** dated April 22, 2008, (73 FR 21692), EPA promulgated final TSCA section 402(c)(3) regulations governing renovation activities. The regulations require that in order to do renovation activities for compensation, renovators must first be properly trained and certified, must be associated with a certified renovation firm, and must follow specific work practice standards, including recordkeeping requirements. In addition, the rule prescribes requirements for the training and certification of dust sampling technicians. In the **Federal Register** of June 1, 1998, (63 FR 29908), EPA promulgated final TSCA section 406(b) regulations governing pre-renovation education requirements in target housing. This program ensures that owners and occupants of target housing are provided information concerning potential hazards of lead-based paint exposure before certain renovations are begun on that housing. In addition to providing general information on the health hazards associated with exposure to lead, the lead hazard information pamphlet advises owners and occupants to take appropriate precautions to avoid exposure to lead-contaminated dust and debris that are sometimes generated during renovations. EPA believes that regulation of renovation activities and the distribution of the pamphlet will help to reduce the exposures that cause serious lead poisonings, especially in children under age 6, who are particularly susceptible to the hazards of lead.

Under section 404 of TSCA, a State may seek authorization from EPA to administer and enforce its own pre-renovation education program or renovation, repair and painting program in lieu of the Federal program. The regulations governing the authorization of a State program under both sections 402 and 406 of TSCA are codified at 40 CFR part 745, subpart Q. States that choose to apply for program authorization must submit a complete application to the appropriate regional EPA office for review. Those applications will be reviewed by EPA within 180 days of receipt of the complete application. To receive EPA approval, a State must demonstrate that its program is at least as protective of human health and the environment as the Federal program, and provides for adequate enforcement, as required by Section 404(b) of TSCA. EPA's regulations at 40 CFR part 745, subpart Q, provide the detailed requirements a State program must meet in order to obtain EPA approval. A State may choose to certify that its own pre-renovation education program or renovation, repair and painting program meets the requirements for EPA approval, by submitting a letter signed by the Governor or Attorney General stating that the program is at least as protective of human health and the environment as the Federal program and provides for adequate enforcement. Upon submission of such a certification letter, the program is deemed authorized pursuant to TSCA section 404(a) and 40 CFR 745.324(d)(2) and [15 U.S.C. 2864(b)]. This authorization becomes ineffective, however, if EPA disapproves the application or withdraws the program authorization.

III. State Program Description Summary

The following program summary is from Washington's self-certification application:

Scope of Rules

Washington state laws, called Revised Code of Washington (RCW), gives the Department of Commerce, Lead-Based Paint Program authority to implement and administer the Federal Lead Renovation, Repair and Painting Rule in Washington to ensure that persons who perform lead-based paint activities do so safely to prevent exposure of building occupants, especially children, to hazardous levels of lead. The Washington Administrative Code (WAC 365–230) adopted by the State of Washington to implement the statutes and the Lead Renovation, Repair and Painting Rule becomes effective March 16, 2011. The rule requires a person to be certified before performing, supervising, or offering to perform a lead-based paint activity involving target housing or a child-occupied facility built before 1978. Work practice standards are also prescribed, as well as reporting and recordkeeping requirements. In addition, no person may offer or conduct a lead training course represented as qualifying a person for certification unless the course is accredited by the Department and uses approved instructors.

WAC 365–230 has been promulgated to incorporate the pre-renovation education distribution (PRE) and renovation, repair and painting (RRP) requirements for programs under the Environmental Protection Agency's regulations at 40 CFR part 745, subparts E and L. The Washington State Department of Commerce lead-based paint program regulates the following lead-based paint activities in target housing and child-occupied facilities built before 1978:

- Pre-renovation information distribution and renovation activities conducted for compensation.
- Lead hazard reduction, including abatement.
- Lead investigation, including dust, paint, soil sampling and onsite testing; clearance, inspection, hazard screen, risk assessment and elevated blood lead level investigation activities.

Applicability to Renovations

The PRE and RRP provisions are described in WAC 365–230. These rules apply to renovations performed for compensation in target housing and child-occupied facilities, except when:

- The paint involved in the renovation is determined to be lead-free by a certified lead inspector, risk assessor or by a certified renovator using an EPA-recognized test kit.
- The work is minor repair or maintenance.
- The work is renovation not performed for compensation and no other conditions requiring certification exist.
- The work is renovation performed by the homeowner in the owner's owner-occupied unit. Emergency renovations are exempt from certain provisions, including the PRE requirements, but not from cleaning and post renovation cleaning verification.

Accreditation of Training Courses

Training course accreditation is described in WAC 365–230–040. A person wishing to offer a course leading to certification, including lead-safe renovator and dust sampling technician initial or refresher courses, must submit a complete application with course materials and fee to the Department of Commerce. The course must cover all curriculum requirements identified in WAC 365–230–050. Courses deemed to meet all requirements are granted full approval and may renew their accreditations at 4-year intervals.

Pre-Renovation Education Requirements

The PRE requirements are described in detail at WAC 365–230–320. Renovation firms must:

- Provide the pamphlet, *Renovate Right,* to owners and occupants of target housing and to owners, operators and parents or guardians in child-occupied facilities before beginning renovation work.
- Obtain signature(s) acknowledging receipt of pamphlet, or other proof of delivery.
- Post information in child-occupied facilities and multi-family housing.

Renovation, Repair and Painting Requirements

Certified Firms Requirements

WAC 365–230–360 describes requirements for certification of firms.

Firms must submit an application and pay a fee for certification. Firms must:

- Assign a certified lead-safe renovator to oversee each renovation project.
- Use only a certified renovator and certified renovator-trained workers to perform renovations.
- Ensure the use of lead-safe work practices and that prohibited practices are not used.
- Meet the pre-renovation education requirements.
- Create and maintain required records.

Certified Renovator Requirements

WAC 365–230–380 describes requirements for certification of renovators.

Certified renovator responsibilities are described at WAC 365–230–330 and WAC 365–230–340. To be certified as a lead-safe renovator, an individual must complete a one-day lead-safe renovation course taught by an accredited training provider. Certified renovators must:

- Provide training to untrained workers on the lead-safe work practices to be used.
- Be onsite to conduct or oversee posting of signs, containment setup, and final cleaning.
- Be onsite regularly to direct and ensure ongoing maintenance of containment barriers and use of lead-safe work practices.
- Be available onsite during work or by telephone to return immediately to the worksite.
- Be in possession of a valid, unexpired certification card/certificate when at the jobsite.
- Personally conduct the post-renovation cleaning verification.
- Prepare required renovation records.

Certified Lead Sampling Technician Requirements

WAC 365–230–380 describes requirements for certification of dust sampling technicians. Lead sampling technicians may conduct clearance after renovation, or clearance after lead abatement provided that a certified risk assessor or lead inspector approves the work of the dust sampling technician per HUD 24 CFR Part 35.1340 (b)(1)(i). A lead sampling technician must complete a one-day lead sampling course taught by an accredited training provider. Sampling technicians must:

- Complete clearance requirements, including collecting and sending dust-wipe samples to a recognized lab.
- Interpret laboratory results and prepare a clearance report for the contractor and owner.
- Be in possession of a valid, unexpired certification card when conducting regulated work.

Renovation Work Practice Requirements

Renovation work practices are described at WAC 365–230–330. Workers must follow documented methodologies to protect occupants from lead hazards created during renovations, including:

- Posting warning signs, containing work areas, protecting furnishings and cleaning.
- Prohibitions on using certain dangerous work practices, including: open-flame burning or torching, operating a heat gun over 1100°F, using a high speed machine to remove paint without a HEPA-filtered exhaust system,

using an improperly operating HEPA vacuum, and dry sweeping in the work area.

- Proper handling and transporting of waste.
- Final visual inspection and post renovation cleaning verification using prescribed protocol.

Renovation Recordkeeping Requirements

Recordkeeping requirements for renovations are described in detail at WAC 365–230–340. The renovation company must maintain records of its regulated activities for 3 years, including:

- Any paint testing results.
- Copies of signed pamphlet acknowledgements forms or other documentation of delivery.
- Documentation and certification that renovation requirements were followed.
- Individual worker training records.

IV. Federal Overfiling

Section 404(b) of TSCA makes it unlawful for any person to violate, or fail or refuse to comply with, any requirement of an approved State program. Therefore, EPA reserves the right to exercise its enforcement authority under TSCA against a violation of, or a failure or refusal to comply with, any requirement of an authorized State program.

V. Withdrawal of Authorization

Pursuant to section 404(c) of TSCA, the EPA Administrator may withdraw authorization of a State or Indian Tribal renovation, repair and painting program, and/or a lead-based paint pre-renovation education program, after notice and opportunity for corrective action, if the program is not being administered or enforced in compliance with standards, regulations, and other requirements established under the authorization. The procedures U.S. EPA will follow for the withdrawal of an authorization are found at 40 CFR 745.324(i).

List of Subjects

Department of Commerce, State of Washington, Ecology, Lead, Renovation, Renovation work practice standards, Renovation training, Renovation certification, Renovation notification, Reporting and record keeping requirements.

Dated: May 2, 2011.

Dennis J. McLerran,

Regional Administrator, Region 10.

[FR Doc. 2011–11437 Filed 5–9–11; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communication Commission.

ACTION: Notice and request for comments.

SUMMARY: The Federal Communications Commission (FCC), as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act (PRA) of 1995. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB Control Number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before July 11, 2011. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Leslie F. Smith, Federal Communications Commission (FCC), via e-mail *PRA@fcc.gov* or to *Leslie.Smith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information the information collection, contact Leslie F. Smith at (202) 418–0217.

SUPPLEMENTARY INFORMATION: The Commission has requested approval of this information collection under the emergency processing provisions of the PRA, 5 CFR Sections 1320.5, 1320.8(d), and 1320.13 by May 17, 2011.

OMB Control Number: 3060–0430.

Title: Section 1.1206, Permit-but-Disclose Proceedings.

Form Number(s): N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; Federal Government; and State, local, or tribal governments.

Number of Respondents and Responses: 11,500 respondents; 11,500 responses.

Estimated Time per Response: 45 minutes (0.75 hours).

Frequency of Response: On occasion reporting requirements; third party disclosure.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 25,875 hours.

Total Annual Cost: $0.00.

Privacy Impact Assessment: No Impact(s).

Nature and Extent of Confidentiality: Consistent with the Commission's rules on confidential treatment of submissions, under 47 CFR Section 0.459, a presenter may request confidential treatment of *ex parte* presentations. In addition, the Commission will permit parties to remove metadata containing confidential or privileged information, and the Commission will also not require parties to file electronically *ex parte* notices that contain confidential information. The Commission will, however, require a redacted version to be filed electronically at the same time the paper filing is submitted, and that the redacted version must be machine-readable whenever technically possible.

Needs and Uses: The Commission's rules, under 47 CFR Section 1.1206, require that a public record be made of *ex parte* presentations (*i.e.,* written presentations not served on all parties to the proceeding or oral presentations as to which all parties have not been given notice and an opportunity to be present) to decision-making personnel in "permit-but-disclose" proceedings, such as notice-and-comment rulemakings and declaratory ruling proceedings. Persons making such presentations must file two copies of written presentations and two copies of memoranda reflecting new data or arguments in oral presentations no later than the next business day after the presentation; alternatively, in proceedings in which electronic filing is permitted, a copy may be filed electronically.

On February 2, 2011, the FCC released a *Report and Order and Further Notice of Proposed Rulemaking,* CG Docket Number 10–43, FCC 11–11, which amends and reforms the Commission's rules on *ex parte* presentations (47 CFR Section 1.1206(b)(2)) made in the course of Commission rulemakings and other permit-but-disclose proceedings. The modifications to the existing rules adopted in this Report and Order address these problems by requiring that parties file more descriptive summaries of their *ex parte* contacts, by ensuring that other parties and the public have an adequate opportunity to review and respond to information submitted *ex parte,* and by improving the FCC's oversight and enforcement of the *ex parte* rules. The modified *ex parte* rules provide as follows: (1) *Ex parte* notices will be required for all oral *ex parte* presentations in permit-but-disclose proceedings, not just for those presentations that involve new information or arguments not already in the record; (2) If an oral *ex parte* presentation is limited to material already in the written record, the notice must contain either a succinct summary of the matters discussed or a citation to the page or paragraph number in the party's written submission(s) where the matters discussed can be found; (3) Notices for all *ex parte* presentations must include the name of the person(s) who made the *ex parte* presentation as well as a list of all persons attending or otherwise participating in the meeting at which the presentation was made; (4) Notices of *ex parte* presentations made outside the Sunshine period must be filed within two business days of the presentation; (5) The Sunshine period will begin on the day (including business days, weekends, and holidays) after issuance of the Sunshine notice, rather than when the Sunshine Agenda is issued (as the current rules provide); (6) If an *ex parte* presentation is made on the day the Sunshine notice is released, an *ex parte* notice must be submitted by the next business day, and any reply would be due by the following business day. If a permissible *ex parte* presentation is made during the Sunshine period (under an exception to the Sunshine period prohibition), the *ex parte* notice is due by the end of the same day on which the presentation was made, and any reply would need to be filed by the next business day. Any reply must be in writing and limited to the issues raised in the *ex parte* notice to which the reply is directed; (7) Commissioners and agency staff may continue to request *ex parte* presentations during the Sunshine period, but these presentations should be limited to the specific information required by the Commission; (8) *Ex parte* notices must be submitted electronically in machine-readable format. PDF images created by scanning a paper document may not be submitted, except in cases in which a word-processing version of the document is not available. Confidential information may continue to be submitted by paper filing, but a redacted version must be filed electronically at the same time the paper filing is submitted. An exception to the electronic filing requirement will be made in cases in which the filing party claims hardship. The basis for the hardship claim must be substantiated in the *ex parte* filing; (9) To facilitate stricter enforcement of the *ex parte* rules, the Enforcement Bureau is authorized to levy forfeitures for *ex parte* rule violations; (10) Copies of electronically filed *ex parte* notices must also be sent electronically to all staff and Commissioners present at the *ex parte* meeting so as to enable them to review the notices for accuracy and completeness. Filers may be asked to submit corrections or further information as necessary for compliance with the rules; and (11) Minor conforming and clarifying rule changes proposed in the Notice are adopted. The only changes entailing increased information collection are the requirement that parties making permissible *ex parte* presentations in restricted proceedings file an *ex parte* notice, and that *ex parte* notices contain either a summary of the presentation or a reference to where the information can be found in the written record, and that *ex parte* notices list all persons attending the presentation

The information is used by parties to permit-but-disclose proceedings, including interested members of the public, to respond to the arguments made and data offered in the presentations. The responses may then be used by the Commission in its decision-making. The availability of the *ex parte* materials ensures that the Commission's decisional processes are fair, impartial, and comport with the concept of due process in that all interested parties can know of and respond to the arguments made to the decision-making officials.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–11346 Filed 5–9–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Submitted for Review by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and Request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission invites the general public and other Federal agencies to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information collection burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before July 11, 2011. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to the Federal Communications Commission. To submit your PRA comments by e-mail send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Paul Laurenzano, Office of Managing Director, (202) 418–1359 or via Internet at *Paul.Laurenzano@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0410.

Title: ARMIS Forecast of Investment Usage Report, FCC Report 495A; and the ARMIS Actual Usage of Investment Report FCC Reports 495B.

Report Numbers: FCC Reports 495–A and 495–B.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 70 respondents; 140 responses.

Estimated Time per Response: 40 hours.

Obligation to Respond: Mandatory—The Automated Reporting Management Information System (ARMIS) reporting requirements were established by the Commission in 1987 to facilitate the timely and efficient analysis of carrier operating costs and rates of return, to provide an improved basis for audits and other oversight functions, and to enhance the Commission's ability to quantify the effects of alternative policy proposals. Additional ARMIS Reports were added in 1991 and 1992. Incumbent Local Exchange Carriers (LECs) must submit the ARMIS reports to the Commission annually on or before April 1. See Reporting Requirements of Certain Class A and Tier I Telephone Companies (Parts 31, 43, 67 and 69 of the FCC's Rules), Order, 2 FCC Rcd 5770 (1987), modified on recon, 3 FCC Rcd 6375 (1988) (ARMIS Order). Also, see 47 CFR part 43, Section 43.21. The statutory authority for this collection is contained in Sections 11,219(b), and 220 of the Communications Act of 1934, as amended, 47 U.S.C. 161, 219(b), and 220.

Frequency of Response: Annual reporting requirement.

Total Annual Burden: 5,600 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No impacts.

Nature of Extent of Confidentiality: This collection addresses information of a confidential nature. Respondents have requested and filed for confidential treatment of information they believe should be withheld from public inspection under 47 CFR Section 0.459 of the Commission's rules.

Needs and Uses: The 495A Report provides the forecast and resulting investment allocation incorporated in a carrier's cost support for its access tariff. The 495B Report enables the Commission's staff to monitor actual and forecasted investment use. These reports help ensure that the regulated operations of the carriers do not subsidize the nonregulated operations of those same carriers. This information is also a part of the data necessary to support the Commission's audit and other oversight functions. The data provide the necessary detail to enable the Commission to fulfill it regulatory responsibility. There are no changes to the ARMIS Reports 495A and 495B.

Federal Communications Commission.

Gloria Miles,

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

[FR Doc. 2011–11380 Filed 5–9–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collections Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information collection burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a currently valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before June 9, 2011. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at 202–395–5167 or via e-mail to *Nicholas_A._Fraser@omb.eop.gov* and to the Federal Communications Commission via e-mail to *PRA@fcc.gov* and *Cathy.Williams@fcc.gov*. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called "Currently Under Review", (3) click on the downward-pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, and (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB Control Number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Cathy Williams on (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0548.

Title: Section 76.1708, Principal Headend; Sections 76.1709 and 76.1620, Availability of Signals; Section 76.56, Signal Carriage Obligations; Section 76.1614, Identification of Must-Carry Signals.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 11,000 respondents; 132,000 responses.

Estimated Time per Response: 0.5–1.0 hour.

Frequency of Response: Recordkeeping requirement; Third party disclosure requirement; On occasion reporting requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in Sections 4(i), 614 and 615 of the Communications Act of 1934, as amended.

Total Annual Burden: 66,000 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: No impact(s).

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

Needs and Uses: 47 CFR 76.56 requires cable television systems to carry signals of all qualified local Noncommercial Educational (NCE) sting carriage. As a result of this requirement, the following information collection requirements are needed for this collection:

47 CFR 76.1708 requires that the operator of every cable television system shall maintain for public inspection the designation and location of its principal headend. If an operator changes the designation of its principal headend, that new designation must be included in its public file.

47 CFR 76.1709(a) states effective June 17, 1993, the operator of every cable television system shall maintain for public inspection a file containing a list of all broadcast television stations carried by its system in fulfillment of the must-carry requirements pursuant to 47 CFR 76.56. Such list shall include the call sign; community of license, broadcast channel number, cable channel number, and in the case of a noncommercial educational broadcast station, whether that station was carried by the cable system on March 29, 1990.

47 CFR 76.1614 and 1709(c) states that a cable operator shall respond in writing within 30 days to any written request by any person for the identification of the signals carried on its system in fulfillment of the requirements of 47 CFR 76.56.

Additionally, 47 CFR 76.1620 states that if a cable operator authorizes subscribers to install additional receiver connections, but does not provide the subscriber with such connections, or with the equipment and materials for such connections, the operator shall notify such subscribers of all broadcast stations carried on the cable system which cannot be viewed via cable without a converter box and shall offer to sell or lease such a converter box to such subscribers. Such notification must be provided by June 2, 1993, and annually thereafter and to each new subscriber upon initial installation. The notice, which may be included in routine billing statements, shall identify the signals that are unavailable without an additional connection, the manner for obtaining such additional connection and instructions for installation.

OMB Control Number: 3060–0674.

Title: Section 76.1618, Basic Tier Availability.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit.

Number of Respondents and Responses: 8,250 respondents; 8,250 responses.

Estimated Time per Response: 2.25 hour.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in Sections 4(i) and 632 of the Communications Act of 1934, as amended.

Total Annual Burden: 18,563 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: No impact(s).

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

Needs and Uses: 47 CFR 76.1618 states that a cable operator shall provide written notification to subscribers of the availability of basic tier service to new subscribers at the time of installation. This notification shall include the following information: (a) That basic tier service is available; (b) the cost per month for basic tier service; and (c) a list of all services included in the basic service tier. These notification requirements are to ensure the subscribers are made aware of the availability of basic cable service at the time of installation.

Federal Communications Commission.

Gloria Miles,

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

[FR Doc. 2011–11379 Filed 5–9–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and Request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission invites the general public and other Federal agencies to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information collection burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before June 9, 2011. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at 202–395–5167 or the Internet at *Nicholas_A._Fraser@omb.eop.gov;* and to the Federal Communications Commission's PRA mailbox (e-mail address: *PRA@fcc.gov*). Include in the e-mail the OMB control number of the collection as shown in the **SUPPLEMENTARY INFORMATION** section below, or if there is no OMB control number, include the Title as shown in the **SUPPLEMENTARY INFORMATION** section. If you are unable to submit your comments by e-mail, contact the person listed below to make alternate arrangements.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Paul Laurenzano at 202–418–1359 or via the Internet at *Paul.Laurenzano@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0774.

Title: Part 36 and 54, Federal-State Joint Board on Universal Service.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 7,570,974 respondents; 7,577,634 responses.

Estimated Time per Response: .084 hours—125 hours (average).

Frequency of Response: On occasion reporting, quarterly, annual, and once every 5 years reporting requirements, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. sections 151–154, 201–205, 218–220, 214, 254, 303(r), 403 and 410.

Total Annual Burden: 1,152,255 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality. However, respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this expiring information collection to the Office of Management and Budget (OMB) during this comment period in order to obtain the full three year clearance from them. The Commission is requesting OMB approval for a revision.

The Commission conducted an extensive clean-up of this information collection. There were mathematical corrections necessary, rule part consolidations, and one item was eliminated to avoid duplicity (information is being reported on the same rule part under a different OMB control number in a different information collection). Redundant or unnecessary information was removed. Therefore, the Commission is reporting a 127.200 hour burden reduction adjustment for which we seek OMB approval.

In the Telecommunications Act of 1996 (1996 Act), Congress directed the Commission to implement a new set of universal service support mechanisms that are explicit and sufficient to advance the universal service principles enumerated in 47 U.S.C. section 254 and other such principles as the Commission believes are necessary and appropriate for the protection of the public interest, convenience and necessity, and are consistent with the 1996 Act. Parts 36 and 54 promulgate the rules and requirements to preserve and advance universal service.

Federal Communications Commission.

Gloria Miles,

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

[FR Doc. 2011–11377 Filed 5–9–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Submitted for Review by the Federal Communication Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and Request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission invites the general public and other Federal agencies to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information collection burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before July 11, 2011. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at 202–395–5167 or via Internet at *Nicholas_A._Fraser@omb.eop.gov* and to Benish Shah, Federal Communications Commission, via the Internet at *Benish.Shah@fcc.gov.* To submit your PRA comments by e-mail send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Benish Shah, Office of Managing Director, (202) 418–7866.

SUPPLEMENTARY INFORMATION: *OMB Control Number:* 3060–0291.

Title: Section 90.477(a), (b)(2), (d)(2), and (d)(3), Interconnected Systems.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions and state, local or tribal government.

Number of Respondents: 10,294 respondents; 10,294 responses.

Estimated Time Per Response: .25 hours for 9,768 responses and 2 hours for 526 responses.

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

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. section 332(a).

Total Annual Burden: 3,494 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: No questions of a confidential nature are asked.

Needs and Uses: The Commission will submit this expiring information collection to the Office of Management and Budget (OMB) after this comment period to obtain the regular three year clearance. There is no change in the Commission's reporting, recordkeeping and/or third party disclosure requirements. There is no change in the Commission's burden estimates (since this information collection was approved by OMB in 2008).

This rule section governs interconnection of private land mobile radio service stations with the public switched telephone network as follows:

(1) Pursuant to 47 CFR section 90.477(a), licensees of interconnected land stations must maintain as part of their station records a detailed description of how interconnection is accomplished.

(2) Pursuant to 47 CFR section 90.477(b)(2) and (d)(2), at least one licensee participating in any cost sharing arrangement for telephone service must maintain cost sharing records, the costs must be distributed at least once a year, and a report of the distribution must be placed in the licensee's station records and made available to participants in the sharing arrangement and the Commission upon request.

(3) Pursuant to 47 CFR 90.477(d)(3), licensees in the Industrial/Business Pool and those licensees who establish eligibility pursuant to 90.20(a)(2), other than persons or organizations charged with specific fire protection activities,

persons or organizations charged with specific forestry-conservation activities, or medical emergency systems in the 450–470 MHz band, and who seek to connect within 120 km (75 miles) of 25 cities specified in 90.477(d)(3), must obtain the consent of all co-channel licensees located both within 120 km of the center of the city, and with 120 km of the interconnected base station transmitter. Consensual agreements must specifically state the terms agreed upon and a statement must be submitted to the Commission indicating that all co-channel licensees have consented to the use of interconnection.

In a December 1998 *Report and Order* in WT Docket Nos. 98–20 and 96–188, the Commission consolidated, revised and streamlined the Commission's rules governing the licensing application procedures for radio services licensed by the Commission's Wireless Telecommunications Bureau in order to fully implement the Universal Licensing System (ULS). As a result of the ULS rule conversions in connection with this information collection, 47 CFR section 90.477(a), interconnected systems now file all information (100 percent) electronically via ULS. Pursuant to 47 CFR sections 90.477(d)(3), interconnected systems were changed to reflect NAD83 coordinates.

Federal Communications Commission.

Gloria Miles,

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

[FR Doc. 2011–11376 Filed 5–9–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communication Commission.

ACTION: Notice and request for comments.

SUMMARY: The Federal Communications Commission (FCC), as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act (PRA) of 1995. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB Control Number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before July 11, 2011. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Leslie F. Smith, Federal Communications Commission (FCC), via e-mail to *PRA@fcc.gov* or to *Leslie.Smith@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information the information collection, contact Leslie F. Smith at (202) 418–0217.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0862.

Title: Handling Confidential Information.

Form Number(s): N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit; Not-for-profit institutions; Federal Government; and State, local, or tribal governments.

Number of Respondents and Responses: 2,400 respondents; 2,400 responses.

Estimated Time per Response: 1–2 hours.

Frequency of Response: On occasion reporting requirements; third party disclosure.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 4,200 hours.

Total Annual Cost: $0.00.

Privacy Impact Assessment: No Impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting that the respondents submit confidential information to the FCC. Respondents may, however, request confidential treatment for information they believe to be confidential under 47 CFR Section 0.459 of the Commission's rules.

Needs and Uses: On August 4, 1998, the FCC released a *Report and Order* (R&O), Examination of Current Policy Concerning Treatment of Confidential Information Submitted to the Commission, CG Docket No. 96–55. The R&O included a Model Protective Order (MPO) that is used, when appropriate, to grant limited access to information that the Commission determines should not be routinely available for public inspection. The party granted access to the confidential information materials must keep a written record of all copies made and provide this record to the submitted of the confidential materials upon request. This approach was adopted to facilitate the use of confidential materials under an MPO, instead of restricting access to materials. In addition, the FCC amended 47 CFR Section 0.459(b) to set forth the type of information that should be included when a party submits information to the Commissions for which it seeks confidential treatment. This listing of types of information to be submitted was adopted to provide guidance to the public for confidentiality requests.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–11375 Filed 5–9–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; Open Commission Meeting; Thursday, May 12, 2011

Date: May 5, 2011.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, May 12, 2011, which is scheduled to commence at 10:30 a.m. in Room TW–C305, at 445 12th Street, SW., Washington, DC.

The meeting will also include a presentation by the Managing Director on the status of the new FCC Web site.

Item No.	Bureau	Subject
1	PUBLIC SAFETY AND HOMELAND SECURITY	TITLE: Proposed Extension of Part 4 of the Commission's Rules Regarding Outage Reporting to Interconnected Voice Over Internet Protocol Service Providers and Broadband Internet Service Providers SUMMARY: The Commission will consider a Notice of Proposed Rulemaking to extend the outage reporting requirements in Part 4 of the rules to interconnected VoIP and broadband service providers to promote the resiliency of America's 9–1–1 system and the country's critical communications infrastructure.
2	INTERNATIONAL	TITLE: International Settlements Policy Reform; Joint Petition for Rulemaking of AT&T Inc., Sprint Nextel Corporation and Verizon (RM–11322); Modifying the Commission's Process to Avert Harm to U.S. Competition and U.S. Customers Caused by Anticompetitive Conduct (IB Docket No. 05–254); Petition of AT&T for Settlements Stop Payment Order on the U.S.-Tonga Route (IB Docket No. 09–10) SUMMARY: The Commission will consider, as part of the Commission's regulatory reform efforts, a Notice of Proposed Rulemaking to remove outdated regulations governing the exchange of telephone traffic between U.S. and foreign carriers that are no longer necessary to protect consumers and competition, while strengthening protections against anticompetitive practices by foreign carriers.
3	INTERNATIONAL	TITLE: Reporting Requirements for U.S. Providers of International Telecommunications Services (IB Docket No. 04–112); Amendment of Part 43 of the Commission's Rules SUMMARY: The Commission will consider, as part of the Commission's Data Innovation Initiative, a First Report and Order and Further Notice of Proposed Rulemaking to eliminate unnecessary reporting requirements regarding international telephone service, while streamlining and modernizing remaining international data reporting to ensure continued relevance in light of changing markets.

The meeting site is fully accessible to people using wheelchairs or other mobility aids. Sign language interpreters, open captioning, and assistive listening devices will be provided on site. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted, but may be impossible to fill. Send an e-mail to: *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Additional information concerning this meeting may be obtained from Audrey Spivack or David Fiske, Office of Media Relations, (202) 418–0500; TTY 1–888–835–5322. Audio/Video coverage of the meeting will be broadcast live with open captioning over the Internet from the FCC Live Web page at *www.fcc.gov/live.*

For a fee this meeting can be viewed live over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. To purchase these services call (703) 993–3100 or go to *www.capitolconnection.gmu.edu.*

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, Best Copy and Printing, Inc. (202) 488–5300; Fax (202) 488–5563; TTY (202) 488–5562. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio and video tape. Best Copy and Printing, Inc. may be reached by e-mail at *FCC@BCPIWEB.com.*

Federal Communications Commission.

Avis Mitchell,

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

[FR Doc. 2011–11582 Filed 5–6–11; 4:15 pm]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: *Background.* On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act (PRA), as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Request for Comment on Information Collection Proposals

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection,

including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected; and

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before July 11, 2011.

ADDRESSES: You may submit comments, identified by FR H–6; FR 2030, FR 2030a, FR 2056, FR 2086, FR 2086a, FR 2087, and FR 2083, by any of the following methods:

- *Agency Web Site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: regs.comments@federalreserve.gov.* Include docket number in the subject line of the message.
- *FAX:* 202/452–3819 or 202/452–3102.
- *Mail:* Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP–500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

Additionally, commenters should send a copy of their comments to the OMB Desk Officer by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW., Washington, DC 20503 or by fax to 202–395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: *http://www.federalreserve.gov/boarddocs/reportforms/review.cfm* or may be requested from the agency clearance officer, whose name appears below.

Cynthia Ayouch, Acting Federal Reserve Board Clearance Officer (202–452–3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact (202–263–4869), Board of Governors of the Federal Reserve System, Washington, DC 20551.

Proposals to approve under OMB delegated authority the extension for three years, without revision, of the following report(s):

1. *Report title:* Notifications Related to Community Development and Public Welfare Investments of State Member Banks.

Agency form number: FR H–6.

OMB control number: 7100–0278.

Frequency: Event-generated.

Reporters: State member banks.

Estimated annual reporting hours: 11.

Estimated average hours per response: Post Notification, 2 hours; Application (Prior Approval) 2 hours; and Extension of divestiture period, 5 hours.

Number of respondents: Post Notification, 2; Application (Prior Approval), 1; and Extension of divestiture period, 1.

General description of report: This information collection is required to obtain a benefit (12 U.S.C. 338a, and 12 CFR 208.22). Individual respondent data generally are not regarded as confidential, but information that is proprietary or concerns examination ratings would be considered confidential pursuant to Freedom of Information Act (FOIA) Exemption 8. In addition, if the respondent can establish the potential for substantial competitive harm, such information would be protected from disclosure pursuant to FOIA Exemption 4. The confidentiality status would be determined on a case-by-case basis.

Abstract: Regulation H requires state member banks that want to make community development or public welfare investments to comply with the Regulation H notification requirements: (1) If the investment does not require prior Board approval, a written notice must be sent to the appropriate Federal Reserve Bank; (2) if certain criteria are not met, a request for approval must be sent to the appropriate Federal Reserve Bank; and, (3) if the Board orders divestiture but the bank cannot divest within the established time limit, a request or requests for extension of the divestiture period must be submitted to the appropriate Federal Reserve Bank.

2. *Report title:* Application for Membership in the Federal Reserve System.

Agency form number: FR 2083, 2083A, 2083B, and 2083C.

OMB control number: 7100–0046.

Frequency: On occasion.

Reporters: Newly organized banks that seek to become state member banks, or existing banks or savings institutions that seek to convert to state member bank status.

Estimated annual reporting hours: 168 hours.

Estimated average hours per response: 4 hours.

Number of respondents: 42.

General description of report: This information collection is authorized by Section 9 of the Federal Reserve Act (12 U.S.C. 321, 322, and 333) and is required to obtain or retain a benefit. Most individual respondent data are not considered confidential. Applicants may, however, request that parts of their membership applications be kept confidential, but in such cases the Applicant must justify its request by demonstrating how an exemption under the Freedom of Information Act (FOIA) is satisfied. The confidentiality status of the information submitted will be judged on a case-by-case basis.

Abstract: The application for membership is a required one-time submission that collects the information necessary for the Federal Reserve to evaluate the statutory criteria for admission of a new or existing state bank into membership in the Federal Reserve System. The application collects managerial, financial, and structural data.

3. *Report title:* Applications for Subscription to, Adjustment in the Holding of, and Cancellation of Federal Reserve Bank Stock.

Agency form number: FR 2030, FR 2030a, FR 2056, FR 2086, FR 2086a, FR 2087.

OMB control number: 7100–0042.

Frequency: On occasion.

Reporters: National, State Member, and Nonmember banks.

Estimated annual reporting hours: FR 2030: 10 hours; FR 2030a: 16 hours; FR 2056: 517 hours; FR 2086: 1 hour; FR 2086a: 11 hours FR 2087: 1 hour.

Estimated average hours per response: .5 hours.

Number of respondents: FR 2030: 20; FR 2030a: 31; FR 2056: 1,034; FR 2086: 1; FR 2086a: 22; FR 2087: 2.

General description of report: These information collections are mandatory.

- FR 2030 and FR 2030a: (12 U.S.C. 222, 282, 248(a) and 321)
- FR 2056: (12 U.S.C. 287, 248(a) and (i))

• FR 2086: (12 U.S.C. 287, 248(a) and (i))

• FR 2086a: (12 U.S.C. 321, 287, 248(a))

• FR 2087: (12 U.S.C. 288, 248 (a) and (i))

Most individual respondent data are not considered confidential. Applicants may request that parts of their membership applications be kept confidential. Any request for confidentiality must be accompanied by a detailed justification for confidentiality. The confidentiality status of the information submitted will be judged on a case-by-case basis.

Abstract: These application forms are required by the Federal Reserve Act and Regulation I. These forms must be used by a new or existing member bank (including a national bank) to request the issuance, and adjustment in, or cancellation of Federal Reserve Bank stock. The forms must contain certain certifications by the applicants, as well as certain other financial and shareholder data that is needed by the Federal Reserve to process the request.

Board of Governors of the Federal Reserve System, May 4, 2011.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 2011–11323 Filed 5–9–11; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act; Notice of Meeting

TIME AND DATE: 9:30 a.m. (Eastern Time), May 16, 2011.

PLACE: 4th Floor Conference Room, 1250 H Street, NW., Washington, DC 20005.

STATUS: Parts will be open to the public and parts closed to the public.

Matters To Be Considered

Parts Open to the Public

1. Approval of the minutes of the April 18, 2011 Board member meeting.
2. Thrift Savings Plan activity report by the Executive Director.
   a. Monthly Participant Activity Report.
   b. Monthly Investment Performance Report.
   c. Legislative Report.
3. Report from BlackRock Senior Management.
4. Mid-Year Budget Review.

Parts Closed to the Public

5. Personnel.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Trabucco, Director, Office of External Affairs, (202) 942–1640.

Dated: May 6, 2011.

Laurissa Stokes,

Acting Secretary, Federal Retirement Thrift Investment Board.

[FR Doc. 2011–11541 Filed 5–6–11; 4:15 pm]

BILLING CODE 6760–01–P

FEDERAL TRADE COMMISSION

[File No. 102 3076]

Lookout Services, Inc.; Analysis of Proposed Consent Order To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before June 2, 2011.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write "Lookout Services, File No. 102 3076" on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/lookout,* by following the instructions on the Web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex D), 600 Pennsylvania Avenue, NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Kandi Parsons (202–326–2369) or Kristin Cohen (202–326–2276), FTC, Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and 2.34 the Commission Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for May 3, 2011), on the World Wide Web, at *http://www.ftc.gov/os/actions.shtm.* A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before June 2, 2011. Write "Lookout Services, File No. 102 3076" on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment doesn't include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment doesn't include any sensitive health information, like medical records or other individually identifiable health information. In addition, don't include any "[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential," as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, don't include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR

4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/lookout,* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

If you file your comment on paper, write "Lookout Services, File No. 102 3076" on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex D), 600 Pennsylvania Avenue, NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before June 2, 2011. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

Analysis of Agreement Containing Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, a consent order applicable to Lookout Services, Inc.

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

The Commission's complaint alleges that Lookout sells a web-based computer product known as the I–9 Solution. This product is designed to help employers comply with their obligations under federal law to complete and maintain a U.S. Citizenship and Immigration Services Form I–9 about each employee in order to verify that the employee is eligible to work in the United States. The complaint alleges that the I–9 Solution routinely collects and stores information about Lookout's customers' employees, including, but not limited to: Names; addresses; dates of birth; Social Security numbers; passport numbers; alien registration numbers; driver's license numbers; and military identification numbers. This highly sensitive information is maintained in Lookout's database (the "I–9 database"). The misuse of such information—particularly Social Security numbers, which do not expire—can facilitate identity theft, including existing and new account fraud, and related consumer harms.

The complaint alleges that, since at least 2006, Lookout engaged in a number of practices that, taken together, failed to provide reasonable and appropriate security for the personal information it collected and maintained. The challenged practices are fundamental security failures, most of which have been challenged in prior FTC data security cases. Among other things, Lookout:

a. Failed to implement reasonable policies and procedures for the security of sensitive consumer information it collected and maintained;

b. Failed to establish or enforce rules sufficient to make user credentials (*i.e.,* user ID and password) hard to guess;

c. Failed to require periodic changes of user credentials, such as every 90 days, for customers and employees with access to sensitive personal information;

d. Failed to suspend user credentials after a certain number of unsuccessful login attempts;

e. Did not adequately assess and address the vulnerability of its Web application to widely-known security flaws, such as "predictable resource location," which enables users to easily predict patterns and manipulate the uniform resource locators ("URL") to gain access to secure Web pages;

f. Allowed users to bypass the authentication procedures on Lookout's Web site when they typed in a specific URL;

g. Failed to employ sufficient measures to detect and prevent unauthorized access to computer networks, such as by employing an intrusion detection system and monitoring system logs; and

h. Created an unnecessary risk to personal information by storing passwords used to access the I–9 database in clear text.

Each of these failures could have been remedied using well-known, readily available, and/or free or low-cost data security measures.

The complaint further alleges that, as a result of these failures, an employee of a Lookout customer was able to obtain unauthorized access to Lookout's I–9 database on two separate occasions between October and December 2009. In both instances, the employee gained unauthorized access to the personal information, including Social Security numbers, of more than 37,000 consumers. Given the sensitive nature of the personal information exposed, the company's failure to provide reasonable and appropriate security for this information is likely to cause consumers substantial injury as described above. That substantial injury is not offset by countervailing benefits to consumers or competition and is not reasonably avoidable by consumers. The complaint alleges that Lookout's failure to employ reasonable and appropriate measures to prevent unauthorized access to sensitive personal information is an unfair act or practice and that the company misrepresented that it had implemented such measures, in violation of Section 5 of the Federal Trade Commission Act.

The proposed order applies to personal information that Lookout collects from or about consumers and employees. It contains provisions designed to prevent Lookout from engaging in the future in practices similar to those alleged in the complaint.

Part I of the proposed order prohibits misrepresentations about the privacy, confidentiality, or integrity of personal information collected from or about consumers. Part II of the proposed order requires Lookout to establish and maintain a comprehensive information security program that is reasonably designed to protect the security, confidentiality, and integrity of personal information collected from or about consumers. The security program must contain administrative, technical, and physical safeguards appropriate to Lookout's size and complexity, the nature and scope of its activities, and the sensitivity of the information collected from or about consumers and employees. Specifically, the proposed order requires Lookout to:

[1] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

• Designate an employee or employees to coordinate and be accountable for the information security program;

• Identify material internal and external risks to the security, confidentiality, and integrity of personal information that could result in the unauthorized disclosure, misuse, loss, alteration, destruction, or other compromise of such information, and assess the sufficiency of any safeguards in place to control these risks;

• Design and implement reasonable safeguards to control the risks identified through risk assessment, and regularly test or monitor the effectiveness of the safeguards' key controls, systems, and procedures;

• Develop and use reasonable steps to select and retain service providers capable of appropriately safeguarding personal information they receive from Lookout, and require service providers by contract to implement and maintain appropriate safeguards; and

• Evaluate and adjust its information security programs in light of the results of testing and monitoring, any material changes to operations or business arrangements, or any other circumstances that it knows or has reason to know may have a material impact on its information security program.

Part III of the proposed order requires Lookout to obtain within the first one hundred eighty (180) days after service of the order, and on a biennial basis thereafter for a period of twenty (20) years, an assessment and report from a qualified, objective, independent third-party professional, certifying, among other things, that: (1) It has in place a security program that provides protections that meet or exceed the protections required by Part II of the proposed order; and (2) its security program is operating with sufficient effectiveness to provide reasonable assurance that the security, confidentiality, and integrity of sensitive consumer, employee, and job applicant information has been protected.

Parts IV through VIII of the proposed order are reporting and compliance provisions. Part IV requires Lookout to retain documents relating to its compliance with the order. For most records, the order requires that the documents be retained for a five-year period. For the third-party assessments and supporting documents, Lookout must retain the documents for a period of three years after the date that each assessment is prepared. Part V requires dissemination of the order now and in the future to all current and future subsidiaries, current and future principals, officers, directors, and managers, and to persons with responsibilities relating to the subject matter of the order. Part VI ensures notification to the FTC of changes in corporate status.

Part VII mandates that Lookout submit a compliance report to the FTC within 60 days, and periodically thereafter as requested. Part VIII is a provision "sunsetting" the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the proposed order or to modify its terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2011–11182 Filed 5–9–11; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Submission for OMB Review; Comment Request

Request; OMB No. 0925–0177 "Special Volunteer and Guest Researcher Assignment," Form 590

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on August 25, 2010, page 52351 and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after July 31, 2005, unless it displays a currently valid OMB control number.

Proposed Collection: Title: Special Volunteer and Guest Researcher Assignment for use in NIH facilities. *Type of Information Collection Request:* Reinstatement, 0MB 0925–0177, Expiration Date July 31, 2005. *Need and Use of Information Collection Request: Form Number:* NIH–590. A single Form NIH–590 is completed by an NIH official for each Guest Researcher or Special Volunteer prior to his/her arrival at NIH. The information on the form is necessary for the approving official to reach a decision on whether to allow a Guest Researcher to use NIH facilities, or whether to accept volunteer services offered by a Special Volunteer. If the original assignment is extended, another form notating the extension is completed to update the file. *Frequency of Response:* once. *Affected Public:* Individuals. *Type of Respondents:* Non-federal scientific professionals and/or individuals. The annual Reporting burden is as follows: *Estimated Number of Respondents:* 1660; *Estimated Number of Responses per Respondent:* 1.0; *Average Burden Hours Per Response:* 0.1; and *Estimated Total Annual Burden Hours Requested:* 166. The estimated annualized cost to respondents is $2,275. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Mrs. Wanda Darwin, Office of Human Resources, Office of The Director, NIH, Building 31, Room 1C31E, One Center Drive, Bethesda, MD 20892–2269, or call non-toll-free number 301–402–

2820, or e-mail your request, including your address, to: [*darwinw@od.nih.gov*].

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: May 4, 2011.

Wanda R. Darwin,

Human Resources Specialist, Office of Human Resources, National Institutes of Health.

[FR Doc. 2011–11406 Filed 5–9–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Solicitation of Written Comments on the Draft Report and Draft Recommendations of the Vaccine Safety Working Group for Consideration by the National Vaccine Advisory Committee on the Federal Vaccine Safety System

AGENCY: National Vaccine Program Office, Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The National Vaccine Advisory Committee (NVAC) was established in 1987 to comply with Title XXI of the Public Health Service Act (Pub. L. 99–660) (Section 2105) (42 U.S. Code 300aa–5 (PDF—78 KB)). Its purpose is to advise and make recommendations to the Director of the National Vaccine Program on matters related to program responsibilities. The Assistant Secretary for Health (ASH) has been designated by the Secretary of Health and Human Services as the Director of the National Vaccine Program. The ASH has charged the NVAC "To review the current federal vaccine safety system and develop a White Paper describing the infrastructure needs for a federal vaccine safety system to fully characterize the safety profile of vaccines in a timely manner, reduce adverse events whenever possible, and maintain and improve public confidence in vaccine safety." On behalf of the NVAC, the Vaccine Safety Working Group (VSWG) has developed a draft report and draft recommendations for the consideration by the NVAC in developing the NVAC's final recommendations to the ASH. The National Vaccine Program Office (NVPO) is soliciting public comment on the National Vaccine Advisory Committee (NVAC) Vaccine Safety Working Group draft report and draft recommendations for the federal vaccine safety system to be considered by the NVAC. Individuals and organizations are encouraged to submit their comments on the draft report and draft recommendations. It is anticipated that the draft report and draft recommendations, as revised with consideration given to public comment and stakeholder input, will be presented in mid to late 2011 to the NVAC for deliberation and decision on their final recommendations.

DATES: To receive consideration comments should be received no later than 5 p.m. EST on June 6, 2011.

ADDRESSES: 1. The draft report and draft recommendations are available on the Web at *http://www.hhs.gov/nvpo/nvac/subgroups/vaccinesafety.html.*

2. Electronic responses are preferred and may be addressed to *vaccinesafetyRFI@hhs.gov*.

3. Written responses should be addressed to: National Vaccine Program Office, U.S. Department of Health and Human Services, 200 Independence Avenue, SW., Room 739G.5, Washington, DC 20201, *Attention:* Vaccine Safety c/o Kristin Goddard.

FOR FURTHER INFORMATION CONTACT: Kristin Goddard, National Vaccine Program Office, Department of Health and Human Services, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Room 439G.5, Washington, DC 20201, *Attn:* NVAC Vaccine Safety Working Group, telephone (202) 205–5317; fax 202–260–1165; e-mail *vaccinesafetyRFI@hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The National Vaccine Program Office (NVPO) is located within the Office of the Assistant Secretary for Health (OASH), Office of the Secretary, Department of Health and Human Services and has the responsibility for coordinating and fostering collaborations among the many Federal agencies involved in vaccine and immunization activities. NVPO also has responsibility for the management of the National Vaccine Advisory Committee, a chartered federal advisory committee that reports to the Assistant Secretary for Health in his role as the Director of the National Vaccine Program (NVP).

Recognizing the importance of vaccine safety in the NVP, the ASH charged NVAC to "review the current federal vaccine safety system and develop a White Paper describing the infrastructure needs for a federal vaccine safety system to fully characterize the safety profile of vaccines in a timely manner, reduce adverse events whenever possible, and maintain and improve public confidence in vaccine safety." On behalf of the NVAC the Vaccine Safety Working Group (VSWG) has developed a draft report and draft recommendations for the consideration by the NVAC in developing the NVAC's final recommendations to the ASH. The VSWG membership represents a broad range of expertise including pediatric and adult infectious diseases, genomics, immunology, epidemiology, public health, maternal and child health, pharmacoepidemiology, and biostatistics. Through review of previous recommendations on improvement to the vaccine safety system, input from an array of experts and stakeholders, and identification of gaps in the current federal vaccine safety system the VSWG developed draft recommendations for the consideration of the NVAC to achieve the charge as noted above.

The draft report describes relative benefits and risks of vaccines, current vaccine coverage levels, successes and challenges of the current system, methodology for VSWG recommendation development, and the conclusions of the VSWG from these findings. From these conclusions the VSWG has developed draft recommendations in eight categories: Leadership, Coordination, Research, Post Licensure Surveillance, Clinical Practice, Communications, Stakeholder and Public Engagement, and Assurance and Accountability.

Through this request for comment HHS is seeking comments from everyone, including stakeholders and the broad public, on the NVAC Vaccine Safety Working Group draft report and draft recommendations to be submitted to the NVAC for consideration in their final recommendations to the ASH. Comments received will be available for public viewing on the NVAC Vaccine Safety Working Group section of the NVPO Web site (*http://www.hhs.gov/nvpo/nvac/subgroups/vaccinesafety.html*).

II. Request for Comment

NVPO, on behalf of the NVAC Vaccine Safety Working Group, requests input on the draft report and draft recommendations. (*http://www.hhs.gov/nvpo/nvac/subgroups/vaccinesafety.html*). In addition to general comments, NVPO is seeking input on any additional gaps not addressed in the NVAC Vaccine Safety Working Group draft report, and/or prioritization criteria and its application

to the draft recommendations. Please limit comments to six pages.

III. Potential Responders

HHS invites input from a broad range of individuals and organizations that have interests in vaccines and vaccine safety. Some examples of these organizations include but are not limited to the following:

—General public;
—Advocacy groups and public interest organizations;
—State and local governments;
—State and local public health departments;
—Vaccine manufacturing industry, distributors and other businesses;
—Health care professional societies and organizations.

When responding, please self-identify with any of the above or other categories (include all that apply) and your name. All comments submitted will be made publicly available. Anonymous submissions will not be considered and will not have their comments posted.

Written comment submission should not exceed six pages. Any information you submit will be made public. Consequently, do not send proprietary, commercial, financial, business confidential, trade secret, or personal information that you do not wish to be made public.

Public Access: Comments on the draft report and draft recommendations will be available to the public on the NVAC Web site at *http://www.hhs.gov/nvpo/nvac/subgroups/vaccinesafety.html*. You may access public comments received by going to the above Web site.

Dated: May 4, 2011.

Wanda K. Jones,

Principal Deputy Assistant Secretary for Health.

[FR Doc. 2011–11401 Filed 5–9–11; 8:45 am]

BILLING CODE 4150–44–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Title: Request for Assistance for Child Victims of Human Trafficking.

OMB No.: 0970–0362.

Description: The William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008, Public Law 110–457, directs the U.S. Secretary of Health and Human Services (HHS), upon receipt of credible information that a non-U.S. citizen, non-Lawful Permanent Resident (alien) child may have been subjected to a severe form of trafficking in persons and is seeking Federal assistance available to victims of trafficking, to promptly determine if the child is eligible for interim assistance. The law further directs the Secretary of HHS to determine if a child receiving interim assistance is eligible for assistance as a victim of a severe form of trafficking in persons after consultation with the Attorney General, the Secretary of Homeland Security, and nongovernmental organizations with expertise on victims of severe forms of trafficking.

In developing procedures for collecting the necessary information from potential child victims of trafficking, their case managers, attorneys, or other representatives to allow HHS to grant interim eligibility, HHS devised a form. HHS has determined that the use of a standard form to collect information is the best way to ensure requestors are notified of their option to request assistance for child victims of trafficking and to make prompt and consistent determinations about the child's eligibility for assistance.

Specifically, the form asks the requestor for his/her identifying information, for information on the child, information describing the type of trafficking and circumstances surrounding the situation, and the strengths and needs of the child. The form also asks the requestor to verify the information contained in the form because the information could be the basis for a determination of an alien child's eligibility for federally funded benefits. Finally, the form takes into consideration the need to compile information regarding a child's circumstances and experiences in a non-directive, child-friendly way, and assists the potential requestor in assessing whether the child may have been subjected to trafficking in persons.

The information provided through the completion of a Request for Assistance for Child Victims of Human Trafficking form will enable HHS to make prompt determinations regarding the eligibility of an alien child for interim assistance, inform HHS' determination regarding the child's eligibility for assistance as a victim of a severe form of trafficking in persons, facilitate the required consultation process, and enable HHS to assess and address potential child protection issues.

Respondents: Representatives of governmental and nongovernmental entities providing social, legal, or protective services to alien persons under the age of 18 (children) in the United States who may have been subjected to severe forms of trafficking in persons.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Request for Assistance for Child Victims of Human Trafficking	200	1	1	200

Estimated Total Annual Burden Hours: 200.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, *Attn:* ACF Reports Clearance Officer. E-mail address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d)

ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2011–11364 Filed 5–9–11; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0422]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Information From United States Firms and Processors That Export to the European Community

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Information From United States Firms and Processors That Export to the European Community" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–3793.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 23, 2010 (75 FR 71444), the Agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0320. The approval expires on February 28, 2014. A copy of the supporting statement for this information collection is available on the Internet at *http://www.reginfo.gov/public/do/PRAMain.*

Dated: May 4, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–11360 Filed 5–9–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0631]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Guidance for Industry on Updating Labeling for Susceptibility Test Information in Systemic Antibacterial Drug Products and Antimicrobial Susceptibility Testing Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by June 9, 2011.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, *Attn:* FDA Desk Officer, FAX: 202–395–7285, or e-mailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0638. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Elizabeth Berbakos, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–3792, *Elizabeth.Berbakos@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Guidance for Industry on Updating Labeling for Susceptibility Test Information in Systemic Antibacterial Drug Products and Antimicrobial Susceptibility Testing Devices—(OMB Control Number 0910–0638)—Extension

The Food and Drug Administration Amendments Act of 2007 (FDAAA) includes a requirement that FDA identify and periodically update susceptibility test interpretive criteria for antibacterial drug products and make those findings publicly available. As a result of this provision, the guidance explains the importance of making available to health care providers the most current information regarding susceptibility test interpretive criteria for antibacterial drug products. To address concerns about antibacterial drug product labeling with out-of-date information on susceptibility test interpretive criteria, quality control parameters, and susceptibility test methods, the guidance describes procedures for FDA, applications holders, and antimicrobial susceptibility testing device manufacturers to ensure that updated susceptibility test information is available to health care providers. Where appropriate, FDA will identify susceptibility test interpretive criteria, quality control parameters, and susceptibility test methods by recognizing annually, in a **Federal Register** notice, standards developed by one or more nationally or internationally recognized standard development organizations. The FDA recognized standards will be available to application holders of approved antibacterial drug products for updating their product labeling.

Application holders can use one of the following approaches to meet their responsibilities to update their product labeling under the guidance and FDA regulations: Submit a labeling supplement that relies upon a standard recognized by FDA in a **Federal Register** notice or submit a labeling supplement that includes data supporting a proposed change to the microbiology information in the labeling. In addition, application holders should include in their annual report an assessment of whether the information in the "Microbiology" subsection of their product labeling is current or whether changes are needed. This information collection is already approved by OMB under control number 0910–0572 (the requirement in 21 CFR 201.56(a)(2) to update labeling when new information becomes available that causes the labeling to become inaccurate, false, or misleading) and control number 0910–0001 (the requirement in 21 CFR

314.70(b)(2)(v) to submit labeling supplements for certain changes in the product's labeling and the requirement in 21 CFR 314.81(b)(2)(i) to include in the annual report a brief summary of significant new information from the previous year that might affect the labeling of the drug product).

In addition, under the guidance, if the information in the applicant's product labeling differs from the standards recognized by FDA in the **Federal Register** notice, and the applicant believes that changes to the labeling are not needed, the applicant should provide written justification to FDA why the recognized standard does not apply to its drug product and why changes are not needed to the "Microbiology" subsection of the product's labeling. This justification should be submitted as general correspondence to the product's application, and a statement indicating that no change is currently needed and the supporting justification should be included in the annual report. Based on our knowledge of the need to update information on susceptibility test interpretive criteria, susceptibility test methods, and quality control parameters in the labeling for systemic antibacterial drug products for human use, and our experience with the FDAAA requirement and the guidance recommendations during the past 16 months, we estimate that, annually, approximately two applicants will submit the written justification described previously and in the guidance, and that each justification will take approximately 16 hours to prepare and submit to FDA as general correspondence and as part of the annual report.

In the **Federal Register** of December 23, 2010 (75 FR 80823), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response (in hours)	Total hours
Justification Submitted as General Correspondence and in the Annual Report	2	1	2	16	32
Total					32

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: May 3, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–11359 Filed 5–9–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0326]

Biologics Price Competition and Innovation Act of 2009; Options for a User Fee Program for Biosimilar and Interchangeable Biological Product Applications for Fiscal Years 2013 Through 2017; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for comments.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is issuing this document to request comments relating to the development of a user fee program for biosimilar and interchangeable biological product (351(k)) applications submitted under the Public Health Service Act (PHS Act). FDA is requesting input on the identified principles for development of a 351(k) user fee program, FDA's proposed structure for a 351(k) user fee program that would adhere to these principles, and performance goals for this program. FDA plans to review the comments submitted to the docket, hold meetings with public stakeholders, and hold industry stakeholder meetings to develop proposed recommendations for a user fee program for 351(k) applications for fiscal years (FYs) 2013 through 2017.

DATES: Submit either electronic or written comments by June 9, 2011. Submit notification of interest in participating in public stakeholder meetings or industry stakeholder meetings on or before June 3, 2011.

ADDRESSES: 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. Public and industry stakeholders who have not yet notified FDA of their interest in participating in these meetings should e-mail complete contact information to *BiosimilarsUserFeeProgram@fda.hhs.gov.* (See sections VI.B and VI.C of this document for additional information.)

FOR FURTHER INFORMATION CONTACT: Sunanda Bahl, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 1168, Silver Spring, MD 20993–0002, 301–796–3584, FAX: 301–847–8443, *e-mail: sunanda.bahl@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On March 23, 2010, President Obama signed into law the Affordable Care Act (Pub. L. 111–148). The Affordable Care Act contains a subtitle called the Biologics Price Competition and Innovation Act of 2009 (BPCI Act) that amends the PHS Act and other statutes to create an abbreviated approval pathway for biological products shown to be highly similar (biosimilar) to, or interchangeable with, an FDA-licensed reference biological product. (See sections 7001 through 7003 of the Affordable Care Act.) Section 351(k) of the PHS Act (42 U.S.C. 262(k)), added by the BPCI Act, allows a company to submit an application for licensure of a biosimilar or interchangeable biological product.

The BPCI Act amends section 735 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 379g) to include 351(k) applications in the definition of "human drug application" for the purposes of the prescription drug user fee provisions. (See section 7002(f)(3)(A) of the Affordable Care Act.) Accordingly, under section 736 of the FD&C Act (21 U.S.C. 379h), the fee for a biologics license application (BLA) is currently the same regardless of whether the application is submitted

under the new 351(k) approval pathway or the preexisting 351(a) approval pathway.

The authority conferred by the FD&C Act's prescription drug user fee provisions expires in September 2012. The BPCI Act directs FDA to develop recommendations for a user fee program for 351(k) applications for FYs 2013 through 2017. (See section 7002(f)(1) of the Affordable Care Act.) In developing recommendations for a biosimilar and interchangeable biological products user fee program, FDA is required to consult with a range of groups, including scientific and academic experts, health care professionals, representatives of patient and consumer advocacy groups, and regulated industry. The recommendations must be presented to Congress by January 15, 2012. (See section 7002(f)(1) of the Affordable Care Act.)

Developing a user fee program for 351(k) applications presents unique challenges as compared to other medical product user fee programs. One key consideration in developing a user fee program is the state of the regulated industry. For example, when the Prescription Drug User Fee Act (PDUFA) program was first implemented in FY 1993, the biopharmaceutical industry was relatively mature. FDA had a record of more than 2,000 drug and biological products already on the market, more than 200 establishments were involved in the manufacturing of these products, and approximately 120 new drug marketing applications were submitted each year for FDA review. The number of participants in the industry and the volume of anticipated annual applications allowed FDA to generate significant revenue from user fees tied to marketing application submissions and currently marketed products (product and establishment fees). In contrast, given that the biosimilar and interchangeable biological product approval pathway did not exist prior to March 2010, the biosimilar and interchangeable biological product market is just forming. Although FDA has met with sponsors who are interested in developing biosimilar and interchangeable biological products, no products have been approved for marketing under section 351(k) of the PHS Act. As such, although the PDUFA program is a useful model, FDA believes that a user fee program for 351(k) applications will need to include different elements to ensure an equitable program that generates adequate revenue.

In this document, FDA describes the principles it proposes to use to develop a biosimilars user fee program, a proposed structure for the program based on these principles, and proposed performance goals. FDA is requesting public comment on each of these proposals, and is also posing several questions for public input on some unresolved issues associated with developing performance goals for this new user fee program.

II. Principles for Development of a Biosimilars User Fee Program

FDA proposes to develop recommendations for the 351(k) user fee program that are guided by a set of key principles to support the development of a fair and adequate initial user fee program.[1] These proposed principles are based on FDA's prior experience with elements that foster strong and successful user fee programs, as well as comments submitted to the docket by external stakeholders. FDA solicits comment on these proposed principles. The proposed principles are:

(1) Biosimilar and interchangeable biologics represent a critical public health benefit to patients, with the potential to offer life-saving or life-altering benefits at reduced costs to the patient. FDA needs sufficient review capacity to prevent unnecessary delays in the development and approval of these products.

(2) At least for the initial 5-year authorization of the 351(k) user fee program, 351(k) user fees should remain comparable to 351(a) user fees. This aligns with the PDUFA standard for assessing human drug application fees for applications for which clinical data (other than bioavailability or bioequivalence studies) with respect to safety or effectiveness are required for approval. That is, under PDUFA, the fee for a new drug application (NDA) that is submitted under section 505(b)(2) of the FD&C Act (21 U.S.C. 355(b)(2)) and that requires clinical data is the same as the fee for an NDA submitted under section 505(b) that requires clinical data for approval, even though the 505(b)(2) approval pathway allows an applicant to rely on studies not conducted by or for the applicant and for which the applicant has not obtained a right of reference or use. FDA believes a similar approach is appropriate for applications for biosimilar products because, at least initially, review to determine biosimilarity or interchangeability of a proposed product in a 351(k) application is expected to be comparably complex, technically demanding, and resource-intensive as review of a proposed 351(a) application. For example, characterizing biological products for the purpose of determining biosimilarity or interchangeability is challenging because the molecules of biological products tend to be much larger and have a far more complex spatial structure than small-molecule drugs. However, FDA does not expect that review of the 351(k) applications will require more resources than review of 351(a) applications. Therefore, the level of user fees for biosimilars should not exceed the level of 351(a) user fees.

(3) The 351(k) user fee program should provide funding to support activities that occur early in the biosimilar and interchangeable product development cycle. Given that the approval pathway for biosimilar and interchangeable biological products is new, FDA services are most critical for continued and successful development of biosimilar and interchangeable biological products during the investigational stage prior to submission of a marketing application. To date, most of FDA's work on biosimilars has been focused on development of regulatory standards, policy, and consultations with 351(k) sponsors to support product development leading to a marketing application. As a result, in developing an effective 351(k) user fee program, FDA should consider fee structures that fund critical activities that support submission of a marketing application.

(4) Innovator biologics represent a critical public health benefit to patients, often offering life-saving or life-altering therapies to treat previously unmet medical needs. The same expert scientific teams that conduct FDA's review of 351(a) applications will typically be involved in the review of 351(k) applications. The 351(k) user fee program should ensure adequate resources for the review of 351(k) applications, so that critical resources for 351(a) review are not redirected from innovator drug review to biosimilar products. Applications submitted under both section 351(a) and section 351(k) need adequate resourcing to ensure the best health outcomes for U.S. patients and fairness to all industry sponsors.

III. Proposal for 351(k) User Fee Program for FYs 2013 Through 2017

FDA believes the proposed structure for a user fee program described in this section adheres to the proposed principles identified in section II of this document. The proposed structure would ensure sound funding for development of the scientific,

[1] As we expect the program to be reevaluated and reauthorized periodically as are all of FDA's other medical product user fee programs, our focus here is on the initial program.

regulatory, and policy infrastructure necessary for review of 351(k) applications, including resources for critical development-phase FDA consultation and review work, while charging no more for review of a 351(k) application than would be paid by applicants seeking review of a 351(a) marketing application. The level and timing of the proposed fee funding is also expected to minimize the risk of redirection of 351(a) review resources to biosimilars review work.

FDA's proposed structure for a 351(k) user fee program has some features that would be similar to the current PDUFA structure. First, because FDA expects that marketing application review, preapproval facility inspections, and safety issues will be comparably complex for 351(k) and 351(a) applications, for the initial 5-year authorization, the Agency proposes to maintain the PDUFA fee levels for 351(k) marketing applications, manufacturing establishments, and products. However, the Agency proposes to modify this structure to provide resources in the near-term because, as noted in section I of this document, there is no existing inventory of marketed products that would generate fees.

Sponsors are currently submitting requests for FDA meetings and consultations during the biosimilar product development phase. Given that sponsors have limited experience utilizing the novel 351(k) pathway, FDA expects that sponsors will continue to require significant advice and support throughout this phase. As a result, the Agency is proposing a 351(k) user fee structure that would shift payment for FDA review to the earlier stage of development where FDA activities currently are in greatest demand and increased review capacity is needed.

The proposed 351(k) user fee program would consist of the following:

For an Application in the Premarket Phases

- *Biosimilar Product Development fee,* paid upon submission of an investigational new drug application (IND) and annually thereafter for a biosimilar or interchangeable product (molecule) under active development that is intended for submission in a single 351(k) marketing application.
- *351(k) Marketing Application fee,* paid for each submitted 351(k) marketing application. This fee would be set equal to a 351(a) marketing application fee, less the sum of all of the previously paid annual Biosimilar Product Development fees associated with the biosimilar product that is the subject of the 351(k) application.

For Marketed 351(k) Products, the Annual Fees Would Include

- *Establishment fee,* paid annually for each biosimilar and interchangeable biological product establishment listed in an approved 351(k) application. The establishment fee is assessed for each biosimilar and interchangeable biological product that is assessed a product fee—unless the establishment listed in the application does not manufacture the product during the FY.
- *Product fee,* paid annually for each eligible approved biosimilar and interchangeable biological product.

These fees are described in more detail. (See sections III.A and B.)

A. Description of Proposed Fees

1. Biosimilar Product Development Fee

FDA proposes an annual 351(k) Biosimilar Product Development fee for each distinct biosimilar or interchangeable product (molecule) under active development. The sponsor would pay this fee at IND submission and annually thereafter for the duration of the active development phase. The sponsor would be required to declare that the development program is intended to support a 351(k) marketing application upon IND submission. During the development phase, if the sponsor changes the approval pathway from 351(k) to another, such as the 351(a) approval pathway, then the sponsor would stop paying the Biosimilar Product Development fee. Similarly, if a sponsor changes the development program for an existing IND from the 351(a) pathway to the 351(k) pathway, the sponsor would be required to begin paying the Biosimilar Product Development fee. Failure to pay the Biosimilar Product Development fee on initial IND submission or annually as required would result in the IND being placed on Full Clinical Hold. When the applicant submits the associated 351(k) marketing application, the sum of the previously paid annual Biosimilar Product Development fees would be deducted from the 351(k) marketing application fee.

This annual Biosimilar Product Development fee would support the ongoing scientific, technical, and other regulatory activities associated with 351(k) biosimilar development, including milestone meetings and the application data reviews required to provide advice for the next steps in development. These fees are essential to enable the staffing capacity to handle the workload associated with activities that support 351(k) product development programs. FDA estimates that the annual activities in this phase may be comparable to, or greater than, 351(a) IND application activities. These activities can include FDA review of study protocols; review of clinical, safety and other data; and providing sponsors with timely feedback and advice for their 351(k) development program. FDA anticipates that the FY 2013 annual Biosimilar Product Development fee amount would be on the order of $150,000.

2. 351(k) Marketing Application Fee

FDA estimates that the cost of reviewing a 351(k) marketing application will be comparable to the cost of reviewing a 351(a) marketing application. FDA therefore proposes to set the marketing application fee for a 351(k) submission equal to that of a 351(a) submission. The feedback and consultation that FDA expects to provide for active 351(k) INDs is expected to improve the efficiency of the 351(k) product development process and the quality of submitted 351(k) marketing applications. Therefore, FDA considers the deduction of the Biosimilar Product Development fee payments from the associated marketing application fee payment is a reasonable approach to shift resources forward to the point in development where FDA review is currently being sought by sponsors. When a 351(k) marketing application is submitted, the applicant would pay the 351(k) application fee less the sum of any associated paid annual Biosimilar Product Development fees. For example, if the IND sponsor paid a total of $450,000 in Biosimilar Product Development annual fees, upon submission of the 351(k) marketing application, the applicant would pay the prevailing 351(k) marketing application fee (set equal to the 351(a) marketing application fee) less $450,000.

3. Annual Establishment and Product Fees for Marketed 351(k) Products

Because the complexity and level of effort required for FDA oversight of manufacturing and postmarket safety issues for products licensed under 351(k) is expected to be comparable to that required for products licensed under 351(a), FDA also proposes setting the establishment and product fee rates equal to the comparable PDUFA rates for any FY. FDA anticipates a modest level of funding from these sources because only biosimilar biological products already approved for marketing would be subject to these fees.

B. Summary of Proposed 351(k) User Fee Program

The intent of the proposed 351(k) user fee program is to provide FDA with adequate funding throughout each stage in the development of a biosimilar or interchangeable biological product, ensuring efficiency in FDA's review and approval of these important therapies without compromising review quality or approval standards. Table 1 of this document contains a summary of the proposed recommendations for the 351(k) user fee program.

TABLE 1—PROPOSED 351(k) USER FEE PROGRAM

Fee category	Fee administration	Estimated fee rates for FY 2013
Pre 351(k) Market Approval Phase		
Biosimilar Product Development Fee.	Annual for each 351(k) IND, for duration of IND phase.	Based on the annual estimated cost of IND activities per year per IND. Estimated to be $150,000.
Application Fee	For each 351(k) marketing application at time of application submission.	Set equal to PDUFA original NDA/BLA fee, less sum of payments of Biosimilar Product Development fees.
Marketed 351(k) Applications		
Establishment Fee	Annual	Set equal to PDUFA establishment fee.
Product Fee	Annual	Set equal to PDUFA product fee.

IV. Proposed Performance Goals for 351(k) Applications for FYs 2013 Through 2017

Under section 351(k)(7) of the PHS Act, a 351(k) application may not be submitted to the Secretary of Health and Human Services (the Secretary) until 4 years after the reference product was first licensed under section 351(a); however, the Secretary may not make approval of a 351(k) application effective until 12 years after the reference product was first licensed. Accordingly, in proposing performance goals for 351(k) applications for FYs 2013 through 2017, FDA must take into account the fact that two different categories of 351(k) applications may be submitted. In the first category are applications that are submitted 10 or more years after the date of first licensure of the reference product. Such applications would be eligible for approval in 2 years or less, depending on the relevant filing dates. For these applications, performance goals similar to those for 351(a) applications may be appropriate. Like the initial PDUFA review performance goals, FDA is proposing that the goals be phased in over the first 5 years of the program so that an increasing percentage of applications would be expected to be reviewed within the goal each year.

In the second category are applications submitted between 4 and 10 years after the date of first licensure of the reference product. Under section 351(k)(7) of the PHS Act, such applications would not be eligible for approval for more than 2 years and perhaps for as long as 8 years. For this second category of applications, FDA is concerned about committing resources to meet performance goals that might ready an application for approval years before it could be approved, necessitating updating of the application, new reviews, and new inspections of facilities shortly before the application becomes eligible for approval under the section 351(k)(7). Accordingly, FDA is proposing performance goals for applications in the first category and soliciting public input on several questions relating to establishing performance goals for applications in the second category.

For 351(k) applications that are submitted 10 or more years after the date of first licensure of the reference product, FDA recommends the following proposed review performance goals for FYs 2013 through 2017:

FY 2013

- For applications requesting a biosimilarity determination, FDA proposes to review and act on 50 percent of original 351(k) submissions within 10 months of the 60-day filing date.
- For applications requesting an interchangeability determination, FDA proposes to review and act on 50 percent of original 351(k) submissions for interchangeability determination within 10 months of the 60-day filing date.
- For applications requesting a biosimilarity determination, FDA proposes to review and act on 50 percent of 351(k) resubmissions in response to a complete response action within 6 months of receipt.
- For applications requesting an interchangeability determination, FDA proposes to review and act on 50 percent of 351(k) resubmissions in response to a complete response action within 6 months of receipt.

FY 2014

- For applications requesting a biosimilarity determination, FDA proposes to review and act on 60 percent of original 351(k) submissions within 10 months of the 60-day filing date.
- For applications requesting an interchangeability determination, FDA proposes to review and act on 60 percent of original 351(k) submissions for interchangeability determination within 10 months of the 60-day filing date.
- For applications requesting a biosimilarity determination, FDA proposes to review and act on 60 percent of 351(k) resubmissions in response to a complete response action within 6 months of receipt.
- For applications requesting an interchangeability determination, FDA proposes to review and act on 60 percent of 351(k) resubmissions in response to a complete response action within 6 months of receipt.

FY 2015

- For applications requesting a biosimilarity determination, FDA proposes to review and act on 70 percent of original 351(k) submissions within 10 months of the 60-day filing date.
- For applications requesting an interchangeability determination, FDA proposes to review and act on 70 percent of original 351(k) submissions for interchangeability determination within 10 months of the 60-day filing date.
- For applications requesting a biosimilarity determination, FDA proposes to review and act on 70 percent of 351(k) resubmissions in response to a complete response action within 6 months of receipt.

- For applications requesting an interchangeability determination, FDA proposes to review and act on 70 percent of 351(k) resubmissions in response to a complete response action within 6 months of receipt.

FY 2016

- For applications requesting a biosimilarity determination, FDA proposes to review and act on 80 percent of original 351(k) submissions within 10 months of the 60-day filing date.
- For applications requesting an interchangeability determination, FDA proposes to review and act on 80 percent of original 351(k) submissions for interchangeability determination within 10 months of the 60-day filing date.
- For applications requesting a biosimilarity determination, FDA proposes to review and act on 80 percent of 351(k) resubmissions in response to a complete response action within 6 months of receipt.
- For applications requesting an interchangeability determination, FDA proposes to review and act on 80 percent of 351(k) resubmissions in response to a complete response action within 6 months of receipt.

FY 2017

- For applications requesting a biosimilarity determination, FDA proposes to review and act on 90 percent of original 351(k) submissions within 10 months of the 60-day filing date.
- For applications requesting an interchangeability determination, FDA proposes to review and act on 90 percent of original 351(k) submissions for interchangeability determination within 10 months of the 60-day filing date.
- For applications requesting a biosimilarity determination, FDA proposes to review and act on 90 percent of 351(k) resubmissions in response to a complete response action within 6 months of receipt.
- For applications requesting an interchangeability determination, FDA proposes to review and act on 90 percent of 351(k) resubmissions in response to a complete response action within 6 months of receipt.

To help the Agency develop performance goals for 351(k) applications that are submitted earlier than 10 years after first licensure of the reference product (*i.e.,* between year four and year ten), FDA requests comment on the following questions:

Question IV.1: What factors should the Agency consider in determining appropriate performance goals for 351(k) applications that are filed earlier than 2 years prior to the date on which a 351(k) application would be eligible for approval (*i.e.,* 12 years after the date of first licensure of the reference product)? For example, how should the Agency address issues relating to review of critical quality attributes of the 351(k) product, technological developments, facility changes, and other issues that arise during the period of time between the filing of a 351(k) application (as early as 4 years after the date of first licensure of the reference product) and the date on which a 351(k) application would be eligible for approval (12 years after the date of first licensure of the reference product)?

Question IV.2: How should the performance goals take into account readiness for inspection? For example, should the performance goal (or user fee) structure take into account such factors as whether the product that is the subject of a 351(k) is already in commercial production for sale in another country? In such a case, if the sponsor proposes to use the same manufacturing facility for the 351(k) product, FDA could conduct an inspection at the facility and actually observe the production process. If the product is not being produced in another country, there may not be a facility ready for preapproval inspection, or even built yet. How should the performance goals take this into account?

Question IV.3: What other factors relating to the unique characteristics of the 351(k) approval pathway should the Agency consider when setting performance goals for 351(k) applications?

V. Stakeholder Meetings

A. Public Stakeholder Meetings

In the **Federal Register** of December 8, 2010 (75 FR 76472) (December 2010 notice), FDA issued a notice to request that public stakeholders, including patient and consumer advocacy groups, health care professionals, and scientific and academic experts, notify FDA of their intent to participate in consultation meetings related to the development of recommendations for a user fee program for biosimilar and interchangeable biological product applications. Public stakeholders who identified themselves in response to the December 2010 notice will be notified and invited to participate in future public stakeholder meetings that will be held over the same period when FDA is holding industry stakeholder meetings. (See section V.B of this document.) FDA regulatory policy issues are beyond the scope of the proposed stakeholder discussions. Accordingly, stakeholder presentations and discussions will focus on the structure of the 351(k) user fee program, and not policy issues.

B. Industry Stakeholder Meetings

The BPCI Act requires FDA to consult with "regulated industry" in developing recommendations for the 351(k) user fee program. Acknowledging the nascent state of the biosimilar biologics industry, FDA proposes to hold a series of industry stakeholder meetings to comply with this requirement.

Given that no approval pathway for biosimilar biological products existed prior to the BPCI Act, it is not clear which companies comprise "regulated industry" for biosimilar and interchangeable biological products. Accordingly, in the **Federal Register** document that announced the November 2 and 3, 2010, public hearing (November 2010 public hearing document) on the implementation of the BPCI Act, FDA sought comments relating to user fees and requested that those who submitted comments identify companies that would be affected by a 351(k) user fee program, as well as industry associations representing such companies. (See 75 FR 61497, October 5, 2010.) Based on comments submitted to the docket, FDA anticipates that companies that principally manufacture innovator drugs and companies that principally manufacture generic drugs will pursue biosimilar and interchangeable product development programs. Given the potential competing interests of the affected stakeholders, and given that no industry association exists to expressly represent the interests of 351(k) sponsors, FDA concludes that it will need to follow a different process for the 351(k) user fee program than for its other medical product user fee programs.

Specifically, FDA proposes to conduct a series of industry-stakeholder meetings over a period of 2 to 3 months in 2011, with the hope that this process will lead to a package of proposed recommendations with which all parties can align. All industry associations who have expressed interest, and individual industry sponsors who have identified their interest and intention to develop biosimilar biological products, will be invited to participate in the industry-stakeholder meetings. The industry stakeholder meetings will address the following:

- Review and discussion of key principles and criteria for design of a fair and adequate 351(k) user fee program.

• Review and discussion of FDA's proposed 351(k) user fee program structure and any alternative structures submitted to the public docket in response to this document that would also meet the key design principles and criteria.

• Review and discussion of FDA's proposed performance goals for 351(k) applications. FDA will review and analyze the industry stakeholder input obtained through this process. FDA will take this information into account, as well as information obtained from public stakeholder consultation meetings, in developing the proposed set of recommendations that will be presented to Congressional Committee staff, published in the **Federal Register** for public review and comment, and presented at a public meeting to obtain public input. After the public meeting, the proposed recommendations would be revised as necessary before transmittal to Congress by January 15, 2012.

VI. Next Steps

A. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments regarding this document. It is only necessary to send one set of comments. It is no longer necessary to send two copies of mailed comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

FDA encourages members of the public to submit comments to the docket on the following topics:

Question VI.1: FDA-proposed principles for a fair and adequate 351(k) user fee program (section II of this document),

Question VI.2: FDA-proposed structure for a 351(k) user fee program that aligns with these principles (section III of this document), and

Question VI.3: FDA-proposed performance goals for a 351(k) user fee program for FYs 2013 through 2017 (section IV of this document).

FDA also encourages the public to submit comments to the docket concerning any potential alternative 351(k) user fee structures that would align with the proposed principles. When you submit comments to the docket, identify the section of this document and the number of each question you address. FDA plans to review the comments submitted to the docket, hold consultation meetings with public stakeholder groups, and hold industry stakeholder meetings, to refine the proposed recommendations for a 351(k) user fee program for FYs 2013 through 2017.

B. Public Stakeholder Identification

Public stakeholders who have not yet notified FDA that they wish to participate in these consultation meetings should notify FDA by e-mail to *BiosimilarsUserFeeProgram@fda.hhs.gov* on or before June 3, 2011. Your e-mail should contain complete contact information, including name, title, organization affiliation, address, e-mail address, telephone number, and notice of any special accommodations required because of disability. Stakeholders will receive confirmation and additional information about the first meeting once FDA receives their notification.

C. Industry Stakeholder Identification

FDA is requesting that industry stakeholders, including industry associations with relevant interests and individual companies with ongoing efforts or interest in developing biosimilar and interchangeable biological products, identify their interest in participating in industry stakeholder meetings. The purpose of these industry stakeholder meetings is to hold a series of discussions to develop proposed recommendations for a user fee program for biosimilar and interchangeable biological product applications for FYs 2013 through 2017.

If you have not yet notified FDA that you are a company or trade association that would be affected by a 351(k) user fee program, please provide notification by e-mail to *BiosimilarsUserFeeProgram@fda.hhs.gov* on or before June 3, 2011. Your e-mail should contain complete contact information, including name, title, organization affiliation, address, e-mail address, telephone number, and notice of any special accommodations required because of disability.

VII. Additional Information on the BPCI Act

There are several sources of information on FDA's Web site that may serve as useful resources for stakeholders intending to participate in consultation meetings:

• The **Federal Register** document that announced the November 2010, public hearing and requested public comments is available at *http://edocket.access.gpo.gov/2010/pdf/2010-24853.pdf.* (FDA has verified the Web site address, but FDA is not responsible for any subsequent changes to the Web site after this document publishes in the **Federal Register**.)

• Comments submitted in response to the November 2010 public hearing document can be found at *http://www.regulations.gov* using Docket No. FDA–2010–N–0477.

• The **Federal Register** notice that requested notification of stakeholder intention to participate in consultation meetings is available at *http://edocket.access.gpo.gov/2010/pdf/2010-30713.pdf.*

• Additional information regarding implementation of the BPCI Act is available at *http://www.fda.gov/Drugs/GuidanceCompliance RegulatoryInformation/UCM215031.*

Dated: May 4, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–11348 Filed 5–9–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget (OMB), in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, e-mail *paperwork@hrsa.gov* or call the HRSA Reports Clearance Office on (301) 443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Title (OMB No. 0915–NEW)—[NEW]

Authorized through the Patient Navigator Outreach and Chronic Disease Prevention Act of 2005 (Pub. L. 109–18), as amended by the Patient Protection and Affordable Care Act (Pub. L. 111–148), the Patient Navigator Outreach and Chronic Disease Prevention Demonstration Program (PNDP) supports the development and operation of projects to provide patient navigator services to improve health outcomes for individuals, including individuals with cancer and other chronic diseases, and health disparities populations. Award

recipients are to use grant funds to recruit, assign, train, and employ patient navigators who have direct knowledge of the communities they serve to facilitate care for those who are at risk for or who have cancer or other chronic diseases and for outreach to health disparities populations.

As authorized by the statute, a report on the outcomes of the program must be submitted to Congress. The statute requires that the Report to Congress include a quantitative analysis of baseline and benchmark measures; aggregate information about the patients served and program activities; and recommendations on whether patient navigator programs could be used to improve patient outcomes in other public health areas. The data collection instruments (see table) are intended to provide the data needed to produce the Report to Congress.

The annual estimate of burden is as follows:

Form	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Navigated Patient Data Intake Form	4,827	1	4,827	0.5	2,413.5
VR–12 Health Status Form	4,827	2	9,654	.12	1,158.5
SubTotal-Patient Burden	4,827	.....	.....	.....	3,572
Patient Navigator Survey	46	1	46	0.2	9.2
Patient Navigator Encounter/Target Services Log	46	629.6	28,961.6	0.25	7,240.4
Patient Navigator Focus Group	46	1	46	1	46
SubTotal-Patient Navigator Burden	46	.....	.....	.....	7,295.6
Patient Medical Record and Clinic Data (no personally identifiable information)	10	482.7	4,827	.17	820.6
Annual Clinic-Wide Clinical Performance Measures Report	5	1	5	8	40
Patient Navigator Cultural Competency Checklist	10	4.6	46	1.17	53.8
Patient Navigator/Health System Administrator Focus Group	50	1	50	1	50
Grantee Health Care Provider Focus Group	30	1	30	1	30
Social Service Provider Focus Group	50	1	50	1	50
Quarterly Report	10	4	40	1	40
SubTotal-Grantee Burden	165	.....	.....	.....	1084.4
Totals	5,038	.....	48,582.6	.....	11,952
Total Average Annual Burden	.....	.....	.....	.....	11,952

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to the desk officer for HRSA, either by e-mail to *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974. Please direct all correspondence to the "attention of the desk officer for HRSA."

Dated: May 5, 2011.

Reva Harris,

Acting Director, Division of Policy and Information Coordination.

[FR Doc. 2011–11396 Filed 5–9–11; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The 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, SBIR Contract Review.

Date: June 2, 2011.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call.)

Contact Person: YingYing Li-Smerin, PhD, MD, Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7184, Bethesda, MD 20892–7924. 301–435–0277. *lismerin@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Resource Related Research Project in National Biological Sample Data Repository.

Date: June 8, 2011.

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: Giuseppe Pintucci, PhD, Scientific Review Officer, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7192, Bethesda, MD 20892. 301–435–0287. *Pintuccig@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: May 4, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–11398 Filed 5–9–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of 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 Allergy and Infectious Diseases Special Emphasis Panel, "NIAID Resource Related Research Projects for AIDS, Allergy, Immunology and Transplantation (R24)."

Date: May 31, 2011.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive Bethesda, MD 20817, (Telephone Conference Call.)

Contact Person: Gregory P. Jarosik, Phd., Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, Bethesda, MD 20892, 301–496–2550, *gjarosik@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: *May 4, 2011.*

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–11400 Filed 5–9–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Cancellation of Meeting

Notice is hereby given of the cancellation of the Center for Scientific Review Special Emphasis Panel, May 26, 2011, 11 a.m. to May 26, 2011, 6 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on April 29, 2011, 76 FR 24036–24038.

The meeting is cancelled due to the applications being withdrawn.

Dated: May 3, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–11404 Filed 5–9–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the meeting of the National Cancer Advisory Board.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

A portion of 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 Cancer Advisory Board Ad hoc Subcommittee on Managing Conflict of Interest: Facilitation of Industry Interactions.

Open: June 27, 2011, 1 p.m. to 5 p.m.

Agenda: Discussion on Managing Conflict of Interest and the Facilitation of Industry Interactions.

Place: Double Tree by Hilton Hotel Bethesda, The Grand Ball Room, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Mr. Eric Hale, Executive Secretary, NCAB Ad hoc Subcommittee on Managing Conflict of Interest and Facilitation of Industry Interactions, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Suite 202, Bethesda, MD 20892–8345. (301) 496–1148.

Name of Committee: National Cancer Advisory Board Subcommittee on Clinical Investigations.

Open: June 27, 2011, 6 p.m. to 7:30 p.m.

Agenda: Discussion on Clinical Investigations.

Place: Bethesda Hyatt Regency Hotel, One Metro Center, Bethesda, MD 20814.

Contact Person: Dr. Jeff Abrams, Executive Secretary, NCAB Subcommittee on Clinical Investigations, National Cancer Institute, National Institutes of Health, 6130 Executive Boulevard, Room 7018, Bethesda, MD 20892–8345. (301) 496–6138.

Name of Committee: National Cancer Advisory Board.

Open: June 28, 2011, 9 a.m. to 3:30 p.m.

Agenda: Program reports and presentations; business of the Board.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 10, Bethesda, MD 20892.

Contact Person: Dr. Paulette S. Gray, Executive Secretary, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, 8th Floor, Room 8001, Bethesda, MD 20892–8327. (301) 496–5147.

Name of Committee: National Cancer Advisory Board.

Closed: June 28, 2011, 3:45 p.m. to 5 p.m.

Agenda: Review of grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 10, Bethesda, MD 20892.

Contact Person: Dr. Paulette S. Gray, Executive Secretary, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, 8th Floor, Room 8001, Bethesda, MD 20892–8327. (301) 496–5147.

Name of Committee: National Cancer Advisory Board.

Open: June 29, 2011, 9 a.m. to 12 p.m.

Agenda: Program reports and presentations; business of the Board.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 10, Bethesda, MD 20892.

Contact Person: Dr. Paulette S. Gray, Executive Secretary, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, 8th Floor, Room 8001, Bethesda, MD 20892–8327. (301) 496–5147.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/ncab.htm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction;

93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 3, 2011.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–11402 Filed 5–9–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases;

Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, NIAID Peer Review Meeting 1.

Date: June 1, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: B. Duane Price, Phd, Scientific Review Officer, Scientific Review Program, DHHS/NIH/NIAID, 6700B Rockledge Drive, MSC 7616, Room 3139, Bethesda, MD 20892, 301–451–2592, *pricebd@niaid.nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, NIAID Peer Review Meeting 3.

Date: June 2, 2011.

Time: 8 a.m. to 1:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Zhuqing Li, Phd, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–402–9523, *zhuqing.li@nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, NIAID Peer Review Meeting 2.

Date: June 2, 2011.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Zhuqing Li, Phd., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–402–9523, *zhuqing.li@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 4, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–11399 Filed 5–9–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Biomedical Imaging Technology B Study Section.

Date: June 2–3, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Valencia Riverwalk, 150 East Houston Street, San Antonio, TX 78205.

Contact Person: Lee Rosen, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171, *rosenl@csr.nih.gov.*

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Neurological, Aging and Musculoskeletal Epidemiology Study Section.

Date: June 2–3, 2011.

Time: 8:30 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Delfina Santa Monica Hotel, 530 West Pico Boulevard, Santa Monica, CA 90405.

Contact Person: Heidi B Friedman, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1012A, MSC 7770, Bethesda, MD 20892, 301–435–1721, *hfriedman@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Mechanisms of Arterial Disease.

Date: June 2–3, 2011.

Time: 11 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Joyce C Gibson, DSC, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4130, MSC 7814, Bethesda, MD 20892, 301–435–4522, *gibsonj@csr.nih.gov.*

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Epidemiology of Cancer Study Section.

Date: June 6–7, 2011.

Time: 8:30 a.m. to 1 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: Denise Wiesch, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3150, MSC 7770, Bethesda, MD 20892, (301) 435–0684, *wieschd@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Cellular and Molecular Biology of Neurodegeneration Study Section.

Date: June 13–14, 2011.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Donovan House, 1155 14th Street, NW., Washington, DC 20005.

Contact Person: Laurent Taupenot, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4183, MSC 7850, Bethesda, MD 20892, 301–435–1203, *taupenol@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–10–169: Academic Industrial Partnerships.

Date: June 15, 2011.

Time: 12 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Antonio Sastre, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5215, MSC 7412, Bethesda, MD 20892, 301–435–2592, *sastrea@csr.nih.gov.*

Name of Committee: Cell Biology Integrated Review Group; Biology and Diseases of the Posterior Eye Study Section.

Date: June 20–21, 2011.

Time: 8 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: InterContinental Chicago Hotel, 505 North Michigan Avenue, Chicago, IL 60611.

Contact Person: Michael H Chaitin, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7850, Bethesda, MD 20892, (301) 435–0910, *chaitinm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Cardiovascular Devices.

Date: June 20, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz Carlton Hotel, 1150 22nd Street, NW., Washington, DC 20037.

Contact Person: John Firrell, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5118, MSC 7854, Bethesda, MD 20892, 301–435–2598, *firrellj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–10–018: Accelerating the Pace of Drug Abuse Research Using Existing Epidemiology, Prevention, and Treatment Research Data.

Date: June 20–21, 2011.

Time: 8:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: J Scott Osborne, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4114, MSC 7816, Bethesda, MD 20892, (301) 435–1782, *osbornes@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Effects of the Social Environment on Health: Measurement, Method, and Mechanisms.

Date: June 20, 2011.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Crowne Plaza Hotel—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Fungai Chanetsa, MPH, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3135, MSC 7770, Bethesda, MD 20892, 301–408–9436, *fungai.chanetsa@nih.hhs.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Computational Modeling and Sciences for Biomedical and Clinical Applications.

Date: June 20, 2011.

Time: 11:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, North Bethesda, MD 20852.

Contact Person: Guo Feng Xu, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5122, MSC 7854, Bethesda, MD 20892, 301–237–9870, *xuguofen@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Chronic Fatigue Syndromes.

Date: June 21–22, 2011.

Time: 8 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: Lynn E Luethke, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5166, MSC 7844, Bethesda, MD 20892, (301) 806–3323, *luethkel@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RM10–004: LINCS Center Technology Development.

Date: June 21–22, 2011.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kathryn Kalasinsky, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158 MSC 7806, Bethesda, MD 20892, 301–402–1074, *kalasinskyks@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RM–11–001: Integrating Comparative Effectiveness through Economic Incentives.

Date: June 21, 2011.

Time: 8 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: JW Marriott San Francisco, 500 Post Street, San Francisco, CA 94102.

Contact Person: Katherine Bent, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3160, MSC 7770, Bethesda, MD 20892, 301–435–0695, *bentkn@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Shared Instrumentation Grant Program MRI S10.

Date: June 21, 2011.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: David L Williams, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5110, MSC 7854, Bethesda, MD 20892, (301) 435–1174, *williamsdl2@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: May 4, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–11397 Filed 5–9–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2011–0017]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number: 1625–0003

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of a revision to the following collection of information: 1625–0003, Coast Guard Boating Accident Form (CG–3865). The sixty day notice was previously published as an extension. Due to a change to form CG–3865, this Notice is being submitted as a revision.

Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: Comments must reach the Coast Guard and OIRA on or before June 9, 2011.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2011–0017] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT) and/or to OIRA. To avoid duplicate submissions, please use only one of the following means:

(1) *Online:* (a) To Coast Guard docket at *http://www.regulation.gov.* (b) To OIRA by e-mail via: *OIRA-submission@omb.eop.gov.*

(2) *Mail:* (a) DMF (M–30), DOT, West Building Ground Floor, Room W12–140,

1200 New Jersey Avenue, SE., Washington, DC 20590–0001. (b) To OIRA, 725 17th Street, NW., Washington, DC 20503, attention Desk Officer for the Coast Guard.

(3) *Hand Delivery:* To DMF address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* (a) To DMF, 202–493–2251. (b) To OIRA at 202–395–6566. To ensure your comments are received in a timely manner, mark the fax, attention Desk Officer for the Coast Guard.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of the docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov.*

A copy of the ICR is available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: COMMANDANT (CG–611), *Attn:* PAPERWORK REDUCTION ACT MANAGER, US COAST GUARD, 2100 2ND ST, SW., STOP 7101, WASHINGTON, DC 20593–7101.

FOR FURTHER INFORMATION CONTACT: Contact Ms. Kenlinishia Tyler, Office of Information Management, telephone 202–475–3652 or fax 202–475–3929, for questions on these documents. Contact Ms. Renee V. Wright, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collections. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the collections; (2) the accuracy of the estimated burden of the collection; (3) ways to enhance the quality, utility, and clarity of information subject to the collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG 2011–0017], and must be received by June 9, 2011. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the "Privacy Act" paragraph below.

Submitting Comments

If you submit a comment, please include the docket number [USCG–2011–0017], indicate the specific section of the document to which each comment applies, providing a reason for each comment. If you submit a comment online via *http://www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the DMF. We recommend you include your name, mailing address, an e-mail address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission.

You may submit comments and material by electronic means, mail, fax, or hand delivery to the DMF at the address under **ADDRESSES**, but please submit them by only one means. To submit your comment online, go to *http://www.regulations.gov,* and type "USCG–2011–0017" in the "Keyword" box. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and will address them accordingly.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this Notice as being available in the docket, go to *http://www.regulations.gov,* click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG–2011–0017" and click "Search." Click the "Open Docket Folder" in the "Actions" column. You may also visit the DMF in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

OIRA posts its decisions on ICRs online at *http://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: USCG–2011–0017.

Privacy Act

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

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard has published the 60-day notice (76 FR 11502, March 2, 2011) required by 44 U.S.C. 3506(c)(2). That Notice elicited no comments.

Information Collection Request

Title: Coast Guard Boating Accident Form (CG–3865).

OMB Control Number: 1625–0003.

Type of Request: Extension of a previously approved collection.

Respondents: Federal regulations (33 CFR 173.55) require the operator of any uninspected vessel that is numbered or used for recreational purposes to submit an accident report to the State authority when:

(1) A person dies; or

(2) A person is injured and requires medical treatment beyond first aid; or

(3) Damage to the vessel and other property totals $2,000 or more, or there is a complete loss of the vessel; or

(4) A person disappears from the vessel under circumstances that indicate death or injury.

Abstract: The Coast Guard Boating Accident Report form (CG–3865, OMB control number 1625–0003) is the data collection instrument that ensures compliance with the implementing regulations and Title 46 U.S.C. 6102(b) that requires the Secretary to collect, analyze and publish reports, information, and statistics on marine casualties.

Forms: CG–3865.

Burden Estimate: The estimated burden is 2,500 hours a year.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: May 2, 2011.

D. M. Dermanelian,

Captain, U.S. Coast Guard, Acting Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. 2011–11268 Filed 5–9–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2011–0158]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0109

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of revisions to the following collection of information: 1625–0109, Drawbridge Operation Regulations. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before July 11, 2011.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2011–0158] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT). To avoid duplicate submissions, please use only one of the following means:

(1) *Online: http://www.regulations.gov.*

(2) *Mail:* DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(3) *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.

(4) *Fax:* 202–493–2251. To ensure your comments are received in a timely manner, mark the fax, to attention Desk Officer for the Coast Guard.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of the docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov.*

A copy of the ICR is available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: COMMANDANT (CG–611), ATTN: PAPERWORK REDUCTION ACT MANAGER, U.S. COAST GUARD, 2100 2ND STREET, SW., STOP 7101, WASHINGTON, DC 20593–7101.

FOR FURTHER INFORMATION CONTACT: Contact Ms. Kenlinishia Tyler, Office of Information Management, telephone 202–475–3652, or fax 202–475–3929, for questions on these documents. Contact Ms. Renee V. Wright, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2011–0158], and must be received by July 11, 2011. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the "Privacy Act" paragraph below.

Submitting Comments

If you submit a comment, please include the docket number [USCG–2011–0158], indicate the specific section of the document to which each comment applies, providing a reason for each comment. If you submit a comment online via *http://www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the DMF. We recommend you include your name, mailing address, an e-mail address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission.

You may submit your comments and material by electronic means, mail, fax, or hand delivery to the DMF at the address under **ADDRESSES**; but please submit them by only one means. To submit your comment online, go to *http://www.regulations.gov,* and type "USCG–2011–0158" in the "Keyword" box. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½; by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and will address them accordingly.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this Notice as being available in the docket, go to *http://www.regulations.gov,* click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG–2011–0158" and click "Search." Click the "Open Docket Folder" in the "Actions" column. You may also visit the DMF in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act

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

Information Collection Request

Title: Drawbridge Operation Regulations.

OMB Control Number: 1625–0109.

Summary: The Bridge Program receives approximately 150 requests from bridge owners or the general public per year to change the operating schedule of various drawbridges across the navigable waters of the United States. The information needed for the change to the operating schedule can only be obtained from the bridge owner and is generally provided to the Coast Guard in a written format.

Need: 33 U.S.C. 499 authorizes the Coast Guard to change the operating schedules of drawbridges that cross over navigable waters of the United States.

Forms: None.

Respondents: Public and private owners of bridges over navigable waters of the United States.

Frequency: On occasion.

Burden Estimate: The estimated burden remains the same at 150 hours per year.

Dated: April 29, 2011.

R. E. Day,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. 2011–11273 Filed 5–9–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2011–0087]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number: 1625–0106

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of a revision to the following collection of information: 1625–0106, Unauthorized Entry into Cuban Territorial Waters. The sixty day notice was previously published as an extension. Due to the addition of new form CG–3300, this Notice is being submitted as a revision. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: Comments must reach the Coast Guard and OIRA on or before June 9, 2011.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2011–0087] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT) and/or to OIRA. To avoid duplicate submissions, please use only one of the following means:

(1) *Online:* (a) To Coast Guard docket at *http://www.regulations.gov.* (b) To OIRA by e-mail via: *OIRA-submission@omb.eop.gov*.

(2) *Mail:* (a) DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001. (b) To OIRA, 725 17th Street, NW., Washington, DC 20503, attention Desk Officer for the Coast Guard.

(3) *Hand Delivery:* To DMF address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* (a) To DMF, 202–493–2251. (b) To OIRA at 202–395–6566. To ensure your comments are received in a timely manner, mark the fax, attention Desk Officer for the Coast Guard.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of the docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov.*

A copy of the ICR is available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: COMMANDANT (CG–611), *Attn:* PAPERWORK REDUCTION ACT MANAGER, US COAST GUARD, 2100 2ND ST SW., STOP 7101, WASHINGTON DC 20593–7101.

FOR FURTHER INFORMATION CONTACT: Ms. Kenlinishia Tyler, Office of Information Management, telephone 202–475–3652 or fax 202–475–3929, for questions on these documents. Contact Ms. Renee V. Wright, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the collection; (2) the accuracy of the estimated burden of the collection; (3) ways to enhance the quality, utility, and clarity of information subject to the collection; and (4) ways to minimize the burden of the collections on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine

whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG 2011–0087], and must be received by June 9, 2011. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the "Privacy Act" paragraph below.

Submitting Comments

If you submit a comment, please include the docket number [USCG–2011–0087], indicate the specific section of the document to which each comment applies, providing a reason for each comment. If you submit a comment online via www.regulations.gov, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the DMF. We recommend you include your name, mailing address, an e-mail address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission.

You may submit comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**, but please submit them by only one means. To submit your comment online, go to *http://www.regulations.gov,* and type "USCG–2011–0087" in the "Keyword" box. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and will address them accordingly.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this Notice as being available in the docket, go to *http://www.regulations.gov,* click on the "read comments" box, which will then become highlighted in blue. In the "Keyword" box insert "USCG–2011–0087" and click "Search." Click the "Open Docket Folder" in the "Actions" column. You may also visit the DMF in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

OIRA posts its decisions on ICRs online at *http://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: USCG–2011–0087.

Privacy Act

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

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard has published the 60-day notice (76 FR 10385, February 24, 2011) required by 44 U.S.C. 3506(c)(2). That Notice elicited no comments.

Information Collection Request

Title: Unauthorized Entry into Cuban Territorial Waters.

OMB Control Number: 1625–0106.

Type of Request: Extension of a previously approved collection.

Respondents: Owners and operators of vessels.

Abstract: The Coast Guard, pursuant to Presidential proclamation and order of the Secretary of Homeland Security, is requiring U.S. vessels, and vessels without nationality, less than 100 meters, located within the internal waters or the 12 nautical mile territorial sea of the United States, that thereafter enter Cuban territorial waters, to apply for and receive a Coast Guard permit. This permit is required by 33 CFR 107.215, Unauthorized Entry Into Cuban Territorial Waters, issued under authority of *50 U.S.C. 191, 192, 194, 195; 14 U.S.C. 141;* Presidential Proclamations 6867, and 7757; and Secretary of Homeland Security Order 2004–001.

Forms: CG–3300.

Burden Estimate: The estimated burden remains 1 hour per year.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: May 2, 2011.

D. M. Dermanelian,

Captain, U.S. Coast Guard, Acting Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. 2011–11270 Filed 5–9–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1971–DR; Docket ID FEMA–2011–0001]

Alabama; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Alabama (FEMA–1971–DR), **DATED** April 28, 2011, and related determinations.

DATES: *Effective Date:* April 30, 2011.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Alabama is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of April 28, 2011.

Autauga, Calhoun, Elmore, Etowah, Marion, St. Clair, and Tallapoosa Counties for Individual Assistance (already designated for debris removal and emergency protective measures [Categories A and B], including direct Federal assistance, under the Public Assistance program).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

May 3, 2011.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2011–11300 Filed 5–9–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1971–DR; Docket ID FEMA–2011–0001]

Alabama; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for State of Alabama (FEMA–1971–DR), DATED April 28, 2011, and related determinations.

DATES: *Effective Date:* April 30, 2011.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Michael F. Byrne, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Joe M. Girot as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

May 3, 2011.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2011–11312 Filed 5–9–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1970–DR; Docket ID FEMA–2011–0001]

Oklahoma; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Oklahoma (FEMA–1970–DR), dated April 22, 2011, and related determinations.

DATES: *Effective Date:* April 22, 2011.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 22, 2011, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"), as follows:

I have determined that the damage in certain areas of the State of Oklahoma resulting from severe storms, tornadoes, and straight-line winds on April 14, 2011, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"). Therefore, I declare that such a major disaster exists in the State of Oklahoma.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation and Other Needs Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, William J. Doran III, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of Oklahoma have been designated as adversely affected by this major disaster:

Atoka County for Individual Assistance.

All counties within the State of Oklahoma are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

May 3, 2011.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2011–11311 Filed 5–9–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3319–EM; Docket ID FEMA–2011–0001]

Alabama; Amendment No. 1 to Notice of an Emergency Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of an emergency declaration for State of Alabama (FEMA–3319–EM), DATED April 27, 2011, and related determinations.

DATES: *Effective Date:* April 30, 2011.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency

(FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Michael F. Byrne, of FEMA is appointed to act as the Federal Coordinating Officer for this emergency.

This action terminates the appointment of Joe M. Girot as Federal Coordinating Officer for this emergency.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

Dated: May 3, 2011.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2011–11310 Filed 5–9–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1973–DR; Docket ID FEMA–2011–0001]

Georgia; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Georgia (FEMA–1973–DR), **DATED** April 29, 2011, and related determinations.

DATES: *Effective Date:* April 30, 2011.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Georgia is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of April 29, 2011.

Coweta, Greene, Lamar, Pickens, and Troup Counties for Individual Assistance (already designated for debris removal and emergency protective measures [Categories A and B], including direct Federal assistance, under the Public Assistance program).

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

May 3, 2011.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2011–11309 Filed 5–9–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1972–DR; Docket ID FEMA–2011–0001]

Mississippi; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Mississippi (FEMA–1972–DR), DATED April 29, 2011, and related determinations.

DATES: *Effective Date:* May 1, 2011.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Mississippi is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of April 29, 2011.

Chickasaw, Choctaw, Neshoba, and Webster Counties for Individual Assistance.

Chickasaw, Choctaw, Neshoba, and Webster Counties for debris removal and emergency protective measures (Categories A and B), including direct Federal assistance, under the Public Assistance Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2011–11282 Filed 5–9–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form AR–11 and Form AR–11SR, Extension of an Existing Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection under Review: Form AR–11 and Form AR–11SR, Alien's Change of Address Card; OMB Control No. 1615–0007.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until July 11, 2011.

During this 60 day period, USCIS will be evaluating whether to revise the Form AR–11 and Form AR–11SR (Forms AR–11). Should USCIS decide to revise Forms AR–11 we will advise the public when we publish the 30-day notice in the **Federal Register** in accordance with the Paperwork

Reduction Act. The public will then have 30 days to comment on any revisions to Forms AR–11.

Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Products Division, Office of the Executive Secretariat, Clearance Office, 20 Massachusetts Avenue, NW., Washington, DC 20529–2020. Comments may also be submitted to DHS via facsimile to 202–272–0997, or via e-mail at *rfs.regs@dhs.gov.* When submitting comments by e-mail please add the OMB Control Number 1615–0007 in the subject box.

Note: The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check "My Case Status" online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Alien's Change of Address Card.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring this collection:* Form AR–11 and Form AR–11SR. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or Households. This form is used by aliens, including those subject to Special Registration requirements, to submit their change of address to USCIS within 10 days from the date of change.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 720,000 responses at .083 hours (5 minutes) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 59,760 annual burden hours.

If you have additional comments, suggestions, or need a copy of the information collection instrument, please visit: *http://www.regulations.gov/search/index.jsp.*

We may also be contacted at: USCIS, Regulatory Products Division, 20 Massachusetts Avenue, NW., Washington, DC 20529–2020, Telephone number 202–272–8377.

Dated: May 5, 2011.

Sunday Aigbe,

Chief, Regulatory Products Division, Office of the Executive Secretariat, U.S. Citizenship and Immigration Services. Department of Homeland Security.

[FR Doc. 2011–11413 Filed 5–9–11; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form N–426, Extension of a Currently Approved Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review: Form N–426, Request for Certification of Military or Naval Service; OMB Control No. 1615–0053.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS), will be submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for 60 days until July 11, 2011.

During this 60-day period, USCIS will be evaluating whether to revise the Form N–426. Should USCIS decide to revise Form N–426 we will advise the public when we publish the 30-day notice in the **Federal Register** in accordance with the Paperwork Reduction Act. The public will then have 30 days to comment on any revisions to the Form N–426.

Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Products Division, Office of the Executive Secretariat, Clearance Office, 20 Massachusetts Avenue, NW., Washington, DC 20529–2020. Comments may also be submitted to DHS via facsimile to 202–272–0997, or via e-mail at *rfs.regs@dhs.gov.* When submitting comments by e-mail please add the OMB Control Number 1615–0053 in the subject box.

Note: The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check "My Case Status" online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Request for Certification of Military or Naval Service.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form N–426, U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or Households. USCIS uses the information collected through Form N–426 to request a verification of the military or naval service claim by an applicant filing for naturalization on the basis of honorable service in the U.S. armed forces.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 45,000 responses at 20 minutes (.333) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 14,985 annual burden hours.

If you need a copy of the information collection instrument, please visit the Web site at: *http://www.regulations.gov/.*

We may be contacted at: USCIS, Regulatory Products Division, 20 Massachusetts Avenue, NW., Washington, DC 20529–2020, Telephone number 202–272–8377.

Dated: May 5, 2011.

Sunday Aigbe,

Chief, Regulatory Products Division, Office of the Executive Secretariat, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2011–11417 Filed 5–9–11; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Notice of Detention

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-Day notice and request for comments; Extension of an existing information collection: 1651–0073.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Notice of Detention. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (76 FR 9806) on February 22, 2011, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before June 9, 2011.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

SUPPLEMENTARY INFORMATION: U.S. Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act (Pub. L. 104–13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological techniques or other forms of information.

Title: Notice of Detention.

OMB Number: 1651–0073.

Form Number: None.

Abstract: Customs and Border Protection (CBP) may detain merchandise when it has reasonable suspicion that the subject merchandise may be inadmissible but requires more information to make a positive determination. If CBP decides to detain merchandise, a Notice of Detention is sent to the importer or to the importer's broker/agent no later than 5 business days from the date of examination stating that merchandise has been detained, the reason for the detention, and the anticipated length of the detention. The recipient of this notice may respond by providing information to CBP in order to facilitate the determination for admissibility or may ask for an extension of time to bring the merchandise into compliance. Notice of Detention is authorized by 19 U.S.C. 1499, and provided for in 19 CFR 151.16.

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours. There is no change to the information being collected.

Type of Review: Extension.

Affected Public: Businesses.

Estimated Number of Respondents: 1,350.

Estimated Number of Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 1,350.

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 2,700.

If additional information is required contact: Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street, NW., 5th Floor, Washington, DC 20229–1177, at 202–325–0265.

Dated: May 3, 2011.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2011–11247 Filed 5–9–11; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Declaration of Unaccompanied Articles

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-day notice and request for comments; Extension of an existing information collection: 1651–0030.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting

the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Declaration of Unaccompanied Articles (CBP Form 255). This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (76 FR 11254) on March 1, 2011, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before June 9, 2011.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

SUPPLEMENTARY INFORMATION: U.S. Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act (Pub. L.104–13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencys/component's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological techniques or other forms of information.

Title: Declaration of Unaccompanied Articles.

OMB Number: 1651–0030.

Form Number: CBP Form 255.

Abstract: CBP Form 255 is completed by travelers arriving in the United States with a parcel or container which is to be sent from an insular possession at a later date. It is the only means whereby the CBP officer, when the person arrives, can apply the exemptions or 5 percent flat rate of duty to all of the traveler's purchases.

A person purchasing articles in American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States receives a sales slip, invoice, or other evidence of purchase which is presented to the CBP officer along with his CBP Form 255, which is prepared in triplicate. The CBP officer verifies the information, indicates on the form whether the article or articles were free of duty, or dutiable at the flat rate and validates the form. Two copies of the form are returned to the traveler, who sends one form to the vendor. Upon receipt of the form the vendor places it in an envelope, affixed to the outside of the package, and clearly marks the package "Unaccompanied Tourist Shipment," and sends the package to the traveler, generally via mail, although it could be sent by other means. If sent through the mail, the package would be examined by CBP and forwarded to the Postal Service for delivery. Any duties due would be collected by the mail carrier. If the shipment arrives by means other than through the mail, the traveler would be notified by the carrier when the article arrives. Entry would be made by the carrier or the traveler at the customhouse. Any duties due would be collected at that time.

CBP Form 255 is authorized by Sections 202 & 203 of Public Law 95–410 and provided for 19 CFR 148.110, 148.113, 148.114, 148.115 and 148.116. A sample of this form may be viewed at *http://forms.cbp.gov/pdf/CBP_Form_255.pdf.*

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information being collected.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals.

Estimated Number of Respondents: 7,500.

Estimated Number of Responses: 15,000.

Estimated Time per Response: 5 minutes.

If additional information is required contact: Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street, NW., 5th Floor, Washington, DC 20229–1177, at 202–325–0265.

Dated: May 4, 2011.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2011–11352 Filed 5–9–11; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Application To Pay Off or Discharge an Alien Crewman

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-Day notice and request for comments; Extension of an existing information collection: 1651–0106.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Application To Pay Off or Discharge an Alien Crewman (Form I–408). This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (76 FR 10913) on February 28, 2011, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before June 9, 2011.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to

oira_submission@omb.eop.gov or faxed to (202) 395–5806.

SUPPLEMENTARY INFORMATION:

U.S. Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act (Pub. L. 104–13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological techniques or other forms of information.

Title: Application To Pay Off or Discharge an Alien Crewman.

OMB Number: 1651–0106.

Form Number: I–408.

Abstract: CBP Form I–408, Application To Pay Off or Discharge an Alien Crewman, is used as an application by the owner, agent, consignee, charterer, master, or commanding officer of any vessel or aircraft arriving in the United States to obtain permission from the Secretary of the Department of Homeland Security to pay off or discharge an alien crewman. This form is submitted to the CBP officer having jurisdiction over the area in which the vessel or aircraft is located at the time of application. CBP Form I–408 is authorized by Section 256 of the Immigration and Nationality Act (8 U.S.C. 1286) and provided for by 8 CFR 252.1(h). This form is accessible at: *http://forms.cbp.gov/pdf/CBP_Form_I408.pdf.*

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information being collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 85,000.

Estimated Time per Respondent: 25 minutes.

Estimated Total Annual Burden Hours: 35,360.

If additional information is required contact: Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street, NW., 5th Floor, Washington, DC 20229–1177, at 202–325–0265.

Dated: May 4, 2011.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2011–11351 Filed 5–9–11; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U. S. Immigration and Customs Enforcement

Agency Information Collection Activities: Extension of an existing information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection for Review; Form G–79A, Information Relating to Beneficiary of Private Bill; OMB Control No. 1653–0026.

The Department of Homeland Security, U.S. Immigration and Customs Enforcement (ICE), will be submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on March 1, 2011, Vol. 76, No. 40, 11255, allowing for a 60 day public comment period. No comments were received on this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted for thirty days until June 9, 2011.

Written comments and suggestions from the public and affected agencies regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to OMB Desk Officer, for U.S. Immigration and Customs Enforcement, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Information Relating to Beneficiary of Private Bill.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form G–79A. U.S. Immigration and Customs Enforcement.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The information collected on the Form G–79A is necessary for U.S. Immigration and Customs Enforcement to provide reports to Congress on Private Bills when requested.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100 responses at 60 minutes (1 hour) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 100 annual burden hours.

Requests for a copy of the proposed information collection instrument, with instructions; or inquiries for additional information should be directed to: Office of the Chief Financial Officer/OAA/Records Branch, U.S. Immigration and Customs Enforcement, 500 12th Street, SW., STOP 5705, Washington, DC 20536–5705.

Dated: May 3, 2011.

John Ramsay,

Forms Program Manager, Office of Asset Administration, U.S. Immigration and Customs Enforcement, Department of Homeland Security.

[FR Doc. 2011–11308 Filed 5–9–11; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5480–N–43]

Notice of Submission of Proposed Information Collection to OMB Choice Neighborhoods

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

The information is required to allow HUD to award and obligate grant funds in accordance with the FY 2010 HUD Appropriations Act, which permits HUD to use up to $65M of the HOPE VI appropriation for a Choice Neighborhoods Initiative.

DATES: *Comments Due Date: June 9, 2011.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2577–0269) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; e-mail *OIRA–Submission@omb.eop.gov* fax: 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail Colette Pollard at *Colette.Pollard@hud.gov;* or telephone (202) 402–3400. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Choice Neighborhoods.

OMB Approval Number: 2577–0269.

Form Numbers: HUD Form 53233, HUD Form 53237, HUD Form 53239, HUD Form 53234, HUD Form 53235, HUD Form 53154, HUD Form 53240, HUD Form 53151, HUD Form 53150, HUD Form 53153, HUD Form 53236, HUD Form 53232, HUD Form 53152, HUD Form 53238, HUD Form 53230, HUD Form 53231.

Description of the Need for the Information and its Proposed Use: The information is required to allow HUD to award and obligate grant funds in accordance with the FY 2010 HUD Appropriations Act, which permits HUD to use up to $65M of the HOPE VI appropriation for a Choice Neighborhoods Initiative.

Frequency of Submission: On occasion.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	150	45.76		0.0218		150

Total Estimated Burden Hours: 150.

Status: Reinstatement, with change, of previously approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: May 4, 2011.

Colette Pollard,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2011–11258 Filed 5–9–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5484–N–16]

Notice of Proposed Information Collection: Comment Request; FHA-Insured Mortgage Loan Servicing of Delinquent, Default, and Foreclosure Loans With Service Members

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date: July 11, 2011.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, Room 9120 or the number for the Federal Information Relay Service (1–800–877–8339).

FOR FURTHER INFORMATION CONTACT: Ivery W. Himes, Director, Office of Single Family Program Development, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 402–5628 (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: FHA-Insured Mortgage Loan Servicing of Delinquent, Default, and Foreclosure Loans W ith Service Members Act.

OMB Control Number, if applicable: 2502–0584

Description of the need for the information and proposed use: FHA insurance is an important source of mortgage credit for low and moderate-income borrowers and their neighborhoods. It is essential that FHA maintain a healthy mortgage insurance fund through premiums charged the borrower by FHA along with Federal budget receipts generated from those premiums to support HUD's goals. Providing policy and guidance to the single family housing mortgage industry regarding changes in FHA's program is essential to protect the fund. This OMB information request provides HUD's policy and guidance.

Agency form numbers, if applicable: HUD–PA 426, Avoiding Foreclosure Pamphlet, HUD–9539, Request for Occupied Conveyance, HUD–27011, Single Family Application for Insurance Benefits, HUD–50012, Mortgagees Request for Extension of Time Requirements, HUD–92070, Service-members Civil Relief Act Notice Disclosure.

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 5,456,245, the number of respondents is 223, the number of responses is 69,178,200, the frequency of response is on occasion, and the burden hour per response is from 15 minutes to 4 hours depending upon the activity.

Status of the proposed information collection: This is an extension of a currently approved collection, OMB 2502–0584.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Date: May 3, 2011.

Ronald Y. Spraker,

Associate General Deputy Assistant Secretary for Housing.

[FR Doc. 2011–11262 Filed 5–9–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5408–N–03]

Notice of Availability of the Final Environmental Impact Statement for the Yesler Terrace Redevelopment Project

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: The Department of Housing and Urban Development (HUD) gives notice to the public, agencies, and Indian Tribes that the Seattle Housing Authority and the City of Seattle Human Services Department (Community Development Block Grant Administration Unit) have prepared a Final Environmental Impact Statement (FEIS) for the Yesler Terrace Redevelopment Project, located in the City of Seattle, King County, Washington. The project proponent is the Seattle Housing Authority (SHA).

The FEIS is a joint National Environmental Policy Act (NEPA) and Washington State Environmental Policy Act (SEPA) document. The proposed action is subject to compliance with NEPA because funds from the public housing programs under Title I of the United States Housing Act of 1937 (HOPE VI, Capital Funds, Demolition/ Disposition) will be used for this project (24 CFR 58.1(b)(6)(i)). This notice is given in accordance with Council on Environmental Quality regulations at 40 CFR parts 1500–1508, and with state and local SEPA regulations.

The City of Seattle Human Services Department (City HSD) and SHA, acting jointly as lead agencies, have prepared the FEIS under the authority of the City HSD as the Responsible Entity for compliance with NEPA in accordance with 42 U.S.C. 1437x and HUD regulations at 24 CFR 58.4, and under SHA's role as SEPA lead agency.

SEPA Compliance and Action: The FEIS satisfies requirements of SEPA (RCW 43.21C and WAC 197–11), which requires that all state and local government agencies consider the environmental impacts of projects before acting on those projects. Under SEPA, it is anticipated that the SHA Board of Commissioners will adopt a resolution approving a Development Plan for Yesler Terrace, and adopting the FEIS for SEPA purposes. Prior to Board action, the public is welcome to comment on the proposed project by mailing, faxing, or e-mailing comments to: Stephanie Van Dyke, Development Director of the Seattle Housing Authority, Y*TEISComments@seattlehousing.org*, P.O. Box 19028, Seattle, WA 98109–1028, (f) 206–615–3539.

NEPA Comment Period: NEPA provides for a 30-day comment period on the FEIS. All interested Federal, state, and local agencies, Indian Tribes, groups, and the public are invited to comment on the FEIS. Comments relating to the FEIS will be accepted until June 9, 2011. Any person or agency wishing to comment on the FEIS may mail, fax, or e-mail comments to: Kristen Larson, Project Funding and Agreements Coordinator, City of Seattle Human Services Department, CDBG Administration Unit, *Kristen.Larson@seattle.gov*, P.O. Box 34215, Seattle, WA 98124–4215, (f) 206–621–5003.

SUPPLEMENTARY INFORMATION:

Project Name and Description

The FEIS analyzes the environmental impacts of the proposed phased redevelopment of the Yesler Terrace community to a mixed-use residential community on an approximately 39-acre area on the southern slope of First Hill in Seattle, Washington. The proposed project is generally bounded by Interstate 5 on the west, Alder and Fir Streets on the north, 14th Avenue on the east, and Main Street on the south.

The proposed project would include development of a mix of affordable and market-rate housing, office and retail uses, as well as parks and open space, enhanced landscaping, improved streets and a system of pedestrian and bike improvements. All existing residential structures on the site would be demolished under the Proposed Action; other structures on the site may also be demolished. The existing Yesler Terrace community center would be retained. It is anticipated that the redevelopment of Yesler Terrace will take approximately 15 to 20 years to complete.

The proposed actions may involve the following: Comprehensive Plan Amendment, text amendment to the Land Use Code to allow a new zone for Yesler Terrace, street vacation, preliminary and final plat approval, adoption of a Planned Action Ordinance, Development Agreement approval, other construction and building permits, and other Federal, state and local approvals for redevelopment of the Yesler Terrace community.

For additional background information on the project, please see the SHA Web site: *http://www.seattlehousing.org/redevelopment/yesler-terrace/.*

Alternatives

SHA proposes to redevelop the Yesler Terrace community into a mixed-use, mixed income community. The FEIS evaluates the environmental impacts of seven alternatives, including a preferred alternative and a no-action alternative. The preferred alternative identified in the FEIS would include approximately 5,000 housing units; 900,000 square feet (SF) of office/hotel use; 88,000 SF of neighborhood commercial; 65,000 SF of neighborhood services (including the existing Yesler Terrace Community Center); 6.5 acres of public open space; 9.4 acres of semi-private and private open space; and 5,100 parking spaces within or under buildings.

The FEIS evaluates the environmental impacts of each of the alternatives based on the following environmental elements: earth; air quality; water; plants and animals; climate change and greenhouse gas emissions; environmental health; noise; land use; relationship to plans and policies; aesthetics, light and glare, and shadows; historic resources; cultural resources; transportation; utilities; public services; socioeconomics; and environmental justice.

The FEIS also responds to all comments received on the Draft EIS.

To obtain a copy of the FEIS, visit *http://www.seattlehousing.org/redevelopment/yesler-terrace/eis/index.html*, or contact SHA or the City Human Services Department through the persons listed below.

FOR FURTHER INFORMATION CONTACT: Stephanie Van Dyke, Development Director of the Seattle Housing Authority, *YTEISComments@seattlehousing.org*, P.O. Box 19028, Seattle, WA 98109–1028, (f) 206–615–3539.

Kristen Larson, Project Funding and Agreements Coordinator, City of Seattle Human Services Department, CDBG Administration Unit, *Kristen.Larson@seattle.gov*, P.O. Box 34215, Seattle, WA 98124–4215, (f) 206–621–5003.

Dated: May 2, 2011.

Mercedes Márquez,

Assistant Secretary for Community Planning and Development.

[FR Doc. 2011–11265 Filed 5–9–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5489–N–02]

Section 8 Housing Assistance Payments Program—Renewal Funding Annual Adjustment Factors, Fiscal Year 2011

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice of Renewal Funding Annual Adjustment Factors (AAFs).

SUMMARY: The Consolidated Appropriations Act, 2010, directs Public and Indian Housing to "provide renewal funding for each Public Housing Agency (PHA) based on Voucher Management System (VMS) leasing and cost data for the most recent Federal fiscal year and by applying the most recent Annual Adjustment Factors as established by the Secretary." The Department of Defense and Full-Year Continuing Appropriations Act, 2011, continues this requirement. This Notice announces Renewal Funding AAFs in response to that directive which was first applicable when FY2010 Renewal Funding AAFs were published. Consumer Price Index (CPI) data, similar to those used for "Contract Rent AAFs", are used, but semi-annual CPI data replaces annual CPI data. This makes the Renewal Funding AAFs six months more current than the CPI data used to derive Contract Rent AAFs. These CPI are the most current data available and reflect the economic circumstances most relevant to the Housing Choice Voucher (HCV) program in 2011 and the assumptions of the 2011 budget. Like the Contract Rent AAFs, these factors are based on a formula using residential rent and utility cost changes. Contract Rent AAFs were published in the **Federal Register** on March 16, 2011, and can be viewed at: *http://www.huduser.org/portal/datasets/aaf/FY2011_CR_AAF_Preamble.pdf.*

DATES: *Effective Date:* May 10, 2011.

FOR FURTHER INFORMATION CONTACT: Contact Danielle Bastarache, Director, Housing Voucher Management, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, 202–708–5264; and Marie L. Lihn, Economist, Economic and Market Analysis Division, Office of Policy Development and Research, 202–708–0590, for technical information regarding the development of the schedules for specific areas or the methods used for calculating the AAFs. *Mailing address for the above persons:* Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410. Hearing- or speech-impaired persons may contact the Federal Relay Service at 800–877–8339 (TTY). (Other than the "800" TTY number, the above-listed telephone numbers are not toll free.)

SUPPLEMENTARY INFORMATION: The Consolidated Appropriations Act, 2010 (Pub. L 111–117, approved, December 16, 2009), provides that:

> * * * the Secretary for the calendar year 2010 funding cycle shall provide renewal funding for each public housing agency based on voucher management system (VMS) leasing and cost data for the most recent Federal fiscal year and by applying the most recent Annual Adjustment Factor as established by the Secretary * * *

Under the Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Pub. L 112–10, approved April 15, 2011), this requirement continues to apply. This Notice announces Renewal Funding AAFs in response to that directive which was first applicable when FY2010 Renewal Funding AAFs were published.

HUD will make the table establishing Renewal Funding AAFs available electronically from the HUD data information page at *http://www.huduser.org/portal/datasets/aaf/FY2011_RF_table.pdf.* Renewal Funding AAFs include utility costs and only one set of AAFs is published for this purpose.

I. Methodology

Renewal Funding AAFs are derived from rent inflation factors to account for relative differences in rent inflation among different parts of the country. Two types of rent inflation factors are typically calculated for AAFs: gross rent factors and shelter rent factors; however, only the gross rent inflation factor is used for Renewal Funding AAFs. The gross rent factor accounts for inflation in the cost of both the rent of the residence and the utilities used by the unit.

Renewal Funding AAFs are calculated using CPI data on "rent of primary residence" and "fuels and utilities".[1]

[1] CPI indexes CUUSA103SEHA and CUSR0000SAH2 respectively.

The CPI inflation index for rent of primary residence measures the inflation of all surveyed units regardless of whether utilities are included in the rent of the unit or not. In other words, it measures the inflation of the "contract rent" which includes units with all utilities included in the rent, units with some utilities included in the rent and units with no utilities included in the rent. In producing a gross rent inflation factor, HUD decomposes the contract rent CPI inflation factor into parts to represent the gross rent change and the shelter rent change. This is done by applying the percentage of renters who pay for heat (a proxy for the percentage renters who pay shelter rent) from the Consumer Expenditure Survey (CEX) and American Community Survey (ACS) data on the ratio of utilities to rents.[2] The CEX data used to decompose the contract rent inflation factor into gross rent and shelter rent inflation factors come from a special tabulation of 2008 CEX survey data produced for HUD for the purpose of computing Renewal Funding AAFs. The utility-to-rent ratio used in the formula comes from 2008 ACS median rent and utility costs.

In this publication, the rent and utility inflation factors for large metropolitan areas and Census regions are based on changes in the rent of primary residence and fuels and utilities CPI indices from the first half of 2009 to the first half of 2010, the most recent data available at the time of the development of final budget projections for fiscal year (FY) 2011. Typically, CPI indexes averaged over a 12-month period have been used to measure the change from year to year. The semi-annual indexes used for Renewal Funding AAFs average data over six months as opposed to 12 months; the Renewal Funding AAFs use change over the course of two semi-annual index cycles to derive a 12-month adjustment.

II. The Use of Renewal Funding AAFs

The Renewal Funding AAFs use the same methodology as the FY2010 Renewal Funding AAFs but differ from historical AAFs and the FY2011 Contract Rent AAFs in that they make use of more recent semi-annual CPI indexes in place of average annual CPI indexes. The Renewal Funding AAFs have been developed to account for relative differences in the recent inflation of rents among different areas and are used to allocate HCV funds among PHAs. HUD is reviewing and updating the methodologies for all program parameters, including Fair Market Rents (FMRs), AAFs, and other inflation indices. The publication of these separate Renewal Funding AAFs for allocation of voucher funds is an interim step toward more complete reforms including using more recent data in HUD's estimations for various program parameters, including FMRs, as published in the **Federal Register** on October 4, 2010 (75 FR 61254).

III. Geographic Areas

Renewal Funding AAFs are produced for all Class A CPI cities (CPI cities with a population of 1.5 million or more) and for the four Census Regions. They are applied to core-based statistical areas (CBSAs), as defined by the Office of Management and Budget (OMB), according to how much of the CBSA is covered by the CPI city-survey. If more than 75 percent of the CBSA is covered by the CPI city-survey, the Renewal Funding AAF that is based on that CPI survey is applied to the whole CBSA and to any HUD-defined metropolitan area, called "HUD Metro FMR Area" (HMFA), within that CBSA. If the CBSA is not covered by a CPI city-survey, the CBSA uses the relevant regional CPI factor. Almost all non-metropolitan counties use regional CPI factors. For areas assigned the Census Region CPI factor, both metropolitan and non-metropolitan areas receive the same factor.

The Renewal Funding AAF tables list the four Census Regions first, followed by an alphabetical listing of each metropolitan area, beginning with Akron, OH, MSA. Renewal Funding AAFs are provided:

- For separate metropolitan areas, including HMFAs and counties that are currently designated as non-metropolitan, but are part of the metropolitan area defined in the local CPI survey, and,
- For the four Census Regions for those metropolitan and non-metropolitan areas that are not covered by a CPI city-survey.

Renewal Funding AAFs use the same OMB metropolitan area definitions, as revised by HUD, that are used in the FY 2011 FMRs.

IV. Area Definitions

To make certain that they are referencing the correct Renewal Funding AAFs, PHAs should refer to the Area Definitions Table at *http://www.huduser.org/portal/datasets/aaf/FY2011_AreaDef.pdf.* For units located in metropolitan areas with a local CPI survey, Renewal Funding AAFs are listed separately. For units located in areas without a local CPI survey, the metropolitan or nonmetropolitan counties receive the regional CPI for that Census Region.

The Area Definitions Table for Renewal Funding AAFs, shown at *http://www.huduser.org/portal/datasets/aaf/FY2011_AreaDef.pdf,* lists areas in alphabetical order by state. The associated CPI region is shown next to each state name. Areas whose Renewal Funding AAFs are determined by local CPI surveys are listed first. All metropolitan areas with local CPI surveys have separate Renewal Funding AAF schedules and are shown with their corresponding county definitions or as metropolitan counties. In the six New England states, the listings are for counties or parts of counties as defined by towns or cities. The remaining counties use the CPI for the Census Region and are not specifically listed on the Area Definitions Table.

Puerto Rico and the Virgin Islands use the South Region Renewal Funding AAFs. All areas in Hawaii use the Renewal Funding AAFs identified in the Table as "*STATE:* Hawaii," which are based on the CPI survey for the Honolulu metropolitan area. The Pacific Islands use the West Region Renewal Funding AAFs.

Accordingly, HUD publishes these Renewal Funding Annual Adjustment Factors as set forth in the Renewal Funding AAF Table posted at *http://www.huduser.org/portal/datasets/aaf/FY2011_RF_table.pdf.*

Dated: May 2, 2011.

Raphael W. Bostic,

Assistant Secretary for Policy Development and Research.

[FR Doc. 2011–11263 Filed 5–9–11; 8:45 am]

BILLING CODE 4210–67–P

[2] The formulas used to produce these factors can be found in the Annual Adjustment Factors overview and in the FMR documentation at *http://www.HUDUSER.org.*

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[L19900000.EY0000.LLWO320000]

Renewal of Approved Information Collection, OMB Control Number 1004–0169

AGENCY: Bureau of Land Management, Interior.

ACTION: 60-day notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) announces its intention to request that the Office of Management and Budget (OMB) renew OMB Control Number

1004–0169 for the paperwork requirements in 43 CFR subpart 3715, which pertain to use and occupancy under the mining laws.

DATES: Please submit your comments to the BLM at the address below on or before July 11, 2011.

ADDRESSES: Comments may be submitted by mail, fax, or electronic mail.

Mail: U.S. Department of the Interior, Bureau of Land Management, 1849 C Street, NW., Room 2134LM, *Attention:* Jean Sonneman, Washington, DC 20240.

Fax: to Jean Sonneman at 202–912–7181.

Electronic mail: *Jean_Sonneman@blm.gov.*

Please indicate "*Attn:* 1004–0169" regardless of the form of your comments.

FOR FURTHER INFORMATION CONTACT: You may contact Adam Merrill at 202–912–7044. Persons who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, to contact Mr. Merrill.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act (44 U.S.C. 3501–3521), require that interested members of the public and affected agencies be provided an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d) and 1320.12(a)). The Paperwork Reduction Act provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

This notice identifies information collections that are contained in 43 CFR part 3715. The BLM will request that the OMB approve this information collection activity for a 3-year term. 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 the BLM's submission of the information collection requests to OMB.

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

The following information is provided for the information collection:

Title: Use and Occupancy Under the Mining Laws (43 CFR subpart 3715).

Form: None.

OMB Control Number: 1004–0169.

Abstract: This notice pertains to the collection of information that is necessary to manage the use and occupancy of public lands for developing mineral deposits under the Mining Laws.

Frequency: On occasion.

Estimated Number and Description of Respondents: 150 mining claimants and operators of prospecting, exploration, mining, and processing operations.

Estimated Reporting and Recordkeeping "Hour" Burden: 300 hours.

Estimated Reporting and Recordkeeping "Non-Hour Cost" Burden: None.

Jean Sonneman,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 2011–11289 Filed 5–9–11; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLES956000–L14200000–BJ0000–LXSITRST0000]

Notice of Filing of Plat of Survey, Minnesota

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM–Eastern States office in Springfield, Virginia, 30 calendar days from the date of publication of this notice in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Dominica Van Koten, Chief Cadastral Surveyor, 703–440–1674. 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: This survey was requested by the Bureau of Indian Affairs.

The lands surveyed are:

Fourth Principal Meridian, Minnesota

T. 51 N., R 19 W.

The plat of survey represents the dependent resurvey and corrective dependent resurvey of a portion of the subdivisional lines and survey of the subdivision of Section 34, of Township 51 North, Range 19 West, of the Fourth Principal Meridian, in the State of Minnesota, and was accepted March 23, 2011.

We will place a copy of the plat we described in the open files. It will be available to the public as a matter of information.

If the BLM receives a protest against the survey, as shown on the plat, prior to the date of the official filing, we will stay the filing pending our consideration of the protest.

We will not officially file the plat until the day after we have accepted or dismissed all protests and they have become final, including decisions on appeals.

Dominica Van Koten,

Chief Cadastral Surveyor.

[FR Doc. 2011–11349 Filed 5–9–11; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

National Park Service

Final General Management Plan, Wilderness Management Plan, and Final Environmental Impact Statement; Apostle Islands National Lakeshore

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of Availability of the Final General Management Plan/Wilderness Management Plan/Final Environmental Impact Statement, Apostle Islands National Lakeshore.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), the National Park Service (NPS) announces the availability of the Final Environmental Impact Statement (FEIS) for the General Management Plan (GMP)/Wilderness Management Plan for Apostle Islands National Lakeshore, Wisconsin (Lakeshore).

DATES: The National Park Service will execute a Record of Decision (ROD) no

sooner than 30 days following publication by the Environmental Protection Agency of the Notice of Availability of the Final Environmental Impact Statement.

ADDRESSES: Information will be available for public inspection online at *http://parkplanning.nps.gov/apis*, or by writing to Ms. Julie Van Stappen, Chief of Planning and Resource Management, Apostle Islands National Lakeshore, Route 1, Box 4, Bayfield, WI 54814; telephone: 715–779–3398, extension 211. Information also can be picked-up in person at the park's headquarters at 415 Washington Avenue, Bayfield, Wisconsin.

SUPPLEMENTARY INFORMATION: This document provides a framework for management of the Lakeshore and the Gaylord Nelson Wilderness, including its resources, visitors, and facilities, for the next 15–20 years. The document describes four alternatives for management of the park, including a no-action alternative, and analyzes the environmental impacts of those alternatives.

The NPS preferred alternative (Alternative 2) would focus on providing opportunities for more people to have an island experience. Additional transportation opportunities would be sought to encourage visitors to come to Sand, Basswood, and Oak islands. Some additional visitor facilities would be developed on these islands. There would be no change in the number of public docks in the park, but some docks would be relocated, improved, or expanded. The Bayfield visitor center would be moved closer to the water to improve contact with visitors and to be located with an operations center. The Little Sand Bay Visitor Center would be replaced with a visitor contact station. A new ranger station and accessible beach ramp would be developed at Meyers Beach. Two light stations would be restored or rehabilitated, similar to the Raspberry Island light station. The wilderness area would continue to be managed as it is now, with the exception of the Oak Island group campsite being removed and the site restored.

Other alternatives considered included the no action alternative (Alternative 1) where the NPS would continue to manage the Lakeshore as it has been managed since the 1989 general management plan was approved and the Gaylord Nelson Wilderness was designated in 2004. Alternative 3, which would focus on providing primitive, lake-oriented recreation and education opportunities, with some new and different opportunities provided. Under alternative 4, the emphasis would be on providing a greater variety of structured recreation opportunities for visitors. More visitor facilities would be provided in island non-wilderness areas, and mainland visitor opportunities would be expanded.

FOR FURTHER INFORMATION CONTACT: Ms. Julie Van Stappen, Chief of Planning and Resource Management Apostle Islands National Lakeshore, Route 1, Box 4, Bayfield, Wisconsin 54814, and by calling 715–779–3198, extension 211.

Dated: March 10, 2011.

George J. Turnbull,

Acting Regional Director, Midwest Region.

[FR Doc. 2011–11412 Filed 5–9–11; 8:45 am]

BILLING CODE 4312–97–P

DEPARTMENT OF THE INTERIOR

National Park Service

Draft Environmental Impact Statement for the Winter Use Plan, Yellowstone National Park

AGENCY: National Park Service, Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, the National Park Service (NPS) announces the availability of a Draft Environmental Impact Statement (DEIS) for a Winter Use Plan for Yellowstone National Park, located in Idaho, Montana and Wyoming.

DATES: The National Park Service will accept comments from the public for 60 days after the date the Environmental Protection Agency publishes their Notice of Availability. For information on meeting and webinar dates, see the **SUPPLEMENTRY INFORMATION** section below.

ADDRESSES: Information will be available for public review and comment online at *http://parkplanning.nps.gov/YELL* (click on the link to the Winter Use Plan), and in the office of Superintendent Dan Wenk, Yellowstone National Park, P.O. Box 168, Yellowstone National Park, Wyoming 82190.

If you wish to comment on the Draft Environmental Impact Statement, you may submit your comments by any one of several methods.

- *Internet:* We encourage you to comment via the Internet at *http://parkplanning.nps.gov/YELL* (click on the link to the Winter Use Plan).
- *Mail:* You may also comment by mail to Yellowstone National Park, Winter Use Draft EIS, P.O. Box 168, Yellowstone NP, WY 82190.
- *Hand Delivery:* Finally, you may hand deliver your comments to Management Assistant's Office, Headquarters Building, Mammoth Hot Springs, Yellowstone National Park, WY.

Comments will not be accepted by fax, e-mail, or in any other way than those specified above. Bulk comments in any format (hard copy or electronic) submitted on behalf of others will not be accepted.

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

FOR FURTHER INFORMATION CONTACT: Vicki Regula, P.O. Box 168, Yellowstone National Park, WY 82190, (307) 344–2019, *yell_winter_use@nps.gov.*

SUPPLEMENTARY INFORMATION: The National Park Service intends to hold public meetings as follows:

- Jackson, WY on June 1, 2011.
- Cody, WY on June 2, 2011.
- West Yellowstone, MT on June 7, 2011.
- Bozeman, MT. on June 8, 2011.
- Lakewood, CO on June 21, 2011.
- Washington, DC on June 23, 2011.

In addition, two webinars will be held during the comment period. The first will be on June 21, 2011 from Noon to 2:30 p.m. The second will be June 22, 2011 from 6:30 p.m. to 9 p.m. Details regarding the exact times and locations of these meetings, and how to participate in the webinars, will be announced on the NPS Planning, Environment, and Public Comment (PEPC) Web site, at *http://parkplanning.nps.gov/YELL* (click on the link to the Winter Use Plan), and through local media.

Seven alternatives were considered in the DEIS. Alternative 1 would not permit public over-snow vehicle (OSV) use in Yellowstone after the interim rule expires (after the winter 2010/2011), but would allow for approved non-motorized use to continue. Alternative 1 has been identified as the environmentally preferable alternative. Alternative 2 would manage OSV use at the same levels as the 2008 interim rule (318 snowmobiles and 78 snowcoaches per day). Alternative 3 would allow for snowmobile and snowcoach use levels to increase to the levels set forth in the 2004 plan (720 snowmobiles and 78

snowcoaches per day). Alternative 4 would allow for commercially guided wheeled vehicles, in addition to OSVs (100 commercially wheeled vehicles, 110 snowmobiles and 30 snowcoaches per day). Alternative 5 would initially allow for the same level of use as alternative 2 (318 snowmobiles and 78 snowcoaches per day), but would provide for a transition to snowcoaches only if user demand is present to support such a transition or at the discretion of the Superintendent. Upon complete transition, there would be zero snowmobiles and up to 120 snowcoaches per day. Alternative 6 would provide for use levels that vary each day, with a seasonal limit of up to 32,000 snowmobiles and 4,600 snowcoaches, and a daily limit of up to 540 snowmobiles and 78 snowcoaches. Up to 25 percent of snowmobile permits under alternative 6 would be for unguided or non-commercially guided use.

Alternative 7 is the agency preferred alternative and would provide a variety of use levels and experiences for visitors. Four different use levels for snowmobiles and snowcoaches would be implemented, the combination of which may vary by day. Snowmobile use would range from 110 to 330 vehicles per day and snowcoach use would range from 30 to 80 vehicles per day. The varying use levels would provide for high and low use days, allowing for a variety of motorized and non-motorized visitor experiences throughout the winter season. Commercial guide requirements would continue. All snowmobiles and snowcoaches would need to enter the park by 10:30 a.m. A requirement to limit nitrogen oxides (NO_X) emissions would be added to the current Best Available Technology requirements for snowmobiles. By 2014–2015, all snowcoaches would have to employ model year 2010 engine and emission control systems, and all snowcoaches' sound would be limited to 73 decibels, similar to the current BAT requirements for snowmobiles. During the first winter of implementation, the provisions of the interim plan that was in effect for the past two winters would continue. Up to 318 best available technology, commercially guided snowmobiles and up to 78 commercially guided snowcoaches would be allowed to enter the park each day during the transition winter.

More information regarding Yellowstone in the winter, including educational materials and a detailed history of winter use in Yellowstone, is available at *http://www.nps.gov/yell/planvisit/winteruse/index.htm.*

Dated: May 5, 2011.

Peggy O'Dell,

Deputy Director, National Park Service.

[FR Doc. 2011–11408 Filed 5–6–11; 11:15 am]

BILLING CODE 4312–CT–P

INTERNATIONAL TRADE COMMISSION

Submission for OMB Review; Comment Request—Agency Proposal for the Collection of Information Submitted to the Office of Management and Budget (OMB) for Review; Comment Request.

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: In accordance with the provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), the Commission has submitted a proposal for the collection of information to OMB for approval. The proposed information collection is a 3-year extension of the current "generic clearance" (approved by the Office of Management and Budget under control No. 3117–0016) under which the Commission can issue information collections (specifically, producer, importer, purchaser, and foreign producer questionnaires and certain institution notices) for the following types of import injury investigations: antidumping, countervailing duty, escape clause, market disruption, NAFTA safeguard, and "interference with programs of the USDA." Any comments submitted to OMB on the proposed information collection should be specific, indicating which part of the questionnaires or study plan are objectionable, describing the issue in detail, and including specific revisions or language changes.

DATES: To be assured of consideration, comments should be submitted to OMB within 30 days of the date this notice appears in the **Federal Register**.

ADDRESSES: Comments about the proposal should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, *Attention:* Wendy Liberante, Desk Officer for U.S. International Trade Commission. Copies of any comments should be provided to Andrew Martin (U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436).

FOR FURTHER INFORMATION CONTACT: Copies of the proposed collection of information and supporting documentation may be obtained from Jennifer Merrill (U.S. International Trade Commission, tel. no. 202–205–3188). Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*).

SUPPLEMENTARY INFORMATION: (1) The proposed information collection consists of five forms, namely the *Sample Producers', Sample Importers', Sample Purchasers', and Sample Foreign Producers' questionnaires* (separate forms are provided for questionnaires issued for the five-year reviews) and *Sample Notice of Institution for Five-Year Reviews.*

(2) The types of items contained within the sample questionnaires and institution notice are largely determined by statute. Actual questions formulated for use in a specific investigation depend upon such factors as the nature of the industry, the relevant issues, the ability of respondents to supply the data, and the availability of data from secondary sources.

(3) The information collected through questionnaires issued under the generic clearance for import injury investigations is consolidated by Commission staff and forms much of the statistical base for the Commission's determinations. Affirmative Commission determinations in antidumping and countervailing duty investigations result in the imposition of duties on imports entering the United States, determined by The Department of Commerce, which are in addition to any normal customs duties. If the Commission makes an affirmative determination in a five-year review, the existing antidumping or countervailing duty order remains in place. The data developed in escape-clause, market disruption, and interference-with-USDA-program investigations (if the Commission finds affirmatively) are used by the President/U.S. Trade Representative to determine the type of relief, if any, to be provided to domestic industries.The submissions made to the Commission in response to the notices of institution of five-year reviews form the basis for the Commission's determination as to whether a full or expedited review should be conducted.

(4) Likely respondents consist of businesses (including foreign businesses) or farms that produce,

import, or purchase products under investigation. Estimated total annual reporting burden for the period July 2011–June 2014 that will result from the collection of information is presented below.

TABLE 1—PROJECTED ANNUAL BURDEN DATA, BY TYPE OF INFORMATION COLLECTION, JULY 2011–JUNE 2014

Item	Producer questionnaires	Importer questionnaires	Purchaser questionnaires	Foreign producer questionnaires	Institution notices for 5-year reviews	Total
Number of respondents	751	1,279	988	1,119	84	4,221
Frequency of response	1	1	1	1	1	1
Total annual responses	751	1,279	988	1,119	84	4,221
Hours per response	71.5	40.1	35.1	40.6	10.9	44.1
Total hours	53,672	51,292	34,678	45,443	917	186,002

No recordkeeping burden is known to result from the proposed collection of information.

By order of the Commission,

Issued: May 4, 2011.

James R. Holbein,

Acting Secretary to the Commission.

[FR Doc. 2011–11241 Filed 5–9–11; 8:45 am]

BILLING CODE P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Committee on Rules of Practice and Procedure

AGENCY: Judicial Conference of the United States Committee on Rules of Practice and Procedure.

ACTION: Notice of Open Meeting.

SUMMARY: The Committee on Rules of Practice and Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATES: June 2–3, 2011

Time: 8:30 a.m. to 5 p.m.

ADDRESSES: Thurgood Marshall Federal Judiciary Building, Mecham Conference Center, One Columbus Circle, NE., Washington, DC 20544.

FOR FURTHER INFORMATION CONTACT: Peter G. McCabe, Secretary, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: May 5, 2011.

Gale B. Mitchell,

Rules Committee Support Office.

[FR Doc. 2011–11382 Filed 5–9–11; 8:45 am]

BILLING CODE 2210–55–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Bankruptcy Procedure

AGENCY: Judicial Conference of the United States Advisory Committee on Rules of Bankruptcy Procedure.

ACTION: Notice of Open Meeting.

SUMMARY: The Advisory Committee on Rules of Bankruptcy Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATES: September 26–27, 2011.

TIME: 8:30 a.m. to 5 p.m.

ADDRESSES: Sofitel Hotel, Sofitel Chicago Water Tower, 20 East Chestnut Street, Chicago, IL 60611.

FOR FURTHER INFORMATION CONTACT: Peter G. McCabe, Secretary, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: May 5, 2011.

Gale B. Mitchell,

Rules Committee Support Office.

[FR Doc. 2011–11383 Filed 5–9–11; 8:45 am]

BILLING CODE 2210–55–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Appellate Procedure

AGENCY: Judicial Conference of the United States Advisory Committee on Rules of Appellate Procedure.

ACTION: Notice of Open Meeting.

SUMMARY: The Advisory Committee on Rules of Appellate Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATES: October 13–14, 2011.

TIME: 8:30 a.m. to 5 p.m.

ADDRESSES: Ritz Carlton—Buckhead, 3434 Peachtree Road, NE., Atlanta, GA 30326.

FOR FURTHER INFORMATION CONTACT: Peter G. McCabe, Secretary. Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: May 5, 2011.

Gale B. Mitchell,

Rules Committee Support Office.

[FR Doc. 2011–11384 Filed 5–9–11; 8:45 am]

BILLING CODE 2210–55–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Criminal Procedure

AGENCY: Judicial Conference of the United States Advisory Committee on Rules of Criminal Procedure.

ACTION: Notice of Open Meeting.

SUMMARY: The Advisory Committee on Rules of Criminal Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATES: October 31–November 1, 2011.

TIME: 8:30 a.m. to 5 p.m.

ADDRESSES: Westin Hotel, 811 Spruce Street, St. Louis, MO 63102.

FOR FURTHER INFORMATION CONTACT: Peter G. McCabe, Secretary, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: May 5, 2011.

Gale B. Mitchell,

Rules Committee Support Office.

[FR Doc. 2011–11386 Filed 5–9–11; 8:45 am]

BILLING CODE 2210–55–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Civil Procedure

AGENCY: Judicial Conference of the United States Advisory Committee on Rules of Civil Procedure.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Civil Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATES: November 7–8, 2011.

Time: 8:30 a.m. to 5 p.m.

ADDRESSES: Thurgood Marshall Federal Judiciary Building, Mecham Conference Center, One Columbus Circle, NE., Washington, DC 20544.

FOR FURTHER INFORMATION CONTACT: Peter G. McCabe, Secretary, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: May 5, 2011.

Gale B. Mitchell,

Rules Committee Support Office.

[FR Doc. 2011–11388 Filed 5–9–11; 8:45 am]

BILLING CODE 2210–55–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Evidence

AGENCY: Judicial Conference of the United States Advisory Committee on Rules of Evidence.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Evidence will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATES: October 27–28, 2011.

TIME: 8:30 a.m. to 5 p.m.

ADDRESS: William & Mary Law School, 613 S. Henry Street, Williamsburg, VA 23185.

FOR FURTHER INFORMATION CONTACT: Peter G. McCabe, Secretary Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: May 5, 2011.

Gale B. Mitchell,

Rules Committee Support Office.

[FR Doc. 2011–11385 Filed 5–9–11; 8:45 am]

BILLING CODE 2210–55–P

DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request for Extension of Information Collection (Without Revisions): Form ETA 9033–A, Attestation by Employers Using Alien Crewmembers for Longshore Activities in Alaska, OMB Control No. 1205–0352

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (Department), as part of its continuing effort to reduce paperwork and respondent burden, is conducting a pre-clearance consultation to provide the general public and Federal agencies with an opportunity to comment on the continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA) 44 U.S.C. 3506(c)(2)(A). The Department undertakes this consultation to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Through this Notice, the Employment and Training Administration is soliciting comments concerning the extension of the approval for an information collection by Form ETA 9033–A, OMB Control Number 1205–0352, *Attestation by Employers Using Alien Crewmembers for Longshore Activities in the State of Alaska,* which expires on September 30, 2011. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the For Further Information Contact section of this notice.

DATES: Please submit written comments to the office listed in the **FOR FURTHER INFORMATION CONTACT** section below on or before July 11, 2011.

FOR FURTHER INFORMATION CONTACT: William L. Carlson, Ph.D., Administrator, Office of Foreign Labor Certification, U.S. Department of Labor, Room C4312, 200 Constitution Ave., NW., Washington, DC 20210; by phone at (202) 693–3010 (this is not a toll-free number); by fax at (202) 693–2768; or by e-mail at *ETA.OFLC.Forms@dol.gov* subject line: Form ETA 9033–A.

SUPPLEMENTARY INFORMATION:

I. Background

The information collection is required by section 258 of the Immigration and Nationality Act (INA) 8 U.S.C. 1288. The INA generally prohibits the performance of longshore work by alien crewmembers, however the INA provides an exception to this prohibition for ports in the State of Alaska. Under this Alaska exception, before any employer may use alien crewmembers to perform longshore activities in the State of Alaska, it must submit an attestation to the Secretary of Labor containing the elements prescribed by the INA at 8 U.S.C. 1288(d). The INA further requires that the Secretary of Labor make available for public examination in Washington, DC a list of employers that have filed attestations and, for each of these employers, a copy of the employer's attestation and accompanying documentation received by the Secretary. 8 U.S.C. 1288(d)(5).

II. Review Process

The Department is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the Department's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

In order to meet its statutory responsibilities under the INA, the Department needs to extend an existing collection of information pertaining to employers seeking to use alien crewmembers to perform longshore activities in the State of Alaska.

Type of Review: Extension (without revisions) of a currently approved information collection.

Agency: Employment and Training Administration.

Title: Attestations by Employers Using Alien Crewmembers for Longshore Activities in the State of Alaska.

OMB Number: 1205–0352.

Agency Form(s): Form ETA 9033–A.

Recordkeeping: On occasion.

Affected Public: Businesses or other for-profits.

Total Respondents: 7.
Estimated Total Burden Hours: 21.
Total Burden Cost (capital/startup): 0.
Total Burden Cost (operating/maintaining): 0.

The Department will summarize and include (or both) comments submitted in response to this comment request in its request for Office of Management and Budget approval of the information collection. The comments will also become a matter of public record.

Signed in Washington, DC, this 2nd day of May 2011.

Jane Oates,

Assistant Secretary, Employment and Training Administration.

[FR Doc. 2011–11192 Filed 5–9–11; 8:45 am]

BILLING CODE 4510–FP–P

LIBRARY OF CONGRESS

Copyright Office

[Docket No. RM 2010–10]

Section 302 Report

AGENCY: Copyright Office, Library of Congress.

ACTION: Announcement of public hearing.

SUMMARY: In Section 302 of the Satellite Television Extension and Localism Act, Congress directed the Copyright Office ("Office") to prepare a report addressing possible mechanisms, methods, and recommendations for phasing out the statutory licensing requirements set forth in Sections 111, 119, and 122 of the Copyright Act. The Office published a Notice of Inquiry ("NOI") in the **Federal Register,** seeking comments on issues related to Section 302. 76 FR 11816 (March 3, 2011). The Office announces that it will hold a public hearing on the issues raised by the NOI on June 10, 2011.

DATES: A public hearing regarding marketplace alternatives to statutory licensing schemes under Sections 111, 119, and 122 of the Copyright Act will be held on Friday, June 10, 2011. Notices of intention to testify must be received by the Office by 5 p.m. E.D.T. on Friday, May 27, 2011. Written testimony and written questions are due by noon E.D.T, on Wednesday, June 8, 2011.

ADDRESSES: The hearing will be held in the Copyright Hearing Room, LM–408, Madison Building, The Library of Congress, 101 Independence Avenue, SE., Washington, DC 20540. All submissions shall be submitted electronically. A page pertaining to the hearing will be posted on the Copyright Office Web site at *http://www.copyright.gov/docs/section302*. Interested parties will be able to submit (1) notices of intent to participate in the hearing; (2) suggested questions for the Copyright Office to ask at the hearing; and (3) written testimony electronically. The Web site interface permits interested parties to complete a form specifying name and organization, as applicable, and to upload documents as attachments via a browser button. To meet accessibility standards, all submissions must be uploaded in either the Adobe Portable Document File (PDF) format that contains searchable, accessible text (not an image); Microsoft Word; WordPerfect; Rich Text Format (RTF); or ASCII text file format (not a scanned document). The name of the submitter and organization should appear on both the form and the face of all the submissions. All submissions will be posted publicly on the Copyright Office Web site exactly as they are received, along with names and organizations. Persons who are unable to make their submissions electronically should contact Ben Golant, Assistant General Counsel, at 202–707–9127.

FOR FURTHER INFORMATION CONTACT: Ben Golant, Assistant General Counsel, and Tanya M. Sandros, Deputy General Counsel, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024. *Telephone:* (202) 707–8380. *Telefax:* (202) 707–8366.

SUPPLEMENTARY INFORMATION:

I. Background

On May 27, 2010, the President signed the Satellite Television Extension and Localism Act of 2010. ("STELA"). See Public Law 111–175, 124 Stat. 1218 (2010). The legislation extended the term of the Section 119 license for another five years, updated the statutory license structures to account for changes resulting from the nationwide transition to digital television, and revised the Section 111 and Section 122 licenses in several other respects. In addition, STELA instructed the Copyright Office, the Government Accountability Office and the FCC to conduct studies and report findings to Congress on different structural and regulatory aspects of the broadcast signal carriage marketplace in the United States. Section 302 of STELA, entitled "Report on Market Based Alternatives to Statutory Licensing," charges the Copyright Office with the following:

> Not later than 18 months after the date of the enactment of this Act, and after consultation with the Federal Communications Commission, the Register of Copyrights shall submit to the appropriate Congressional committees a report containing:
>
> (1) Proposed mechanisms, methods, and recommendations on how to implement a phase-out of the statutory licensing requirements set forth in sections 111, 119, and 122 of title 17, United States Code, by making such sections inapplicable to the secondary transmission of a performance or display of a work embodied in a primary transmission of a broadcast station that is authorized to license the same secondary transmission directly with respect to all of the performances and displays embodied in such primary transmission;
>
> (2) any recommendations for alternative means to implement a timely and effective phase-out of the statutory licensing requirements set forth in sections 111, 119, and 122 of title 17, United States Code; and
>
> (3) any recommendations for legislative or administrative actions as may be appropriate to achieve such a phase-out.

In response to these directives, the Office published a Notice of Inquiry in the **Federal Register,** 76 FR 11816 (March 3, 2011), seeking comments and information from the public on several issues that are central to the scope and operation of Section 302 and critical to the Office's analysis of the legal and business landscapes pertaining to video programming.

II. Notice of Public Hearing

The Office finds that public input on marketplace alternatives to the statutory licenses from interested parties is critical to a balanced and comprehensive report to Congress. Consequently, the Office has determined that a process involving both written comments and an open hearing is needed to gather the necessary information. The Office is therefore announcing the scheduling of a public hearing on the issues raised in the Section 302 NOI to complement the comments and reply comments submitted in this proceeding.

The Office will conduct its hearing with interested parties in the Copyright Office Hearing Room, LM–408, at the Madison Building of the Library of Congress on June 10, 2011. The format for these hearings will resemble the traditional Congressional hearing model in that there will be panels of witnesses presenting testimony to a panel of Copyright Office staff. Each participant will have a limited time to present his or her testimony. The Office will determine time limits for the witnesses once it receives all requests to testify. After the oral statements, the Office staff will ask questions of the various persons who testify, and interested parties may submit written questions to the Office by June 8, 2011, which may be addressed to specific witnesses or the

witnesses as a whole, at the discretion of the Office.

The public hearings are open to the general public. However, in order to testify, interested persons must inform the Office of their intention to testify no later than the close of business on May 27, 2011. Notification of intention to testify must be in written form and include the following information for each participant: Name, organization, title, postal mailing address, telephone, telefax, an e-mail address, and indicate if there is a need for audiovisual equipment to make a presentation. Notices of intention may be filed electronically according to the instructions noted above. Notifications received after the May 27, 2011 deadline will not be accepted, and such person or persons will not be allowed to testify.

Following receipt of the requests to testify, the Copyright Office will prepare an agenda of the hearing which will be posted on the Copyright Office Web site at: *http://www.copyright.gov/docs/section302/* and will also be sent to all persons who have submitted requests to testify.

The public hearing will begin at 9:30 a.m. and will continue until 5 p.m., unless otherwise directed. The Office will notify each witness who has filed a timely notice of intention to testify of the time he/she is expected to appear and offer testimony. The Office will also notify each witness of the other witnesses who will appear on his/her panel and post a list of the panels and witnesses on the Web site.

Transcription services of the public hearings will be provided by the Office. Those parties interested in obtaining transcripts of the hearings will need to purchase them from the transcription service.

Testimony. All persons who notify the Office of their intention to testify may submit a copy of their testimony by the June 8, 2011, deadline. In addition, and as noted above, interested parties may also submit by noon on June 8, 2011, suggested written questions, for possible use by panel members of the Copyright Office during the course of the hearings. Because of time limitations, the Office requests parties submitting testimony to file their statements to the Office electronically following the instructions noted above for submissions on or before the deadline.

Scope of the Proceeding. The Copyright Office stresses that factual arguments are at least as important as legal arguments and encourages persons who wish to testify to provide demonstrative evidence to supplement their testimony. While testimony from attorneys who can articulate legal arguments in support of particular for marketplace alternatives is useful, testimony from witnesses who can provide an economic analysis of the issues at hand is strongly encouraged. The Office also stresses that the Congressional mandate for this study is to come up with "[p]roposed mechanisms, methods, and recommendations on how to implement a phase-out of the statutory requirements" of sections 111, 119, and 122 (emphasis added), and not to recommend *whether* to phase out the existing statutory licenses.

III. Summary

The Office announces a formal hearing to be held on June 10, 2011, with relevant filing dates and instructions noted above.

Dated: May 4, 2011.

Maria A. Pallante,

Acting Register of Copyrights.

[FR Doc. 2011–11226 Filed 5–9–11; 8:45 am]

BILLING CODE P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Nixon Presidential Historical Materials: Opening of Materials

AGENCY: National Archives and Records Administration.

ACTION: Notice of opening of additional materials.

SUMMARY: This notice announces the opening of additional Nixon Presidential Historical Materials by the Richard Nixon Presidential Library and Museum, a division of the National Archives and Records Administration. Notice is hereby given that, in accordance with section 104 of Title I of the Presidential Recordings and Materials Preservation Act (PRMPA, 44 U.S.C. 2111 note) and 1275.42(b) of the PRMPA Regulations implementing the Act (36 CFR part 1275), the Agency has identified, inventoried, and prepared for public access the Vietnam Task Force study, United States -Vietnam Relations 1945–1967, informally known as "the Pentagon Papers."

DATES: The Richard Nixon Presidential Library and Museum intends to make the materials described in this notice available to the public on Monday, June 13, 2011, at the Richard Nixon Presidential Library and Museum's primary location in Yorba Linda, CA, beginning at 9 a.m. (PDT). In accordance with 36 CFR 1275.44, any person who believes it necessary to file a claim of legal right or privilege concerning access to these materials must notify the Archivist of the United States in writing of the claimed right, privilege, or defense within 30 days of the publication of this notice. These claims should be sent to the Office of the Archivist of the United States, National Archives at College Park, 8601 Adelphi Road, College Park, MD 20740–6001.

FOR FURTHER INFORMATION CONTACT: Timothy Naftali, Director, Richard Nixon Presidential Library and Museum, 714–983–9120 .

SUPPLEMENTARY INFORMATION: The following materials will be made available in accordance with this notice:

Previously restricted textual materials. Volume: 3.7 cubic feet. A number of textual materials previously withheld from public access have been reviewed for release and/or declassified under the systematic declassification review provisions and under the mandatory review provisions of Executive Order 13526, or in accordance with 36 CFR 1275.56 (Public Access regulations). The materials are from National Security Council (NSC Files), Presidential Acquisition Files, Pentagon Papers.

Dated: May 4, 2011.

David Ferriero,

Archivist of the United States.

[FR Doc. 2011–11533 Filed 5–9–11; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Public Availability of the National Endowment for the Humanities FY 2010 Service Contract Inventory

AGENCY: National Endowment for the Humanities.

ACTION: Notice of Public Availability of FY 2010 Service Contract Inventories.

SUMMARY: In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010 (Pub. L. 111–117), the National Endowment for the Humanities (NEH) is publishing this notice to advise the public of the availability of the FY 2010 Service Contract inventory. This inventory provides information on service contract actions over $25,000 that were made in FY 2010. 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 issued on November 5, 2010 by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP). OFPP's guidance is available at

http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/service-contract-inventories-guidance-11052010.pdf. NEH has posted its inventory and a summary of the inventory on the NEH Web site: *http://www.neh.gov.*

FOR FURTHER INFORMATION CONTACT: Barry Maynes in the Administrative Services Office at 202–606–8233 or *bmaynes@neh.gov.*

Dated: May 4, 2011.

Michael P. McDonald,

General Counsel and Federal Register Liaison Officer.

[FR Doc. 2011–11229 Filed 5–9–11; 8:45 am]

BILLING CODE 7536–01–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, Public Law 104–13. The full submission may be found at: *http://www.reginfo.gov/public/do/PRAMain.* This is the second notice; the first notice was published at 76 FR 11822 and no comments were received. 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; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, 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 e-mail to *splimpto@nsf.gov.* Comments regarding these information collections 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.

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: National Science Foundation Applicant Survey.

OMB Approval Number: 3145–0096.

Type of Request: Intent to seek approval to extend an information collection for three years.

Proposed Project: The current National Science Foundation Applicant survey has been in use for several years. Data are collected from applicant pools to examine the racial/sexual/disability composition and to determine the source of information about NSF vacancies.

Use of the Information: Analysis of the applicant pools is necessary to determine if NSF's targeted recruitment efforts are reaching groups that are underrepresented in the Agency's workforce and/or to defend the Foundation's practices in discrimination cases.

Burden on the Public: The Foundation estimates about 4,000 responses annually at 1 minute per response; this computes to approximately 67 hours annually.

Dated: May 5, 2011.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2011–11339 Filed 5–9–11; 8:45 am]

BILLING CODE 7555–01–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, Public Law 104–13. This is the second notice for public comment; the first was published in the **Federal Register** at 76 FR 2151, 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: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments 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 via e-mail 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).

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.

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: NSF Surveys to Measure Customer Service Satisfaction.

OMB Number: 3145–0157.

Type of Request: Intent to seek approval to renew an information collection.

Abstract:

Proposed Project: On September 11, 1993, President Clinton issued Executive Order 12862, "Setting Customer Service Standards," which calls for Federal agencies to provide service that matches or exceeds the best service available in the private sector. Section 1(b) of that order requires agencies to "survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services." The National Science Foundation (NSF) has an ongoing need to collect information from its customer community (primarily individuals and organizations engaged in science and engineering research and education) about the quality and kind of services it provides and use that information to help improve agency operations and services.

Estimate of Burden: The burden on the public will change according to the needs of each individual customer satisfaction survey; however, each survey is estimated to take approximately 30 minutes per response.

Respondents: Will vary among individuals or households; business or other for-profit; not-for-profit institutions; farms; Federal government; State, local or tribal governments.

Estimated Number of Responses per Survey: This will vary by survey.

Dated: May 5, 2011.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2011–11395 Filed 5–9–11; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2011–0098]

Notice; Applications and Amendments to Facility Operating Licenses Involving Proposed No Significant Hazards Considerations and Containing Sensitive Unclassified Non-Safeguards Information and Safeguards Information and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information

I. Background

Pursuant to Section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (the Commission, NRC, or NRC staff) is publishing this notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This notice includes notices of amendments containing sensitive unclassified non-safeguards information (SUNSI) and safeguards information (SGI).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in Title 10 of the *Code of Federal Regulations* (10 CFR) 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules, Announcements and Directives Branch (RADB), TWB–05–B01M, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be faxed to the RADB at 301–492–3446. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852.

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852, or at *http://www.nrc.gov/reading-rm/doc-collections/cfr/part002/part002-0309.html.* Publicly available records will be accessible in the Agencywide Documents Access and Management System (ADAMS) online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and

how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the Internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's "Guidance for Electronic Submission," which is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by e-mail at *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern

Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/EHD/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as Social Security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Non-timely filings will not be entertained absent a determination by the presiding officer that the petition or request should be granted or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

For further details with respect to this amendment action, see the application for amendment which is available for public inspection at the Commission's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available records will be accessible electronically in ADAMS online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov.*

Entergy Nuclear Operations, Inc., Docket No. 50–255, Palisades Nuclear Plant, Van Buren County, Michigan

Date of amendment request: January 31, 2011.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The proposed amendment would revise Appendix A, Technical Specifications (TS), as they apply to the spent fuel pool (SFP) storage requirements in TS Section 3.7.16 and criticality requirements for Region I SFP and north tilt pit fuel storage racks, in TS Section 4.3. The criticality analyses supporting the proposed TS change for the Region I fuel storage racks reflect credit for fuel assembly burnup and soluble boron. Based on the analyses, the proposed change, in accordance with Title 10 of the *Code of Federal Regulations* (10 CFR) 50.68, "Criticality accident requirements," would maintain the effective neutron multiplication factor (Keff) limits for Region I storage racks to less than 1.0 when flooded with water having a minimum boron concentration of 850 parts per million (ppm) during normal operations, and 1350 ppm during accident conditions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

There is no significant increase in the probability of an accidental misloading of fuel assemblies into the spent fuel pool (SFP) racks when considering the presence of soluble boron in the pool water for criticality control and the proposed changes. The proposed changes credit fuel burnup and voiding of the gaps between the SFP rack individual storage cells. Fuel assembly placement would continue to be controlled by approved fuel handling procedures and would be in accordance with the TS fuel storage rack configuration limitations.

There is no significant increase in the consequences of the accidental misloading of fuel assemblies into the SFP racks. The criticality analyses that credit fuel burnup and voiding of the gaps between the SFP rack individual storage cells demonstrate that the pool would remain subcritical with margin following an accidental misloading if the pool contains an adequate boron concentration. The TS 3.7.15 limitation on minimum SFP boron concentration and plant procedures together ensure that an adequate boron concentration will be maintained.

There is no significant increase in the probability of a fuel assembly drop accident in the SFP when considering the presence of soluble boron in the SFP water for criticality control, credit fuel burnup, and voiding of the gaps between the SFP rack individual storage cells. The handling of fuel assemblies in the spent fuel is performed in accordance with site procedures in borated water. The criticality analysis has shown that the reactivity increase with a fuel assembly drop accident in both a vertical and horizontal orientation is bounded by the fuel assembly misloading accident. Therefore, in addition to there being no significant increase in the probability of a fuel assembly drop accident, the consequences of a fuel assembly drop accident in the SFP would not increase significantly due to the proposed change.

The SFP TS 3.7.15 requires a minimum boron concentration of 1720 ppm, which bounds the analysis for the proposed amendment. Soluble boron has been maintained in the SFP water as required by TS and controlled by procedures. The criticality safety analyses for Region I and Region II of the SFP credit the same soluble boron concentration of 850 ppm to maintain a Keff ≤ 0.95 under normal conditions and 1350 ppm to maintain a Keff ≤ 0.95 under accident scenarios as does the analysis for the proposed change for Region I, Regions 1A, 1B, 1C, 1D, and 1E. In crediting soluble boron, in Region 1A, and soluble boron and burnup, in Regions 1B, 1C, 1D, and 1E, the SFP criticality analysis would have no effect on normal pool operation and maintenance. Credit for fuel burnup and voiding of the gaps between the SFP rack individual storage cells would have no effect on the normal SFP operation and maintenance. Thus, there is no change to the probability or the consequences of the boron dilution event in the SFP.

Since soluble boron is maintained in the SFP water, implementation of the proposed changes would have no effect on normal pool operation and maintenance. Also, since soluble boron is present in the SFP, a dilution event has always been a possibility. The loss of substantial amounts of soluble boron from the SFP was evaluated as part of the analyses in support of this proposed amendment. The analyses use the same soluble boron concentrations as were used in previous analyses for the Region I and Region II spent fuel storage racks. The SFP Regions 1A, 1B, 1C, 1D, and 1E storage racks are analyzed to allow storage of the fuel applying

a burnup credit (for regions 1B, 1C, 1D, and 1E), a complete loss of Carborundum® plates and complete voiding of the gaps between the SFP individual storage cells. A minimum margin of 0.0117 is calculated for the boron dilution events with respect to 10 CFR 50.68 criteria, both borated and unborated. All abnormal conditions meet the 0.95 criterion at 1350 ppm of boron. Therefore, the limitations on boron concentration have not changed and would not result in a significant increase in the probability or consequences of a previously evaluated accident.

There is no increase in the probability or consequences of the loss of normal cooling to the SFP water, when considering this change that credits fuel burnup, voiding of the gaps between the SFP rack individual storage cells, and the presence of soluble boron in the pool water for subcriticality control, since a high concentration of soluble boron is always maintained in the SFP.

The criticality analyses documented in AREVA NP Inc. report ANP–2858P–003, "Palisades SFP Region 1 Criticality Evaluation with Burnup Credit," show, at a 95 percent probability and a 95 percent confidence level (95/95), that Keff is less than the regulatory limit in 10 CFR 50.68 of 0.95 under borated conditions, or the limit of 1.0 with unborated water. Therefore, the consequences of accidents previously evaluated are not increased.

Therefore, it is concluded that the proposed change does not significantly increase the probability or consequences of any accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

Spent fuel handling accidents have been analyzed in Sections 14.11, "Postulated Cask Drop Accidents," and 14.19, "Fuel Handling Incident," of the Updated Final Safety Analysis Report. Criticality accidents in the SFP have been analyzed in previous criticality evaluations, which are the bases for the existing TS.

The existing TS allow storage of fuel assemblies with a maximum planar average U–235 enrichment of 4.54 weight percent in the Region 1A fuel storage rack, 4.34 weight percent in the Region 1B storage rack, and 3.05 weight percent in the 1E Region storage rack with the exception of one assembly in Region 1E having a maximum planar average U–235 enrichment of 3.26 weight percent. The proposed specifications would allow fuel enrichment to 4.54 weight percent in existing Regions 1B, and 1E and for new Regions 1C and 1D with minimum enrichment dependent burnup restrictions. The existing Region 1A enrichment of 4.54 weight percent is unchanged in the proposed specifications. The possibility of placing a fuel assembly with greater enrichment than allowed currently exists but is controlled by the fuel manufacturer's procedures and plant fuel handling procedures. These manufacturer's and plant procedural controls would remain in place. Changing the allowed enrichments does not create a new or different kind of accident.

ENO considered the effects of a mispositioned fuel assembly. The proposed loading restrictions include locations that are prohibited from containing any fuel. Administrative controls are in place to restrict fuel moves to those locations. These controls include procedures to develop the plans for fuel movement and operation of the fuel handling equipment. These procedures include appropriate reviews and verifications to ensure that TS requirements are maintained.

Furthermore, the existing TS contain limitations on the SFP boron concentration that conservatively bound the required boron concentration of the new criticality analysis. Currently, TS 3.7.15 requires a minimum boron concentration of 1720 ppm. Since soluble boron is maintained in the SFP water, implementation of the proposed changes would have no effect on normal pool operation and maintenance. Since soluble boron is present in the SFP, a dilution event has always been a possibility. The loss of substantial amounts of soluble boron from the SFP was evaluated as part of the analysis in support of Amendment No. 207. The analysis also demonstrated that, due to the large volume of unborated water that would need to be added and displaced, and the long duration of the event, the condition would be detected and corrected promptly. The analyses that support the current request use the same soluble boron concentrations that were used in previous analyses for the Region I and Region II spent fuel storage racks. In the unlikely event that soluble boron in the SFP is completely diluted, the fuel in Region I, Regions 1A, 1B, 1C, 1D, and 1E of the SFP would remain subcritical by a design margin of at least 0.0117 delta K, so the Keff of the fuel in Region 1 would remain below 1.0.

The combination of controls to prevent a mispositioned fuel assembly, the ability to readily identify and correct a dilution event, and the relatively high concentration of soluble boron supports a conclusion that a new or different kind of accident is not created.

Under the proposed amendment, no changes are made to the fuel storage racks themselves, to any other systems, or to any plant structures. Therefore, the change will not result in any other change in the plant configuration or equipment design.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

Detailed analysis, with approved and benchmarked methods has shown, with a 95 percent probability at a 95 percent confidence level, that the Keff of the Region I, Region 1A, 1B, 1C, 1D, and 1E, fuel storage racks in the SFP, including biases, tolerances and uncertainties, is less than 1.0 with unborated water and is less than or equal to 0.95 with 850 ppm of soluble boron and burnup credited (for Regions 1B, 1C, 1D, and 1E), along with complete voiding of the gaps between the individual storage cells in the SFP racks. In addition, the effects of abnormal and accident conditions have been evaluated to demonstrate that under credible conditions the Keff will not exceed 0.95 with 1350 ppm soluble boron and burnup credited. The current TS requirement for minimum SFP boron concentration is 1720 ppm, which provides assurance that the SFP would remain subcritical under normal, abnormal, or accident conditions.

The current analysis basis for the Region I and Region II fuel storage racks is a maximum Keff of less than 1.0 when flooded with unborated water, and less than or equal to 0.95 when flooded with water having a boron concentration of 850 ppm. In addition, the Keff in accident or abnormal operating conditions is less than 0.95 with 1350 ppm of soluble boron. These values are not affected by the proposed change.

Therefore, it is concluded that the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. William Dennis, Assistant General Counsel, Entergy Nuclear Operations, Inc., 440 Hamilton Ave., White Plains, NY 10601.

NRC Branch Chief: Robert J. Pascarelli.

NextEra Energy Seabrook, LLC, Docket No. 50–443, Seabrook Station, Unit 1, Rockingham County, New Hampshire

Date of amendment request: July 26, 2010.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The license amendment request (LAR) proposes a revision to the Facility Operating License (FOL) to require the licensee to fully implement and maintain in effect all provisions of a Nuclear Regulatory Commission (NRC)-approved cyber security plan (CSP). The LAR was submitted pursuant to Section 73.54 of Title 10 of the *Code of Federal Regulation* (10 CFR) which requires licensees currently licensed to operate a nuclear power plant under 10 CFR Part 50 to submit a CSP for NRC review and approval.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. [*The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.*]

The proposed amendment incorporates a new requirement in the [FOL] to implement

and maintain a Cyber Security Plan as part of the facility's overall program for physical protection. Inclusion of the [CSP] in the FOL itself does not involve any modifications to the safety-related structures, systems, or components (SSCs). Rather, the [CSP] describes how the requirements of 10 CFR 73.54 are to be implemented to identify, evaluate, and mitigate cyber attacks up to and including the design basis cyber attack threat, thereby achieving high assurance that the facility's digital computer and communications systems and networks are protected from cyber attacks. The [CSP] will not alter previously evaluated Final Safety Analysis Report (FSAR) design basis accident analysis assumptions, add any accident initiators, or affect the function of the plant safety-related SSCs as to how they are operated, maintained, modified, tested, or inspected.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. [*The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.*]

This proposed amendment provides assurance that safety-related SSCs are protected from cyber attacks. Implementation of 10 CFR 73.54 and the inclusion of a plan in the FOL do not result in the need of any new or different FSAR design basis accident analysis. It does not introduce new equipment that could create a new or different kind of accident, and no new equipment failure modes are created. As a result, no new accident scenarios, failure mechanisms, or limiting single failures are introduced as a result of this proposed amendment.

Therefore, the proposed amendment does not create the possibility for an accident of a new or different type than those previously evaluated.

3. [*The proposed changes do not involve a significant reduction in the margin of safety.*]

The margin of safety is associated with the confidence in the ability of the fission product barriers (i.e., fuel cladding, reactor coolant pressure boundary, and containment structure) to limit the level of radiation to the public. The proposed amendment would not alter the way any safety-related SSC functions and would not alter the way the plant is operated. The amendment provides assurance that safety-related SSCs are protected from cyber attacks. The proposed amendment would not introduce any safety limit. The proposed amendment would have no impact on the structural integrity of the fuel cladding, reactor coolant pressure boundary, or containment structure. Based on the above considerations, the proposed amendment would not degrade the confidence in the ability of the fission product barriers to limit the level of radiation to the public.

Therefore, the proposed change does not involve a significant reduction in a margin safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, and with the changes noted above in square brackets, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M.S. Ross, Florida Power & Light Company, P.O. Box 14000, Juno Beach, FL 33408–0420.

NRC Branch Chief: Harold Chernoff.

Northern States Power Company—Minnesota, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant (PINGP), Units 1 and 2, Goodhue County, Minnesota

Date of amendment request: March 18, 2011.

Description of amendment request: This amendment request contains safeguards information (SGI). The amendments would revise the facility Physical Security Plan (PSP) by modifying an existing commitment concerning armed responders.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The requested amendment involves security activities that do not reduce the ability for the security organization to prevent radiological sabotage. The activities of the security organization are not accident initiators nor do they mitigate accidents.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change involves functions of the security organization concerning utilization of personnel to implement the revised PlNGP defensive strategy. Analysis of the proposed change has not indicated nor identified a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed change will not reduce the number of armed responders committed to in the PlNGP PSP. The change will affect only the functions within the Security organization and has no impact upon nor causes a significant reduction in margin of safety for plant operation.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Peter M. Glass, Assistant General Counsel, Xcel Energy Services, Inc., 414 Nicollet Mall, Minneapolis, MN 55401

NRC Branch Chief: Robert J. Pascarelli.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information for Contention Preparation.

Entergy Nuclear Operations, Inc., Docket No. 50–255, Palisades Nuclear Plant, Van Buren County, Michigan

NextEra Energy Seabrook, LLC, Docket No. 50–443, Seabrook Station, Unit 1, Rockingham County, New Hampshire

Northern States Power Company—Minnesota, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant (PINGP), Units 1 and 2, Goodhue County, Minnesota

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing sensitive unclassified information (including Sensitive Unclassified Non-Safeguards Information (SUNSI) and Safeguards Information (SGI)). Requirements for access to SGI are primarily set forth in 10 CFR Parts 2 and 73. Nothing in this Order is intended to conflict with the SGI regulations.

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI or SGI is necessary to respond to this notice may request access to SUNSI or SGI. A "potential party" is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI or SGI submitted later than 10 days after publication will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI, SGI, or both to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, *Attention:* Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General

Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The e-mail address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1);

(3) If the request is for SUNSI, the identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly-available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention;

(4) If the request is for SGI, the identity of each individual who would have access to SGI if the request is granted, including the identity of any expert, consultant, or assistant who will aid the requestor in evaluating the SGI. In addition, the request must contain the following information:

(a) A statement that explains each individual's "need to know" the SGI, as required by 10 CFR 73.2 and 10 CFR 73.22(b)(1). Consistent with the definition of "need to know" as stated in 10 CFR 73.2, the statement must explain:

(i) Specifically why the requestor believes that the information is necessary to enable the requestor to proffer and/or adjudicate a specific contention in this proceeding; [2] and

(ii) The technical competence (demonstrable knowledge, skill, training or education) of the requestor to effectively utilize the requested SGI to provide the basis and specificity for a proffered contention. The technical competence of a potential party or its counsel may be shown by reliance on a qualified expert, consultant, or assistant who satisfies these criteria.

(b) A completed Form SF–85, "Questionnaire for Non-Sensitive Positions" for each individual who would have access to SGI. The completed Form SF–85 will be used by the Office of Administration to conduct the background check required for access to SGI, as required by 10 CFR Part 2, Subpart G and 10 CFR 73.22(b)(2), to determine the requestor's trustworthiness and reliability. For security reasons, Form SF–85 can only be submitted electronically through the electronic questionnaire for investigations processing (e-QIP) Web site, a secure web site that is owned and operated by the Office of Personnel Management. To obtain online access to the form, the requestor should contact the NRC's Office of Administration at 301–492–3524.[3]

(c) A completed Form FD–258 (fingerprint card), signed in original ink, and submitted in accordance with 10 CFR 73.57(d). Copies of Form FD–258 may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by calling 301–415–7232 or 301–492–7311, or by e-mail to *Forms.Resource@nrc.gov.* The fingerprint card will be used to satisfy the requirements of 10 CFR Part 2, 10 CFR 73.22(b)(1), and Section 149 of the Atomic Energy Act of 1954, as amended (the Act), which mandates that all persons with access to SGI must be fingerprinted for an FBI identification and criminal history records check;

(d) A check or money order payable in the amount of $ 200.00 [4] to the U.S. Nuclear Regulatory Commission for each individual for whom the request for access has been submitted, and

(e) If the requestor or any individual who will have access to SGI believes they belong to one or more of the categories of individuals that are exempt from the criminal history records check and background check requirements in 10 CFR 73.59, the requestor should also provide a statement identifying which exemption the requestor is invoking and explaining the requestor's basis for believing that the exemption applies. While processing the request, the Office of Administration, Personnel Security Branch, will make a final determination whether the claimed exemption applies. Alternatively, the requestor may contact the Office of Administration for an evaluation of their exemption status prior to submitting their request. Persons who are exempt from the background check are not required to complete the SF–85 or Form FD–258; however, all other requirements for access to SGI, including the need to know, are still applicable.

Note: Copies of documents and materials required by paragraphs C.(4)(b), (c), and (d) of this Order must be sent to the following address: Office of Administration, U.S. Nuclear Regulatory Commission, Personnel Security Branch, Mail Stop TWB–05–B32M, Washington, DC 20555–0001.

These documents and materials should not be included with the request letter to the Office of the Secretary, but the request letter should state that the forms and fees have been submitted as required above.

D. To avoid delays in processing requests for access to SGI, the requestor should review all submitted materials for completeness and accuracy (including legibility) before submitting them to the NRC. The NRC will return incomplete packages to the sender without processing.

E. Based on an evaluation of the information submitted under Paragraphs C.(3) or C.(4) above, as applicable, the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI or need to know the SGI requested.

F. For requests for access to SUNSI, if the NRC staff determines that the requestor satisfies both E.(1) and E.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order [5] setting

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's "E-Filing Rule," the initial request to access SUNSI and/or SGI under these procedures should be submitted as described in this paragraph.

[2] Broad SGI requests under these procedures are unlikely to meet the standard for need to know; furthermore, staff redaction of information from requested documents before their release may be appropriate to comport with this requirement. These procedures do not authorize unrestricted disclosure or less scrutiny of a requestor's need to know than ordinarily would be applied in connection with an already-admitted contention or non-adjudicatory access to SGI.

[3] The requestor will be asked to provide his or her full name, social security number, date and place of birth, telephone number, and e-mail address. After providing this information, the requestor usually should be able to obtain access to the online form within one business day.

[4] This fee is subject to change pursuant to the Office of Personnel Management's adjustable billing rates.

[5] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not

Continued

forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

G. For requests for access to SGI, if the NRC staff determines that the requestor has satisfied both E.(1) and E.(2) above, the Office of Administration will then determine, based upon completion of the background check, whether the proposed recipient is trustworthy and reliable, as required for access to SGI by 10 CFR 73.22(b). If the Office of Administration determines that the individual or individuals are trustworthy and reliable, the NRC will promptly notify the requestor in writing. The notification will provide the names of approved individuals as well as the conditions under which the SGI will be provided. Those conditions may include, but not be limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order [6] by each individual who will be granted access to SGI.

H. Release and Storage of SGI. Prior to providing SGI to the requestor, the NRC staff will conduct (as necessary) an inspection to confirm that the recipient's information protection system is sufficient to satisfy the requirements of 10 CFR 73.22. Alternatively, recipients may opt to view SGI at an approved SGI storage location rather than establish their own SGI protection program to meet SGI protection requirements.

I. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI or SGI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline.

J. Review of Denials of Access.

(1) If the request for access to SUNSI or SGI is denied by the NRC staff either after a determination on standing and requisite need, or after a determination on trustworthiness and reliability, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) Before the Office of Administration makes an adverse determination regarding the proposed recipient(s) trustworthiness and reliability for access to SGI, the Office of Administration, in accordance with 10 CFR 2.705(c)(3)(iii), must provide the proposed recipient(s) any records that were considered in the trustworthiness and reliability determination, including those required to be provided under 10 CFR 73.57(e)(1), so that the proposed recipient(s) have an opportunity to correct or explain the record.

(3) The requestor may challenge the NRC staff's adverse determination with respect to access to SUNSI by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

(4) The requestor may challenge the NRC staff's or Office of Administration's adverse determination with respect to access to SGI by filing a request for review in accordance with 10 CFR 2.705(c)(3)(iv). Further appeals of decisions under this paragraph must be made pursuant to 10 CFR 2.311.

K. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI or SGI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within 5 days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[7]

L. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI or SGI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR Part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 2nd day of May, 2011.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION AND SAFEGUARDS INFORMATION IN THIS PROCEEDING

Day	Event/Activity
0	Publication of FEDERAL REGISTER notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) and/or Safeguards Information (SGI) with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding; demonstrating that access should be granted (e.g., showing technical competence for access to SGI); and, for SGI, including application fee for fingerprint/background check.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI and/or SGI (+25 Answers to petition for intervention; +7 requestor/petitioner reply).

yet been designated, within 30 days of the deadline for the receipt of the written access request.

[6] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SGI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 180 days of the deadline for the receipt of the written access request.

[7] Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI/SGI request submitted to the NRC staff under these procedures.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION AND SAFEGUARDS INFORMATION IN THIS PROCEEDING—Continued

Day	Event/Activity
20	Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows (1) need for SUNSI or (2) need to know for SGI. (For SUNSI, NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents). If NRC staff makes the finding of need to know for SGI and likelihood of standing, NRC staff begins background check (including fingerprinting for a criminal history records check), information processing (preparation of redactions or review of redacted documents), and readiness inspections.
25	If NRC staff finds no "need," no "need to know," or no likelihood of standing, the deadline for requestor/petitioner to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds "need" for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
190	(Receipt +180) If NRC staff finds standing, need to know for SGI, and trustworthiness and reliability, deadline for NRC staff to file motion for Protective Order and draft Non-disclosure Affidavit (or to make a determination that the proposed recipient of SGI is not trustworthy or reliable). Note: Before the Office of Administration makes an adverse determination regarding access to SGI, the proposed recipient must be provided an opportunity to correct or explain information.
205	Deadline for petitioner to seek reversal of a final adverse NRC staff trustworthiness or reliability determination either before the presiding officer or another designated officer under 10 CFR 2.705(c)(3)(iv).
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI and/or SGI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI and/or SGI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI and/or SGI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
A + 60	Decision on contention admission.

[FR Doc. 2011–11225 Filed 5–9–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) Meeting of the ACRS Subcommittee on Radiation Protection and Nuclear Materials; Notice of Meeting

The ACRS Subcommittee on Radiation Protection and Nuclear Materials will hold a meeting on May 25, 2011, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows: *Wednesday, May 25, 2011—1:30 p.m. until 5 p.m.*

The Subcommittee will hear a briefing on the International Isotopes, Inc. (INIS) de-Conversion, facility license application and regulatory review process and human reliability analysis (HRA) in nuclear materials area. The Subcommittee will hear presentations by and hold discussions with the NRC staff and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Derek Widmayer (Telephone 301–415–7366 or E-mail: *Derek.Widmayer@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be e-mailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 21, 2010, (75 FR 65038–65039).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the website cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please contact Ms. Jessie Delgado (Telephone 301–415–7360) to be escorted to the meeting room.

Dated: 05/03/11.

Yoira Diaz-Sanabria,

Acting Chief, Reactor Safety Branch B, Advisory Committee on Reactor Safeguards.

[FR Doc. 2011–11354 Filed 5–9–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) Meeting of the ACRS Subcommittee on Economic Simplified Boiling Water Reactor; Notice of Meeting

The ACRS Subcommittee on Economic Simplified Boiling Water Reactor (ESBWR) will hold a meeting on May 26, 2011, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, May 26, 2011—8:30 a.m. Until 12 p.m.

The Subcommittee will review Chapters 4, 6, 7, 8, 15, and 18 of the staff's Safety Evaluation Report (SER) for the Fermi Unit 3 Combined License Application (COLA) referencing the ESBWR design. The Subcommittee will hear presentations by and hold discussions with the NRC staff, Detroit Edison Company, and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Christopher Brown (Telephone 301–415–7111 or E-mail: *Christopher.Brown@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be e-mailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 21, 2010, (75 FR 65038–65039).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please contact Ms. Jessie Delgado (Telephone 301–415–7360) to be escorted to the meeting.

Dated: May 3, 2011.

Cayetano Santos,

Chief, Reactor Safety Branch B, Advisory Committee on Reactor Safeguards.

[FR Doc. 2011–11361 Filed 5–9–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) Meeting of the ACRS Subcommittee on U.S. Advanced Pressurized Power Reactor; Notice of Meeting

The ACRS Subcommittee on U.S. Advanced Pressurized Power Reactor (US–APWR) will hold a meeting on May 27, 2011, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Friday, May 27, 2011—8:30 a.m. Until 5 p.m.

The Subcommittee will review Chapter 5, "Reactor Coolant and Connecting systems" of the Safety Evaluation Reports (SERs) with open items associated with the US–APWR design certification and the Comanche Peak Reference Combined License Application (RCOLA). The Subcommittee will hear presentations by and hold discussions with the NRC staff, Mitsubishi Heavy Industries, Ltd., Luminant Generation Company, LLC, and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Mrs. Ilka Berrios (Telephone 301–415–3179 or E-mail: *Ilka.Berrios@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be e-mailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 21, 2010, (75 FR 65038–65039).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please contact Ms. Jessie Delgado (Telephone 301–415–7360) to be escorted to the meeting room.

Dated: May 3, 2011.

Yoira Diaz-Sanabria,

Acting Chief, Reactor Safety Branch B, Advisory Committee on Reactor Safeguards.

[FR Doc. 2011–11363 Filed 5–9–11; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) Meeting of the ACRS Subcommittee on Fukushima; Notice of Meeting

The ACRS Subcommittee on Fukushima will hold a meeting on May 26, 2011, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, May 26, 2011—1 p.m. Until 5 p.m.

The Subcommittee will review recent events at the Fukushima site in Japan. The Subcommittee will hear presentations by and hold discussions with representatives of the Department of Energy, the Nuclear Energy Institute, and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Dr. Edwin Hackett (Telephone 301–415–7360 or e-mail: *Edwin.Hackett@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be e-mailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 21, 2010 (75 FR 65038–65039).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please contact Ms. Jessie Delgado (Telephone 301–415–7360) to be escorted to the meeting room.

Dated: May 4, 2011.

Yoira Diaz-Sanabria,

Acting Chief, Reactor Safety Branch B, Advisory Committee on Reactor Safeguards.

[FR Doc. 2011–11356 Filed 5–9–11; 8:45 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Sunshine Act; Public Hearing, May 25, 2011

TIME AND DATE: 2 p.m., Wednesday, May 25, 2011.

PLACE: Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue, NW., Washington, DC.

STATUS: Hearing OPEN to the Public at 2 p.m.

PURPOSE: Public Hearing in conjunction with each meeting of OPIC's Board of Directors, to afford an opportunity for any person to present views regarding the activities of the Corporation.

Procedures

Individuals wishing to address the hearing orally must provide advance notice to OPIC's Corporate Secretary no later than 5 p.m. Tuesday, May 17, 2011. The notice must include the individual's name, title, organization, address, and telephone number, and a concise summary of the subject matter to be presented.

Oral presentations may not exceed ten (10) minutes. The time for individual presentations may be reduced proportionately, if necessary, to afford all participants who have submitted a timely request an opportunity to be heard.

Participants wishing to submit a written statement for the record must submit a copy of such statement to OPIC's Corporate Secretary no later than 5 p.m. Tuesday, May 17, 2011. Such statement must be typewritten, double-spaced, and may not exceed twenty-five (25) pages.

Upon receipt of the required notice, OPIC will prepare an agenda, which will be available at the hearing, that identifies speakers, the subject on which each participant will speak, and the time allotted for each presentation.

A written summary of the hearing will be compiled, and such summary will be made available, upon written request to OPIC's Corporate Secretary, at the cost of reproduction.

Written summaries of the projects to be presented at the June 2, 2011 Board meeting will be posted on OPIC's Web site on or about Thursday, May 12, 2011.

CONTACT PERSON FOR INFORMATION: Information on the hearing may be obtained from Connie M. Downs at (202) 336–8438, via e-mail at *connie.downs@opic.gov,* or via facsimile at (202) 408–0297.

Dated: May 6, 2011.

Connie M. Downs,

OPIC Corporate Secretary.

[FR Doc. 2011–11511 Filed 5–6–11; 11:15 am]

BILLING CODE 3210–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Sunshine Act; Board of Directors Meeting, June 2, 2011

TIME AND DATE: Thursday, June 2, 2011, 11 a.m. (CLOSED Portion).

PLACE: Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue, NW., Washington, DC.

STATUS: Closed portion will commence at 11 a.m.

Matters To Be Considered (Closed to the Public 11 a.m.)

1. Finance Project –Global.
2. Finance Project—Peru.

Written summaries of the projects to be presented will be posted on OPIC's Web site on or about May 12, 2011.

CONTACT PERSON FOR INFORMATION: Information on the meeting may be obtained from Connie M. Downs at (202) 336–8438.

Dated: May 6, 2011.

Connie M. Downs,

Corporate Secretary, Overseas Private Investment Corporation.

[FR Doc. 2011–11513 Filed 5–6–11; 11:15 am]

BILLING CODE 3210–01–P

RECOVERY ACCOUNTABILITY AND TRANSPARENCY BOARD

[Doc. No. 11–003]

Privacy Act of 1974; System of Records

AGENCY: Recovery Accountability and Transparency Board.

ACTION: Notice of amendment to existing Privacy Act system of records.

SUMMARY: The Recovery Accountability and Transparency Board (Board) is issuing public notice of its intent to amend a system of records that it maintains subject to the Privacy Act of 1974 (5 U.S.C. 552a). RATB–9—*FederalReporting.gov* Section 1512 Data System, the system that maintains information on recipients of funds disbursed under the American Recovery and Reinvestment Act of 2009, Public Law 111–5 (Recovery Act), is being amended to reflect post-Recovery Act legislation expanding the purview of the Board's oversight responsibilities, *see, e.g.,* Education Jobs Fund, Public Law 111–226, 124 Stat. 2389, sec. 101 (Aug. 10, 2010) ("[T]he amount under this heading shall be administered under the terms and conditions of * * * title XV of division A of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5)."), and to account for data submitted to the Board by methods other than *FederalReporting.gov.* Accordingly, the Board is making substantive amendments to its system notice to include: new categories of individuals covered by the system, new categories of records in the system, an amended routine use, and new record source categories. To further reflect recent legislation and to account for data submitted to the Board by methods other than *FederalReporting.gov,* the system will be renamed RATB–9—Section 1512 Data System. The amended system of records reads as follows:

RATB–9.

SYSTEM NAME:

Section 1512 Data System (1512 Data System).

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

The principal location for the system, including hard copy and electronic files, is the Recovery Accountability and Transparency Board, located at 1717 Pennsylvania Avenue, NW., Suite 700, Washington, DC 20006. The physical location for the *FederalReporting.gov* records is 10007 South 51st Street, Phoenix, AZ 85044.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on recipients and subrecipients (including vendors) of Recovery Act funds, as well as recipients of any other funds that Congress mandates are subject to the accountability and transparency provisions of Title XV of the Recovery Act. Some of these recipients, subrecipients, or vendors may be individuals and/or sole proprietors.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records submitted by any means to the Board in connection with the Board's mission reflected in the accountability and transparency requirements of Title XV of the Recovery Act, which may include reports submitted through *FederalReporting.gov,* and data on recipients and subrecipients (including vendors) provided by states, localities, and other public entities or on behalf of such entities. The system will also store *FederalReporting.gov's* system-generated data, such as the recipient's electronic report submission date and time, and other identifiers for internal tracking.

AUTHORITY FOR MAINTENANCE OF SYSTEM:

The Recovery Act was enacted on February 17, 2009, in order to make supplemental appropriations for job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization. The Recovery Act established the Board to coordinate and conduct oversight of Recovery Act funds to prevent fraud, waste, and abuse.

PURPOSE(S):

The purpose of collecting this information is to provide the public with information as to how the government spends money, and also to assist with the Board's efforts to prevent fraud, waste, and abuse of Recovery Act funds and other federal funds for which the Board has been assigned oversight responsibilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1512 Data System records will be used to collect information about recipient, subrecipient, and vendor use of Recovery Act funds and other federal funds for which the Board has been assigned oversight responsibilities, as well as to populate public-facing government Web sites where such data release has been legislated pursuant to statute. The records may also be used for auditing or other internal purpose of the Board, including but not limited to: investigation of possible fraud, waste, abuse, and mismanagement of Recovery Act funds; litigation purposes related to information reported to the Board; and contacting the recipient in the event of a system modification or change to *FederalReporting.gov,* including the data elements required to be reported.

The Board may disclose information contained in a record in this system of records under the routine uses listed in this notice without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected.

The general routine uses for the Board's 1512 Data System records are listed as follows:

A. As set forth above, 1512 Data System records may be disclosed in order to populate public-facing government Web sites when disclosure of certain data elements is consistent with applicable statutes and applicable implementing guidance from the Office of Management and Budget (OMB).

B. Information may be disclosed to the appropriate federal, state, local, or tribal agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, if the information is relevant to a violation or potential violation of civil or criminal law or regulation within the jurisdiction of the receiving entity.

C. Disclosure may be made to a federal, state, local, or tribal or other public authority of the fact that this system of records contains information relevant to the retention of an employee, the retention of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. That entity, authority or licensing organization may then make a request supported by the written consent of the individual for the entire record if it so chooses.

D. Information may be disclosed to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

E. Information may be disclosed to the Department of Justice (DOJ), or in a proceeding before a court, adjudicative body, or other administrative body before which the Board is authorized to appear, when:

1. The Board, or any component thereof; or

2. Any employee of the Board in his or her official capacity; or

3. Any employee of the Board in his or her individual capacity where the DOJ or the Board has agreed to represent the employee; or

4. The United States, if the Board determines that litigation is likely to affect the Board or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the DOJ or the Board is deemed by the Board to be

relevant and necessary to the litigation, provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected.

F. Information may be disclosed to the National Archives and Records Administration in records management inspections.

G. Information may be disclosed to contractors, grantees, consultants, or volunteers performing or working on a contract, service, grant, cooperative agreement, job, or other activity for the Board and who have a need to have access to the information in the performance of their duties or activities for the Board.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The 1512 Data System records will be stored in digital format on a digital storage device. Long-term 1512 Data System records will be stored on magnetic tape format. All record storage procedures are in accordance with current applicable regulations.

RETRIEVABILITY:

Records are retrievable by database management systems software designed to retrieve data elements based upon role-based user access privileges.

SAFEGUARDS:

The Board has minimized the risk of unauthorized access to the system by establishing a secure environment for exchanging electronic information. There are multiple layers of security to physical access to the system. The entire complex is patrolled by security during non-business hours. Physical access to the data system housed within the facility is controlled by a computerized badge-reading system. Multiple levels of security are maintained via dual factor authentication for access using biometrics. The computer system offers a high degree of resistance to tampering and circumvention. This system limits data access to Board and contract staff on a need-to-know basis, and controls individuals' ability to access and alter records within the system. All users of the system of records are given a unique user identification (ID) with personal identifiers. All interactions between the system and the authorized individual users are recorded.

RETENTION AND DISPOSAL:

The Board will retain and dispose of these records in accordance with National Archives and Records Administration General Records Schedule 20, Item 1.c. This schedule provides disposal authorization for electronic files and hard copy printouts created to monitor system usage, including but not limited to log-in files, audit trail files, system usage files, and cost-back files used to access charges for system use. Records will be deleted or destroyed when the Board determines they are no longer needed for administrative, legal, audit, or other program purposes.

SYSTEM MANAGER AND ADDRESS:

Michael Wood, Recovery Accountability and Transparency Board, 1717 Pennsylvania Avenue, NW., Suite 700, Washington, DC 20006.

NOTIFICATION PROCEDURE:

Any individual who wants to know whether this system of records contains a record about him or her, who wants access to his or her record, or who wants to contest the contents of a record should make a written request to the system manager.

RECORD ACCESS PROCEDURES:

A request for record access shall follow the directions described under Notification Procedure and will be addressed to the system manager at the address listed above.

CONTESTING RECORDS PROCEDURES:

If you wish to contest a record in the system of records, contact the system manager and identify the record to be changed, identify the corrective action sought, and provide a written justification.

RECORD SOURCE CATEGORIES:

Information is obtained from recipients and subrecipients (including vendors) of Recovery Act funds or other federal funds for which the Board has been assigned oversight responsibilities; federal, state, local, and foreign agencies; and public-source materials.

DATES: Comments on this amendment must be received by the Board on or before June 20, 2011. The Privacy Act, at 5 U.S.C. 552a(e)(11), requires that the public be provided a 30-day period in which to comment on an agency's intended use of information in a system of records. Appendix I to Office of Management and Budget (OMB) Circular A–130 requires an additional 10-day period, for a total of 40 days, in which to make such comments.) The amended system of records will be effective, as proposed, at the end of the comment period unless the Board determines, upon review of the comments received, that changes should be made. In that event, the Board will publish a revised notice in the **Federal Register.**

ADDRESSES: Comments on the proposed amendments should be clearly identified as such and may be submitted:

By Mail or Hand Delivery: Jennifer Dure, General Counsel, Recovery Accountability and Transparency Board, 1717 Pennsylvania Avenue, NW., Suite 700, Washington, DC 20006;

By Fax: (202) 254–7970; or,

By E-mail to the Board: comments@ratb.gov.

FOR FURTHER INFORMATION CONTACT: Jennifer Dure, General Counsel, Recovery Accountability and Transparency Board, 1717 Pennsylvania Avenue, NW., Suite 700, Washington, DC 20006, (202) 254–7900.

Ivan J. Flores,

Paralegal Specialist, Recovery Accountability and Transparency Board.

[FR Doc. 2011–11296 Filed 5–9–11; 8:45 am]

BILLING CODE 6821–15–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64401; File No. SR–Phlx–2011–55]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to In-Crowd Priority

May 4, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1], and Rule 19b–4 [2] thereunder, notice is hereby given that, on April 27, 2011, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "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 Exchange Rule 1014, Commentary .05(c), Non-Electronic Orders, to state that, respecting crossing, facilitation and solicited orders with a size of at least 500 contracts on each side that are represented and executed in open

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

outcry, priority will continue to be afforded to in-crowd participants (including, for purposes of this rule only, Floor Brokers) over Remote Specialists,[3] Remote Streaming Quote Traders ("RSQTs") [4] and out-of crowd Streaming Quote Traders ("SQTs"),[5] but not over public customer orders. The Exchange proposes to amend the rule to state that in-crowd participants in such orders would also have priority over out-of-crowd broker-dealer limit orders on the limit order book.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaqtrader.com/micro.aspx?id=PHLXRulefilings,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Commentary .05 of Rule 1014 to state that in-crowd participants will continue, as today, to have priority over Remote Specialists, RSQTs and out of crowd SQTs respecting crossing, facilitation and solicited orders with a size of at least 500 contracts on each side, and to state that, respecting such orders, in-crowd participants will now be afforded priority over out-of-crowd broker-dealer limit orders on the limit order book. The proposal is also intended to provide that the term "in-crowd participants" includes, for purposes of this rule only, Floor Brokers representing such orders in open outcry in the trading crowd. In keeping with current Exchange practices and rules, public customer limit orders represented in the trading crowd and resting on the limit order book have, and will continue to have, priority over all other participants and accordingly must be executed up to the aggregate size of such orders before any in-crowd participant is entitled to priority.

Current Rule

Currently, Exchange Rule 1014, Commentary .05 states that respecting crossing, facilitation and solicited orders [6] with a size of at least 500 contracts on each side that are represented and executed in open outcry, priority is afforded to in-crowd participants over Remote Specialists, RSQTs and out-of crowd SQTs. The current rule does not affirmatively afford priority to in-crowd participants over orders on the limit order book, whether such orders are for public customers or non-customers. Thus, Floor Brokers representing and executing crossing, facilitation and solicited orders in open outcry are required to execute against all marketable orders on the limit order book before executing against the crowd, because the marketable orders on the limit order book have time priority.

The Proposal

The proposed amendment to the rule would state that the rule also affords priority to in-crowd participants over out-of out-of-crowd broker-dealer limit orders on the limit order book. Public customer orders on the limit order book that are eligible for execution would still be required to be executed before the Floor Broker could execute its order in the crowd and/or with a contra-side order it holds. The proposed rule would also provide that the term "in-crowd participants" includes, for purposes of this rule only, Floor Brokers representing orders in open outcry in the trading crowd.

The Exchange believes that this should enable it to compete for order flow with other exchanges that have similar rules in place without limiting eligible order types.[7] The instant proposal will not affect public customer priority. The Exchange will continue to execute public customer limit orders up to their aggregate size at a particular price point.

The proposed rule change is intended to replicate, in open outcry, the current electronic trade allocation algorithm applicable to trades executed and allocated electronically on the Exchange's electronic trading platform for options, PHLX XL.[8] Specifically, the Exchange notes that Exchange Rules 1014(g)(vii) and (viii) both provide that, if any contracts remain to be allocated after public customers and PHLX XL participants (including the specialist, SQTs, RSQTs and non-SQT ROTs with limit orders on the limit order book) that are bidding or offering at the execution price have received their respective allocations, off-floor broker-dealers that have placed limit orders on the limit order book which represent the Exchange's disseminated price are thereafter entitled to receive any remaining contracts. The instant proposal is intended to state that this is also the case respecting crossing, facilitation and solicited orders with a size of at least 500 contracts on each side that are represented in open outcry.

Non-Affiliated Floor Brokers

The Exchange represents that all of its Floor Brokers are currently independent business operations and are not affiliated with any other Exchange member. The Exchange recognizes that if a Floor Broker becomes affiliated with a member, an issue could arise under Section 11a of the Act [9] concerning in-person trading on the Exchange floor. Floor brokers are able to achieve in-crowd priority in accordance with this proposal provided, however, that a Floor Broker who is affiliated with a

[3] A Remote Specialist is a qualified RSQT approved by the Exchange to function as a specialist in one or more options if the Exchange determines that it cannot allocate such options to a a floor based specialist. A Remote Specialist has all the rights and obligations of a specialist, unless Exchange rules provide otherwise. *See* Exchange Rules 501 and 1020. *See* also, Securities Exchange Act Release No. 63717 (January 14, 2011), 76 FR 4141 (January 24, 2011) (SR–Phlx–2010–145).

[4] An RSQT is an ROT that is a member or member organization with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. An RSQT may only submit such quotations electronically from off the floor of the Exchange. *See* Exchange Rule 1014(b)(ii)(B).

[5] An SQT is an Exchange Registered Options Trader ("ROT") who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned. An SQT may only submit such quotations while such SQT is physically present on the floor of the Exchange. *See* Exchange Rule 1014(b)(ii)(A).

[6] *See* Exchange Rule 1064.

[7] The Exchange notes that Chicago Board Options Exchange, Inc. ("CBOE") Rule 6.74(d)(vi)) affords priority to in-crowd participants over out-of-crowd participants, including non-public customer orders on the limit order book, in all open outcry situations after public customers on the limit order book have been executed. *See* Securities Exchange Act Release No. 54726 (November 8, 2006), 71 FR 66810 (November 16, 2006) (SR–CBOE–2006–89).

[8] In May, 2009 the Exchange enhanced the system and adopted corresponding rules referring to the system as "Phlx XL II." *See* Securities Exchange Act Release No. 59995 (May 28, 2009), 74 FR 26750 (June 3, 2009) (SR–Phlx–2009–32). The Exchange intends to submit a separate technical proposed rule change that would change all references to the system from "Phlx XL II" to "PHLX XL" for branding purposes.

[9] 15 U.S.C. 78k(11)(a).

PHLX member, and represents an order on behalf of such member, must ensure that the PHLX member qualifies for an exemption from Section 11(a)(1) of the Exchange Act or that the transaction satisfies the requirements of Exchange Act Rule 11a2–2(T), otherwise the Floor Broker must yield priority to orders for the accounts of non-members.

Conclusion

The Exchange believes that the proposed rule should provide incentive and liquidity for order flow providers that submit larger size crossing, facilitation and solicited orders for execution in open outcry to the Exchange, thus enabling the Exchange to compete with exchanges that have similar priority rules in effect.[10]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [11] in general, and furthers the objectives of Section 6(b)(5) of the Act [12] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by adopting a rule that affords priority to in-crowd participants over out-of-crowd broker-dealer limit orders on the limit order book in certain crossing, facilitation and solicited orders represented and executed in open outcry.

The Exchange believes that the proposal promotes just and equitable principles of trade by retaining customer priority in all cases, and by affording priority to in-crowd participants who are required to meet minimum quoting requirements,[13] and that the proposal removes impediments to and perfects the mechanism of a free and open market by improving Floor Brokers' ability to trade crossing, facilitation and solicited orders with at least 500 contracts on each side, all to the benefit of customers and the public interest.

Exchange Rule 1014 currently affords priority to in-crowd participants over Remote Specialists. A Remote Specialist is first required to be an RSQT, and the instant proposal would continue to afford priority to Remote Specialists in the same manner as it provides such priority over RSQTs. In January 2011, the Commission approved the Exchange's proposal to amend Commentary .05(c)(i) of Rule 1014 to establish priority for Remote Specialists that is coextensive with the priority afforded in that rule to RSQTs and out-of-crowd SQTs.[14] The Exchange believes this established priority that treats RSQTs and Remote Specialists equally is just and equitable, because neither a Remote Specialist nor an RSQT is required to respond to a Floor Broker entering the crowd and requesting a market, whereas in-crowd participants are required to verbalize a market in response to such a request.[15]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A) [16] of the Act and Rule 19b–4(f)(6) [17] thereunder, the Exchange has designated this proposal as one that effects a change that: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.[18] The Exchange has satisfied this requirement.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2011–55 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–Phlx–2011–55. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions

[10] *See supra* note 7.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] *See, e.g.,* Exchange Rule 1014(b)(ii)(D).

[14] *See* Securities Exchange Act Release No. 63717 (January 14, 2011), 76 FR 4141 (January 24, 2011) (SR–Phlx–2010–145).

[15] *See* Exchange Rules 1014(c) and (d).

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6).

[18] 17 CFR 240.19b–4(f)(6).

should refer to File Number SR–Phlx–2011–55 and should be submitted on or before May 31, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–11315 Filed 5–9–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64405; File No. SR–CBOE–2011–042]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Retroactive Waiver of PAR Official Fees

May 4, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")[1] and Rule 19b-4 thereunder,[2] notice is hereby given that, on April 25, 2011, Chicago Board Options Exchange, Incorporated ("CBOE" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by CBOE. 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

Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") proposes to retroactively waive PAR Official Fees for the month of February 2011. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.org/legal*), at the Exchange's Office of the Secretary and at the Commission'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, CBOE 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. CBOE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to retroactively waive PAR Official Fees for the month of February 2011.

Background

The Exchange established PAR Official[3] Fees in January 2011.[4] These fees apply to all orders executed by a PAR Official, except for customer orders ("C" origin code) that are not directly routed to the trading floor (an order that is directly routed to the trading floor is directed to a PAR Official for manual handling by use of a field on the order ticket). The PAR Official Fees established in January 2011 were $.02 per contract and a discounted rate of $.01 per contract for crossed orders.[5] PAR Official Fees help to offset the Exchange's costs of providing PAR Official services (*e.g.,* salaries, *etc*).

After establishing PAR Official Fees, the Exchange became concerned that the PAR Official Fee structure did not allocate these fees to take into consideration the amount that Trading Permit Holders rely on PAR Officials such that those Trading Permit Holders that incidentally use PAR Officials were assessed the same fee as Trading Permit Holders that routinely conduct their business through PAR Officials and rely heavily on PAR Officials for the execution of orders. Reliance on PAR Officials as the primary means of execution is inconsistent with the Exchange's intent to provide PAR Official services as a supplementary means of execution for incidental orders. Heavy reliance on PAR Officials subjects the Exchange to the additional expense and undue strain of providing the additional staffing of PAR Officials.

PAR Official Fees compensate the Exchange for providing overflow services to order originating firms or, as applicable, executing firms, particularly Floor Brokers,[6] when they do not have personnel available to act as agent. Some Trading Permit Holders or TPH organizations obtain only one or two Floor Broker Trading Permits, making it unlikely that, regardless of business level, they could cover all locations on the Exchange and thus rely on CBOE personnel as part of the Floor Broker's daily, ongoing business operations. The Exchange believes that those firms that rely heavily on PAR Officials to conduct their floor brokerage business, such that PAR Officials execute more than an incidental number of orders on their behalf, may obtain a minimum number of Trading Permits to access the floor. Thus, these firms subsidize their floor brokerage operations at CBOE's expense in that PAR Officials are either contractors paid by CBOE or CBOE employees. Trading Permit Holders that adequately staff their business operations and rely incidentally on PAR Officials incur higher costs to retain a sufficient number of Trading Permits.[7] The Exchange determined such Trading Permit Holders should not be subject to the same amount for PAR Official Fees incurred by a Trading Permit Holder that relies disproportionately on PAR Officials to conduct its floor brokerage business because it does not maintain

[19] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A PAR Official is an Exchange employee or independent contractor whom the Exchange may designate as being responsible for (i) operating the PAR workstation in a Designated Primary Market-Maker trading crowd with respect to the classes of options assigned to him/her; (ii) when applicable, maintaining the book with respect to the classes of options assigned to him/her; and (iii) effecting proper executions of orders placed with him/her. The PAR Official may not be affiliated with any Trading Permit Holder that is approved to act as a Market-Maker. *See* CBOE Rule 7.12.

[4] *See* Securities Exchange Act Release No. 67301 (January 11, 2011), 76 FR 2934 (January 18, 2011) (SR–CBOE–2010–116).

[5] PAR Official Fees for crossed orders, like Floor Brokerage Fees, are assessed at a discounted rate because these fees are assessed "per side" and thus, these fees are equal to the amount assessed for one standard (non-crossed) order.

[6] CBOE Rule 6.70 provides: "A Floor Broker is an individual (either a Trading Permit Holder or a nominee of a TPH organization) who is registered with the Exchange for the purpose, while on the Exchange floor, of accepting and executing orders received from Trading Permit Holders or from registered broker-dealers. A Floor Broker shall not accept an order from any other source unless he is the nominee of a TPH organization approved to transact business with the public in accordance with Rule 9.1. In the event the organization is approved pursuant to Rule 9.1, a Floor Broker who is the nominee of such organization may then accept orders directly from public customers where (i) the organization clears and carries the customer account or (ii) the organization has entered into an agreement with the public customer to execute orders on its behalf. Among the requirements a Floor Broker must meet in order to register pursuant to Rule 9.1 is the successful completion of an examination for the purpose of demonstrating an adequate knowledge of the securities business."

[7] For example, pursuant to Section 10 of CBOE's Fees Schedule, Floor Broker Trading Permit Holders are subject to a $6,000 per month Trading Permit Fee. A Floor Broker Trading Permit Holder that requires ten Floor Broker Trading Permits to adequately staff its business is subject to a cost of $60,000 per month for Trading Permit Fees (totaling $720,000 per year). By comparison, a Trading Permit Holder that routes the majority of its orders to PAR Officials for execution and maintains one Trading Permit is subject to a $6,000 per month Trading Permit Fee ($72,000 annually).

an adequate number of Trading Permits to conduct its floor brokerage business and further, is not subject to the cost of the additional Trading Permits required to adequately staff its business.

For the reasons above, the Exchange determined to change the manner in which it assessed PAR Official Fees such that PAR Official Fees would be reduced or eliminated for those Trading Permit Holders that maintain sufficient staff to manage their floor brokerage operations and thus, do not rely heavily on PAR Officials to execute their orders. On February 1, 2011, the Exchange filed a proposed rule change to waive PAR Official Fees for any affiliated Trading Permit Holders that have ten or more Floor Broker Trading Permits throughout the calendar month.[8] The change did not become effective. To minimize disruption while the Exchange continued to consider changes to the PAR Official Fees, the Exchange announced that it would not collect any PAR Official Fees for the month of February 2011.[9]

CBOE subsequently amended its Fees Schedule effective March 1, 2011, to assess PAR Official Fees in Volatility Index Options in the amount of $.03 per contract for standard (non-crossed) orders and $.015 per contract for all crossed orders (per side) and to waive PAR Official Fees for all classes except Volatility Index Options for March 2011.[10] The Exchange amended its Fees Schedule effective April 1, 2011 to establish volume threshold tiers for the assessment of PAR Official Fees based on the percentage of volume that is effected by a PAR Official on behalf of an order originating firm or, as applicable, an executing firm.[11]

Fee Waiver

As described above, the Exchange did not collect any PAR Official Fees for February 2011 as it was considering changes in the manner in which it would assess the fees. Accordingly, the Exchange proposes to waive PAR Official Fees in all options classes for all firms for the month of February 2011. Since the Exchange did not collect any PAR Official Fees for February 2011, the Exchange is not proposing to rebate any fees.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 ("Act")[12], in general, and furthers the objectives of Section 6(b)(4)[13] of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE Trading Permit Holders. The Exchange believes that the proposed rule change is equitable, reasonable and not unfairly discriminatory in that, in general, the Exchange decided to waive PAR Official Fees for the month of February 2011 while it considered a way to more equitably and reasonably assess the PAR Official Fees to those Trading Permit Holders that rely more heavily on PAR Officials to conduct their floor brokerage business. After establishing flat per contract PAR Official Fees, the Exchange became concerned that the flat per contract fees did not provide an incentive for firms to adequately staff their business as each Trading Permit Holder was currently assessed the same PAR Official Fees. To minimize disruption while the Exchange continued to consider changes to the PAR Official Fees, and to avoid assessing fees that the Exchange believed could be more equitably and reasonably assessed, the Exchange announced that it would not collect any PAR Official Fees for the month of February 2011.[14] The Exchange ultimately amended its Fees Schedule effective April 1, 2011 to establish volume threshold tiers for the assessment of PAR Official Fees based on the percentage of volume that is effected by a PAR Official on behalf of an order originating firm or, as applicable, an executing firm.[15]

Specifically, the Exchange believes that the proposal to retroactively waive PAR Official Fees for the month of February 2011 is equitable and reasonable in that the waiver will apply in all options classes and to all firms. No PAR Official Fees will be collected for the month of February 2011 from any firm. The Exchange notes that CBOE Trading Permit Holders were provided with notice of the fee waiver on February 9, 2011, and were thus aware for most of the month of February that PAR Official Fees would not be assessed for that month.[16] The Exchange believes that during the time period from February 1 to February 9, 2011, it is unlikely that any Trading Permit Holder made a trading decision based on a belief that the PAR Official Fees would be assessed during that time period. For these reasons, the Exchange believes that retroactive waiver of the fee will not result in any unfair discrimination with respect to any firm or group of firms.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[17] and Rule 19b–4(f)(6) thereunder.[18]

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. CBOE has provided the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change.

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:

[8] *See* CBOE Regulatory Circular RG11–021.

[9] *See* CBOE Regulatory Circular RG11–026 dated February 9, 2011. The Exchange collects PAR Official Fees in arrears at the end of each month.

[10] *See* Securities Exchange Act Release No. 64070 (March 11, 2011), 76 FR 15025 (March 18, 2011) (SR–CBOE–2011–022).

[11] *See* Securities Exchange Act Release No. 64217 (April 6, 2011), 76 FR 20793 (April 13, 2011) (SR–CBOE–2011–030).

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4).

[14] *Supra* Footnote 9.

[15] *Supra* Footnote 11.

[16] *Supra* Footnote 9.

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(6).

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2011–042 on the subject line.

Paper Comments

• Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2011–042. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2011–042 and should be submitted on or before May 31, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–11362 Filed 5–9–11; 8:45 am]

BILLING CODE 8011–01–P

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64403; File No. SR–CBOE–2011–048]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Trades for Less Than $1

May 4, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on May 2, 2011, Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") 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 Exchange has designated the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to extend its program that allows transactions to take place at a price that is below $1 per option contract through December 30, 2011. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.org/Legal*), at the Exchange's Office of the Secretary and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C.78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

An "accommodation" or "cabinet" trade refers to trades in listed options on the Exchange that are worthless or not actively traded. Cabinet trading is generally conducted in accordance with the Exchange Rules, except as provided in Exchange Rule 6.54, *Accommodation Liquidations (Cabinet Trades),* which sets forth specific procedures for engaging in cabinet trades. Rule 6.54 currently provides for cabinet transactions to occur via open outcry at a cabinet price of $1 per option contract in any options series open for trading in the Exchange, except that the Rule is not applicable to trading in option classes participating in the Penny Pilot Program. Under the procedures, bids and offers (whether opening or closing a position) at a price of $1 per option contract may be represented in the trading crowd by a Floor Broker or by a Market-Maker or provided in response to a request by a PAR Official/OBO, a Floor Broker or a Market-Maker, but must yield priority to all resting orders in the PAR Official/OBO cabinet book (which resting cabinet book orders may be closing only). So long as both the buyer and the seller yield to orders resting in the cabinet book, opening cabinet bids can trade with opening cabinet offers at $1 per option contract.

The Exchange has temporarily amended the procedures through June 1, 2011 to allow transactions to take place in open outcry at a price of at least $0 but less than $1 per option contract.[5] These lower priced transactions are traded pursuant to the same procedures applicable to $1 cabinet trades, except that (i) bids and offers for opening transactions are only permitted to accommodate closing transactions in order to limit use of the procedure to liquidations of existing positions, and (ii) the procedures are also available for trading in option classes participating in the Penny Pilot Program.[6] The Exchange

[5] *See* Securities Exchange Act Release Nos. 59188 (December 30, 2008), 74 FR 480 (January 6, 2009) (SR–CBOE–2008–133) (adopting the amended procedures on a temporary basis through January 30, 2009), 59331 (January 30, 2009), 74 FR 6333 (February 6, 2009) (extending the amended procedures on a temporary basis through May 29, 2009), 60020 (June 1, 2009), 74 FR 27220 (June 8, 2009) (SR–CBOE–2009–034) (extending the amended procedures on a temporary basis through June 1, 2010) and 62192 (May 28, 2010), 75 FR 31828 (June 4, 2010) (SR–CBOE–2010–052) (extending the amended procedures on a temporary basis through June 1, 2011).

[6] Currently the $1 cabinet trading procedures are limited to options classes traded in $0.05 or $0.10

believes that allowing a price of at least $0 but less than $1 better accommodates the closing of options positions in series that are worthless or not actively traded, particularly due to recent market conditions which have resulted in a significant number of series being out-of-the-money. For example, a market participant might have a long position in a call series with a strike price of $100 and the underlying stock might now be trading at $30. In such an instance, there might not otherwise be a market for that person to close-out the position even at the $1 cabinet price (*e.g.,* the series might be quoted no bid).[7]

The purpose of the instant rule change is to extend the operation of these temporary procedures through December 30, 2011, so that the procedures can continue without interruption while CBOE considers whether to seek permanent approval of the temporary procedures.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act[8] and the rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.[9] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[10] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that allowing for liquidations at a price less than $1 per option contract better facilitates the closing of options positions that are worthless or not actively trading.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition 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 proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *(http://www.sec.gov/rules/sro.shtml);* or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2011–048 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2011–048. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site *(http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2011–048 and should be submitted on or before May 31, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Elizabeth M. Murphy,

Secretary.

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standard increment. The $1 cabinet trading procedures are not available in Penny Pilot Program classes because in those classes an option series can trade in a standard increment as low as $0.01 per share (or $1.00 per option contract with a 100 share multiplier). Because the temporary procedures allow trading below $0.01 per share (or $1.00 per option contract with a 100 share multiplier), the procedures are available for all classes, including those classes participating in the Penny Pilot Program.

[7] As with other accommodation liquidations under Rule 6.54, transactions that occur for less than $1 are not disseminated to the public on the consolidated tape. In addition, as with other accommodation liquidations under Rule 6.54, the transactions are exempt from the Consolidated Options Audit Trail ("COATS") requirements of Exchange Rule 6.24, *Required Order Information.* However, the Exchange maintains quotation, order and transaction information for the transactions in the same format as the COATS data is maintained. In this regard, all transactions for less than $1 must be reported to the Exchange following the close of each business day. The rule also provides that transactions for less than $1 will be reported for clearing utilizing forms, formats and procedures established by the Exchange from time to time. In this regard, the Exchange initially intends to have clearing firms directly report the transactions to The Options Clearing Corporation ("OCC") using OCC's position adjustment/transfer procedures. This manner of reporting transactions for clearing is similar to the procedure that CBOE currently employs for on-floor position transfer packages executed pursuant to Exchange Rule 6.49A, *Transfer of Positions.*

[8] 15 U.S.C. 78s(b)(1).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. CBOE has satisfied this requirement.

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64394; File No. SR–C2–2011–012]

Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change To Reduce the Minimum Size of the Nominating and Governance Committee

May 4, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act" or "Exchange Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 27, 2011, C2 Options Exchange, Incorporated ("C2") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by C2. 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

C2 proposes to amend its Bylaws to change the minimum size of the C2 Nominating and Governance Committee.

The text of the proposed amendments to C2's Bylaws and the proposed amendments to C2's rules is available on C2's Web site at (*http://www.c2exchange.com/Legal*), at C2'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, C2 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. C2 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to reduce the minimum size of C2's Nominating and Governance Committee from seven to five directors. Section 4.4 of the Second Amended and Restated Bylaws of C2 ("Bylaws") currently provides, in pertinent part, that the Nominating and Governance Committee shall consist of at least seven directors, including both Industry and Non-Industry Directors; that a majority of the directors on the Committee shall be Non-Industry Directors; and that the exact number of members on the Committee shall be determined from time to time by C2's Board of Directors. This rule change would be effectuated by amending Section 4.4 of the Bylaws to provide that the Nominating and Governance Committee shall consist of at least five directors. The other provisions of Section 4.4 of the Bylaws would remain unchanged. Additionally, the title of the Bylaws would be changed to the Third Amended and Restated Bylaws of C2.

Section 3.1 of the Bylaws provides that the C2 Board of Directors shall consist of not less than eleven and not more than twenty-three directors, with the exact size determined by the Board. C2's Board size has declined recently from the Board's initial size of twenty-three directors in 2009 prior to the launch of trading on C2 to its current size of nineteen directors. In addition, the Board size will be declining further to sixteen directors at the time of the 2011 annual election of C2 directors (which is anticipated to occur in May 2011). As the Board size declines, it becomes more challenging to populate large Board committees since there are fewer directors to serve on the various C2 Board committees. The Exchange believes that reducing the minimum size of the Nominating and Governance Committee to five directors will help to alleviate this issue.

Changing the minimum size of the Nominating and Governance Committee to five directors would also make the minimum size consistent with the minimum size of the Nominating and Governance Committee of CBOE Holdings, Inc. ("CBOE Holdings"), C2's parent company. C2 believes that having the same composition requirements for the Nominating and Governance Committees of both C2 and CBOE Holdings will promote consistency and efficiency. C2 and CBOE Holdings currently have the same individuals serving on the C2 and CBOE Holdings Boards of Directors and on the C2 and CBOE Holdings Nominating and Governance Committees. This approach simplifies the process of scheduling and conducting meetings and allows the Boards and Nominating and Governance Committees of both entities to operate most efficiently. To the extent that C2 and CBOE Holdings desire to continue this approach in the future, this proposed rule change better enables C2 and CBOE Holdings to do so.

The Exchange believes that its Nominating and Governance Committee will continue to be able to appropriately perform its functions if it were to be composed of five directors. The Exchange also believes that having a Nominating and Governance Committee with a minimum size of five directors is consistent with prior precedent, in that the Chicago Stock Exchange ("CHX") has a Nominating and Governance Committee with a size of four directors.[3] Additionally, it should be noted that although the proposed rule change would permit the Exchange [sic] appoint a five-person Nominating and Governance Committee and that the Exchange may do so in the future, it is the current intention of the Exchange to appoint a six-person Nominating and Governance Committee at the time of the 2011 annual election of C2 directors.

The Exchange will continue to provide for the fair representation of C2 Trading Permit Holders in the selection of directors and the administration of the Exchange consistent with Section 6(b)(3) of the Act[4] following this rule change. In particular, the C2 Bylaws will continue to require that at least thirty percent of the directors on the C2 Board of Directors must be Industry Directors and that at least twenty percent of C2's directors must be Representative Directors. Also, the C2 Nominating and Governance Committee will continue to include both Industry and Non-Industry Directors and to have an Industry-Director Subcommittee that is composed of all of the Industry Directors serving on the Committee. Representative Directors will continue to be nominated (or otherwise selected through a petition process) by the Industry-Director Subcommittee. Additionally, C2 Trading Permit Holders will continue to be able to nominate alternative Representative Director candidates to those nominated by the Industry Director Subcommittee, in which case a Run-off Election will be held in which C2's Trading Permit Holders vote to determine which candidates will be elected to the C2 Board of Directors to serve as Representative Directors.

2. Statutory Basis

For the reasons set forth above, C2 believes that this filing is consistent

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Article II, Section 3 of the Bylaws of the Chicago Stock Exchange, Inc.

[4] 15 U.S.C. 78f(b)(3).

with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(1) of the Act[6] and Section 6(b)(5) of the Act[7] in particular, in that (i) It enables C2 to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its Trading Permit Holders and persons associated with its Trading Permit Holders, with the provisions of the Act, the rules and regulations thereunder, and the rules of C2 and (ii) to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of, a free and open market and, in general, to protect investors and the public interest.

Specifically, the proposed changes will streamline, make more efficient, and improve C2's governance structure by conforming the minimum size requirements of the C2 Nominating and Governance Committee and the CBOE Holdings Nominating and Governance Committee, which the Exchange believes will promote consistency and efficiency and better enable C2 and CBOE Holdings to have the same Nominating and Governance Committee compositions if desired. To the extent that the proposed changes enable C2 and CBOE Holdings to have the same Nominating and Governance Committee compositions if desired, the process of scheduling and conducting Nominating and Governance Committee meetings is simplified, as there can be meetings held at the same time instead of multiple separate meetings at different times. This furthers C2's ability to be organized in a manner to have the capacity to be able to carry out the purposes of the Act consistent with Section 6(b)(1) of the Act[8] and to carry out the purposes of Section 6(b)(5) of the Act.[9]

The proposed rule change will not impact the current provisions of the C2 Bylaws that are designed to assure the fair representation of C2 Trading Permit Holders in the selection of directors and the administration of C2, and thus is consistent with Section 6(b)(3) of the Act.[10] In particular, the Bylaws will continue to require that at least thirty percent of C2's directors be Industry Directors; that at least twenty percent of C2's directors be Representative Directors; that the C2 Nominating and Governance Committee include both Industry and Non-Industry Directors and have an Industry-Director Subcommittee composed of all of the Industry Directors on the Committee; that Representative Directors be nominated (or otherwise selected through a petition process) by the Industry-Director Subcommittee; and that C2 Trading Permit Holders are able to nominate alternative Representative Director candidates to those nominated by the Industry Director Subcommittee, in which case a Run-off Election is held in which C2's Trading Permit Holders vote to determine which candidates are elected as Representative Directors.

The proposed rule change was prompted by the reduction in the size of the C2 Board of Directors since, as the Board size declines, it becomes more challenging to populate large Board committees. The Exchange believes that reducing the minimum size of the C2 Nominating and Governance Committee will help to alleviate this issue and that, notwithstanding this change, the Committee will continue to be able to appropriately perform its functions, operate effectively, and thus enable the Exchange to comply with Section 6(b)(1) of the Act.[11]

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

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR–C2–2011–012 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–C2–2011–012. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–C2–2011–012 and should be submitted on or before May 31, 2011.

[5] 15 U.S.C. 78f(b).
[6] 15 U.S.C. 78f(b)(1).
[7] 15 U.S.C. 78f(b)(5).
[8] 15 U.S.C. 78f(b)(1).
[9] 15 U.S.C. 78f(b)(5).
[10] 15 U.S.C. 78f(b)(3).
[11] 15 U.S.C. 78f(b)(1).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–11357 Filed 5–9–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64399; File No. SR–NYSEArca–2011–20]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Fee Schedule To Eliminate Registered Representative Fees for Options Trading Permit ("OTP") Holders and To Institute a New Transaction-Based "Options Regulatory Fee"

May 4, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on April 28, 2011, NYSE Arca, Inc. ("NYSE Arca" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Fee Schedule to eliminate registered representative fees for Options Trading Permit ("OTP") Holders and institute a new transaction-based "Options Regulatory Fee." The text of the proposed rule change is available at the Exchange, at the Commission's Public Reference Room, on the Commission's Web site at *http://www.sec.gov,* and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

This proposed rule change is based on a rule change previously submitted by NASDAQ OMX BX, Inc. on behalf of the Boston Options Exchange Group, LLC ("BOX") that was effective upon filing.[3] The Exchange proposes to amend the NYSE Arca Fee Schedule to institute a new transaction-based "Options Regulatory Fee" and eliminate registered representative fees. Each OTP Holder or OTP Firm that registers an options principal and/or representative who is conducting business on NYSE Arca currently is assessed a registered representative fee ("RR Fee") based on the action(s) associated with the registration. There are annual fees as well as initial, transfer and termination fees.[4] RR Fees and other regulatory fees collected by the Exchange were intended to cover only a portion of the cost of the Exchange's regulatory programs. Prior to rule changes by other options exchanges, such as the Chicago Board Options Exchange ("CBOE"), BOX, NASDAQ OMX PHLX ("PHLX") and the International Securities Exchange ("ISE"), all options exchanges, regardless of size, charged registered representative fees.

The Exchange believes that the current RR Fee is no longer equitable. The options industry has evolved to a structure with many more Internet-based and discount brokerage firms. These firms have few registered representatives and thus pay very little in RR Fees compared to full service brokerage firms that have many registered representatives. Further, due to the manner in which RR Fees are charged, it is possible for an NYSE Arca OTP Holder or OTP Firm to restructure its business to avoid paying these fees altogether. For example, a firm can avoid RR Fees by terminating its OTP status and sending its business to NYSE Arca through another separate NYSE Arca OTP Holder or OTP Firm, even an affiliated firm that has many fewer registered representatives. If firms terminated their OTP status to avoid RR Fees, the Exchange would suffer the loss of a source of funding for its regulatory programs. More importantly, the regulatory effort the Exchange expends to review the transactions of each type of firm is not commensurate with the number of registered representatives that each firm employs.

In order to address the inequity of the current regulatory fee structure and to offset more fully the cost of the Exchange's regulatory programs, the Exchange proposes to eliminate the current RR Fee for NYSE Arca OTP Holders and OTP Firms and adopt an Options Regulatory Fee ("ORF") of $0.004 per contract.[5] As described below, this fee would be assessed by the Exchange on each OTP Holder or OTP Firm for all options transactions executed or cleared by the OTP Holder or OTP Firm that are cleared by OCC in the customer range, regardless of the marketplace of execution. In particular, the Exchange would impose the ORF on

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 61388 (January 20, 2010), 75 FR 4431 (January 27, 2010) (SR–BX–2010–001) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Registered Representative Fee and Options Regulatory Fee).

[4] In this regard, the Exchange proposes to eliminate from its options fee schedule any reference to fees the Exchange no longer asks FINRA to collect on its behalf relating to the processing of registered representatives. In particular, the following "Registration Fees" will be eliminated from the options fee schedule: The annual fee for new applications, maintenance, or transfer of registration status for each Registered Representative and each Registered Options Principal (collected by the NASD), the fee for termination of such individuals, the NASD CRD Processing Fee, the NASD Annual System Processing Fee, and the NYSE Arca Transfer/Re-license Individual Fee. Fees relating to the processing of registered representatives that FINRA collects and retains will remain in the Exchange's options fee schedule. In particular, the following "Registration Fees" will remain in the options fee schedule: The NASD Disclosure Processing Fee and the NASD Manual Processing Fee for Fingerprint results submitted by other SROs.

[5] Because the annual component of the RR Fee has already been assessed for 2011, the Exchange will make a pro rata refund for the remaining portion of the year following elimination of the RR Fee. In addition, the Exchange notes that permit holders who conduct only equities business will no longer be subject to the RR Fee as a result of the elimination of this fee. Consequently, the Exchange proposes to eliminate from its NYSE Arca Equities fee schedule any reference to fees the Exchange no longer asks FINRA to collect on its behalf relating to the processing of Registered Representatives. In particular, the following "Registration Fees" will be eliminated from the equities fee schedule: The annual fee for new applications, maintenance, or transfer of registration status for each Registered Representative and each Registered Principal (collected by the NASD), the two NASD CRD Processing Fees, the NASD Annual System Processing Fee, and the NYSE Arca Transfer/Re-license Individual Fee. Fees relating to the processing of registered representatives that FINRA collects and retains will remain in the Exchange's equities fee schedule. In particular, the following "Registration Fees" will remain in the equities fee schedule: The NASD Disclosure Processing Fee and the NASD Manual Processing Fee for Fingerprint Results submitted by Other SROs. The Exchange will separately submit a rule filing to address funding for equities regulation.

all options transactions executed in the customer range by an OTP Holder or OTP Firm,[6] even if the transactions do not take place on NYSE Arca. The ORF would also be charged for transactions that are not executed by an OTP Holder or OTP Firm but are ultimately cleared by an OTP Holder. In the case where an OTP Holder or OTP Firm executes a transaction and a different OTP Holder or OTP Firm clears the transaction, the ORF would be assessed to the OTP Holder or OTP Firm who executes the transaction. In the case where a non-OTP Holder executes a transaction and an OTP Holder or OTP Firm clears the transaction, the ORF would be assessed to the OTP Holder or OTP Firm who clears the transaction.

As noted, the ORF would replace RR Fees, which relate to an OTP Holder or OTP Firm's options customer business. Further, RR Fees constituted the single-largest fee assessed that is related to regulation of customer trading activity, and the Exchange believes it is appropriate to charge the ORF only to transactions that clear as customer at the OCC. The Exchange believes that its broad regulatory responsibilities with respect to an OTP Holder or OTP Firms' activities supports applying the ORF to transactions cleared but not executed by an OTP Holder or OTP Firm. The Exchange's regulatory responsibilities are the same regardless of whether an OTP Holder or OTP Firm executes a transaction or clears a transaction executed on its behalf. The Exchange regularly reviews all such activities, including performing surveillance for position limit violations, manipulation, front-running, contrary exercise advice violations and insider trading.[7] These activities span across multiple exchanges.

The Exchange believes the initial level of the fee is reasonable because it relates to the recovery of the costs of supervising and regulating an OTP Holder or OTP Firm's customer options business. The Exchange believes the amount of the ORF is fair and reasonably allocated because it is a closer approximation to the Exchange's actual costs in administering its regulatory program with respect to customer options activity.

The ORF would be collected indirectly from OTP Holder or OTP Firms through their clearing firms by OCC on behalf of the Exchange. The Exchange expects that OTP Holders and OTP Firms will pass-through the ORF to their customers in the same manner that firms pass-through to their customers the fees charged by Self Regulatory Organizations ("SROs") to help the SROs meet their obligations under Section 31 of the Exchange Act.

The ORF is designed to recover a material portion of the costs to the Exchange of the supervision and regulation of OTP Holders and OTP Firms, including performing routine surveillances, investigations, as well as policy, rulemaking, interpretive and enforcement activities.[8] The Exchange believes that revenue generated from the ORF will cover the substantial majority of the Exchange's regulatory costs related to the NYSE Arca options market. At present, RR Fees make up the largest part of the Exchange's total options regulatory fee revenue, however, the total amount of NYSE Arca specific regulatory fees collected by the Exchange is significantly less than the regulatory costs incurred by NYSE Arca on an annual basis. The Exchange notes that its regulatory responsibilities with respect to an OTP Holder or OTP Firm's compliance with options sales practice rules have been allocated to FINRA under a 17d–2 agreement. The ORF is not designed to cover the cost of options sales practice regulation.

The Exchange would monitor the amount of revenue collected from the ORF to ensure that it, in combination with its other NYSE Arca regulatory fees and fines, does not exceed the Exchange's total regulatory costs. The Exchange expects to monitor NYSE Arca regulatory costs and revenues at a minimum on an annual basis. If the Exchange determines NYSE Arca regulatory revenues exceed regulatory costs, the Exchange would adjust the ORF by submitting a fee change filing to the Commission. The Exchange would notify OTP Holders and OTP Firms of adjustments to the ORF via a Regulatory Bulletin.

The Exchange believes the proposed ORF is equitably allocated because it would be charged to all OTP Holders and OTP Firms on all their customer options business. The Exchange believes the proposed ORF is reasonable because it will raise revenue related to the amount of customer options business conducted by an OTP Holder or OTP Firm, and thus the amount of Exchange regulatory services those OTP Holders or OTP Firms will require with respect to that activity, instead of how many registered representatives a particular OTP Holder or OTP Firm employs.[9]

With almost all transactions on the Exchange conducted electronically, the amount of resources required by the Exchange to surveil non-customer trading activity is significantly less than the amount of resources the Exchange must dedicate to surveil customer trading activity. This is because surveilling customer trading activity is much more labor-intensive and requires greater expenditure of human and technical resources than surveilling non-customer trading activity, which tends to be more automated and less labor-intensive. As a result, the costs associated with administering the customer component of the Exchange's overall regulatory program are materially higher than the costs associated with administering the non-customer component (*e.g.,* market maker) of its regulatory program.

The Exchange believes it is reasonable and appropriate for the Exchange to charge the ORF for options transactions regardless of the exchange on which the transactions occur. The Exchange has a statutory obligation to enforce compliance by OTP Holders and OTP Firms and their associated persons under the Exchange Act and the rules of the Exchange and to surveil for other manipulative conduct by market participants (including non-OTP Holders) trading on the Exchange. The Exchange cannot effectively surveil for such conduct without looking at and evaluating activity across all options markets. Many of the Exchange's market surveillance programs require the Exchange to look at and evaluate activity across all options markets, such

[6] Such transactions must be cleared by an OTP Holder or OTP Firm in the customer range for the ORF to apply. Subject to the foregoing, the ORF would apply to all customer orders executed by an OTP Holder or OTP Firm on NYSE Arca. Exchange rules require each OTP Holder or OTP Firm to submit trade information in order to allow the Exchange to properly prioritize and match orders and quotations and report resulting transactions to the OCC. *See* NYSE Arca Rule 6.68. The Exchange represents that it has surveillances in place to verify that OTP Holders comply with the rule.

[7] The Exchange also participates in The Options Regulatory Surveillance Authority ("ORSA") national market system plan and in doing so shares information and coordinates with other exchanges designed to detect the unlawful use of undisclosed material information in the trading of securities options. ORSA is a national market system comprised of several self-regulatory organizations whose functions and objectives include the joint development, administration, operation and maintenance of systems and facilities utilized in the regulation, surveillance, investigation and detection of the unlawful use of undisclosed material information in the trading of securities options. The Exchange compensates ORSA for the Exchange's portion of the cost to perform insider trading surveillance on behalf of the Exchange. The ORF will cover the costs associated with the Exchange's arrangement with ORSA.

[8] As stated above, the RR Fees collected by the Exchange were originally intended to cover only a portion of the cost of the Exchange's regulatory programs.

[9] The Exchange expects that implementation of the proposed ORF will result generally in many traditional brokerage firms paying less regulatory fees while Internet and discount brokerage firms will pay more.

as surveillance for position limit violations, manipulation, front-running and contrary exercise advice violations/expiring exercise declarations.[10] Also, the Exchange and the other options exchanges are required to populate a consolidated options audit trail ("COATS") system in order to surveil an OTP Holder or OTP Firm's activities across markets.[11]

In addition to its own surveillance programs, the Exchange works with other SROs and exchanges on intermarket surveillance related issues. Through its participation in the Intermarket Surveillance Group ("ISG"),[12] the Exchange shares information and coordinates inquiries and investigations with other exchanges designed to address potential intermarket manipulation and trading abuses. The Exchange's participation in ISG helps it to satisfy the Exchange Act requirement that it have coordinated surveillance with markets on which security futures are traded and markets on which any security underlying security futures are traded to detect manipulation and insider trading.[13]

The Exchange believes that charging the ORF across markets will avoid having OTP Holders and OTP Firms direct their trades to other markets in order to avoid the fee and to thereby avoid paying for their fair share of regulation. If the ORF did not apply to activity across markets then an OTP Holder or OTP Firm would send their orders to the least cost, least regulated exchange. Other exchanges do impose a similar fee on their member's activity, including the activity of those members on NYSE Arca.[14]

The Exchange notes that there is established precedent for an SRO charging a fee across markets, namely, FINRA's Trading Activity Fee[15] and the CBOE's, PHLX's, ISE's and BOX's ORF. While the Exchange does not have all the same regulatory responsibilities as FINRA, the Exchange believes that, like other exchanges that have adopted an ORF, its broad regulatory responsibilities with respect to an OTP Holder or OTP Firms' activities, irrespective of where their transactions take place, supports a regulatory fee applicable to transactions on other markets. Unlike FINRA's Trading Activity Fee, the ORF would apply only to an OTP Holder or OTP Firm's customer options transactions.

The Exchange has designated this proposal to be operative on May 1, 2011.

2. Statutory Basis

Exchange believes the proposed rule change is consistent with Section 6(b) of the Act[16] in general, and furthers the objectives of Section 6(b)(4)[17] of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its OTP Holders and OTP Firms and other persons using its facilities. The Exchange believes that the ORF is objectively allocated because it would be charged to all OTP Holders and OTP Firms for all their transactions that clear as customer at the OCC through an OTP Holder or OTP Firm. Moreover, the Exchange believes the ORF ensures fairness by assessing higher fees to those participants that require more Exchange regulatory services based on the amount of customer options business they conduct.

The Exchange notes that the Commission has addressed the funding of an SRO's regulatory operations in the Concept Release Concerning Self-Regulation[18] and the release on the Fair Administration and Governance of Self-Regulatory Organizations.[19] In the Concept Release, the Commission states that: "Given the inherent tension between an SRO's role as a business and as a regulator, there undoubtedly is a temptation for an SRO to fund the business side of its operations at the expense of regulation."[20] In order to address this potential conflict, the Commission proposed in the Governance Release rules that would require an SRO to direct monies collected from regulatory fees, fines, or penalties exclusively to fund the regulatory operations and other programs of the SRO related to its regulatory responsibilities.[21] The Exchange has designed the ORF to generate revenues that, when combined with all of the Exchange's other regulatory fees, will be less than or equal to the Exchange's regulatory costs, which is consistent with the Commission's view that regulatory fees be used for regulatory purposes and not to support the Exchange's business side. In this regard, the Exchange believes that the initial level of the fee is reasonable.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[22] of the Act and subparagraph (f)(2) of Rule 19b–4[23] thereunder, because it establishes a due, fee, or other charge imposed by the NYSE Arca.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing,

[10] The Exchange and other options SROs are parties to a 17d–2 agreement allocating among the SROs regulatory responsibilities relating to compliance by the common members with rules for expiring exercise declarations, position limits, OCC trade adjustments, and Large Option Position Report reviews. *See, e.g.* Securities Exchange Act Release No. 61588 (February 25, 2010).

[11] COATS effectively enhances intermarket options surveillance by enabling the options exchanges to reconstruct the market promptly to effectively surveil certain rules.

[12] ISG is an industry organization formed in 1983 to coordinate intermarket surveillance among the SROs by cooperatively sharing regulatory information pursuant to a written agreement between the parties. The goal of the ISG's information sharing is to coordinate regulatory efforts to address potential intermarket trading abuses and manipulations.

[13] *See* Exchange Act Section 6(h)(3)(I).

[14] The Exchange notes that CBOE currently assesses an options regulatory fee similar to the one proposed herein, which fee is also assessed on the trading activity of a CBOE member on NYSE Arca. *See* Securities Exchange Act Release No. 58817 (October 20, 2008), 73 FR 63744 (October 27, 2008). Similar regulatory fees have also been instituted by PHLX (*See* Securities Exchange Act Release No. 61133 (December 9, 2009), 74 FR 66715 (December 16, 2009) (SR–Phlx–2009–100)); and ISE (*See* Securities Exchange Act Release No. 61154 (December 11, 2009), 74 FR 67278 (December 18, 2009) (SR–ISE–2009–105)).

[15] *See* Securities Exchange Act Release No. 47946 (May 30, 2003), 68 FR 3402 (June 6, 2003).

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(4).

[18] *See* Securities Exchange Act Release No. 50700 (November 18, 2004), 69 FR 71256 (December 8, 2004) ("Concept Release").

[19] *See* Securities Exchange Act Release No. 50699 (November 18, 2004), 69 FR 71126 (December 8, 2004) ("Governance Release").

[20] Concept Release at 71268.

[21] Governance Release at 71142.

[22] 15 U.S.C. 78s(b)(3)(A).

[23] 17 CFR 240.19b–4(f)(2).

including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2011–20 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–NYSEArca–2011–20. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2011–20 and should be submitted on or before May 31, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–11314 Filed 5–9–11; 8:45 am]

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[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64390; File No. SR–C2–2011–011]

Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the C2 Fees Schedule

May 4, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 29, 2011, C2 Options Exchange, Incorporated (the "Exchange" or "C2") 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 Exchange has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act [3] and Rule 19b–4(f)(2) thereunder.[4] 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

C2 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*), at the Exchange's Office of the Secretary and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

C2 proposes to amend its Fee Schedule to revise its transaction fees for all multiply-listed, equity and exchange-traded fund ("ETF") option classes traded on C2. Currently, transactions fees as set out in the Fees Schedule under two categories: (i) Transaction fees for option classes C, BAC, XLF, F, and SPY; [5] and (ii) transaction fees for all other multiply-listed, equity and ETF option classes.[6]

The transaction fees will be simplified to have only a single category for all multiply-listed, equity and ETF option classes. Within that category, the transaction fees will be structured as follows: Public customers will receive a liquidity making rebate of $.22 per contract and will pay a liquidity removing taker rate of $.25 per contract; C2 Market-Makers will receive a liquidity making rebate of $.25 per contract and will pay a liquidity removing taker rate of $.33 per contract; and all other users will receive a liquidity making rebate of $.22 per contract and will pay a liquidity removing taker rate of $.33 per contract. As is currently the case, there will continue to be no maker credits or taker fees for trades executed as part of the open for these classes. Finally, we note that the Exchange is making a non-substantive amendment to reorganize the text of the Fees Schedule (the sequence of the liquidity making rebate and liquidity removing taker rate columns in the Fees Schedule are being flip-flipped). The change will be effective on May 2, 2011.

[5] For C, BAC, XLF, F, and SPY, the transaction fees are currently as follows: public customers do not receive a maker rebate and pay a liquidity removing taker rate of $.25 per contract; C2 Market-Makers receive a liquidity making rebate of $.25 per contract and pay a liquidity removing taker rate of $.34 per contract; and all other users receive a liquidity making rebate of $.10 per contract and pay a liquidity removing taker rate of $.34 per contract. There are no taker fees or maker credits for trades executed as part of the open for these classes.

[6] For all other multiply-listed, equity and ETF option classes, the transaction fees are currently as follows: Public customers do not receive a maker rebate and pay a liquidity removing taker rate of $.15 per contract; C2 Market-Makers receive a liquidity making rebate of $.15 per contract and pay a liquidity removing taker rate of $.25 per contract; and all other users receive a liquidity making rebate of $.10 per contract and pay a liquidity removing taker rate of $.40 per contract. There are no taker fees or maker credits for trades executed as part of the open for these classes.

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. The Exchange believes that modifying the C2 transaction fee rates so that the rebate and charge levels are more closely aligned between participant types is consistent with: (i) Section 6(b)(4) of the Act in that it represents an equitable allocation of fees; and (ii) Section 6(b)(5) of the Act in that the modifications are not designed to unfairly discriminate between customers, brokers, or dealers. The Exchange believes that the preferred customer fee is consistent with the long history in the options markets of customers being given preferred fees and that the Market-Maker rebate is reflective of the fact that Market-Makers have affirmative obligations to enhance market quality and can be rewarded for their commitments through advantaged pricing.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change is designated by the Exchange as establishing or changing a due, fee, or other charge, thereby qualifying for effectiveness on filing pursuant to Section 19(b)(3)(A)(ii) 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 e-mail to *rule-comments@sec.gov.* Please include File Number SR–C2–2011–011 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–C2–2011–011. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro/shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–C2–2011–011 and should be submitted on or before May 31, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–11313 Filed 5–9–11; 8:45 am]

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[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 240.19b–4(f)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64400; File No. SR–NYSEAmex–2011–27]

Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending its Fee Schedule To Eliminate Registered Representative Fees for Amex Trading Permit ("ATP") Holders and To Institute a New Transaction-Based "Options Regulatory Fee"

May 4, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on April 28, 2011, NYSE Amex LLC ("NYSE Amex" or the "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The 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 Fee Schedule to eliminate registered representative fees for Amex Trading Permit ("ATP") Holders and institute a new transaction-based "Options Regulatory Fee." The text of the proposed rule change is available at the Exchange, at the Commission's Public Reference Room, on the Commission's Web site at *http://www.sec.gov,* and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

This proposed rule change is based on a rule change previously submitted by NASDAQ OMX BX, Inc. on behalf of the Boston Options Exchange Group, LLC ("BOX") that was effective upon filing.[3] The Exchange proposes to amend the NYSE Amex Fee Schedule to institute a new transaction-based "Options Regulatory Fee" and eliminate registered representative fees. Each ATP Holder that registers an options principal and/or representative who is conducting business on NYSE Amex currently is assessed a registered representative fee ("RR Fee") based on the action(s) associated with the registration. There are annual fees as well as initial, transfer and termination fees.[4] RR Fees and other regulatory fees collected by the Exchange were intended to cover only a portion of the cost of the Exchange's regulatory programs. Prior to rule changes by other options exchanges, such as the Chicago Board Options Exchange ("CBOE"), BOX, NASDAQ OMX PHLX ("PHLX") and the International Securities Exchange ("ISE"), all options exchanges, regardless of size, charged registered representative fees.

The Exchange believes that the current RR Fee is no longer equitable. The options industry has evolved to a structure with many more Internet-based and discount brokerage firms. These firms have few registered representatives and thus pay very little in RR Fees compared to full service brokerage firms that have many registered representatives. Further, due to the manner in which RR Fees are charged, it is possible for an NYSE Amex ATP Holder to restructure its business to avoid paying these fees altogether. For example, a firm can avoid RR Fees by terminating its ATP status and sending its business to NYSE Amex through another separate NYSE Amex ATP Holder, even an affiliated firm that has many fewer registered representatives. If firms terminated their ATP status to avoid RR Fees, the Exchange would suffer the loss of a source of funding for its regulatory programs. More importantly, the regulatory effort the Exchange expends to review the transactions of each type of firm is not commensurate with the number of registered representatives that each firm employs.

In order to address the inequity of the current regulatory fee structure and to offset more fully the cost of the Exchange's regulatory programs, the Exchange proposes to eliminate the current RR Fee for NYSE Amex ATP Holders and adopt an Options Regulatory Fee ("ORF") of $0.004 per contract.[5] As described below, this fee would be assessed by the Exchange on each ATP Holder for all options transactions executed or cleared by the ATP Holder that are cleared by OCC in the customer range, regardless of the marketplace of execution. In particular, the Exchange would impose the ORF on all options transactions executed in the customer range by an ATP Holder,[6] even if the transactions do not take place on NYSE Amex. The ORF would also be charged for transactions that are not executed by an ATP Holder but are ultimately cleared by an ATP Holder. In the case where an ATP Holder executes a transaction and a different ATP Holder clears the transaction, the ORF would be assessed to the ATP Holder who executes the transaction. In the case where a non-ATP Holder executes a transaction and an ATP Holder clears the transaction, the ORF would be assessed to the ATP Holder who clears the transaction.

As noted, the ORF would replace RR Fees, which relate to an ATP Holder's options customer business. Further, RR Fees constituted the single-largest fee assessed that is related to regulation of customer trading activity, and the Exchange believes it is appropriate to charge the ORF only to transactions that clear as customer at the OCC. The Exchange believes that its broad regulatory responsibilities with respect to an ATP Holders' activities supports applying the ORF to transactions cleared but not executed by an ATP Holder. The Exchange's regulatory responsibilities are the same regardless of whether an ATP Holder executes a transaction or clears a transaction executed on its behalf. The Exchange regularly reviews all such activities, including performing surveillance for position limit violations, manipulation, front-running, contrary exercise advice violations and insider trading.[7] These activities span across multiple exchanges.

The Exchange believes the initial level of the fee is reasonable because it relates to the recovery of the costs of supervising and regulating an ATP

[3] *See* Securities Exchange Act Release No. 61388 (January 20, 2010), 75 FR 4431 (January 27, 2010) (SR–BX–2010–001) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Registered Representative Fee and Options Regulatory Fee).

[4] In this regard, the Exchange proposes to eliminate from its options fee schedule any reference to fees the Exchange no longer asks FINRA to collect on its behalf relating to the processing of registered representatives. In particular, the following "Registration Fees" will be eliminated from the options fee schedule: The Initial Processing Fee, the Annual Renewal Processing Fee, the Transfer Processing Fee, the Web CRD System Transition Fee, and the Terminations Fee. Fees relating to the processing of registered representatives that FINRA collects and retains will remain in the Exchange's options fee schedule. In particular, the following "Registration Fees" will remain in the options fee schedule: the Disclosure Processing Fee, the Fingerprint Card Processing Fee, and the fee for Fingerprint Results Processed thru other SROs.

[5] Because the annual component of the RR Fee has already been assessed for 2011, the Exchange will make a pro rata refund for the remaining portion of the year following elimination of the RR Fee. In addition, the Exchange notes that permit holders who conduct only equities business will no longer be subject to the RR Fee as a result of the elimination of this fee. Consequently, the Exchange proposes to eliminate from its NYSE Amex Equities Price List any reference to fees the Exchange no longer asks FINRA to collect on its behalf relating to the processing of registered representatives. In particular, the following "Registration Fees" will be eliminated from the equities fee schedule: the Initial Processing Fee, the Annual Renewal Processing Fee, the Transfer Processing Fee, the Web CRD System Transition Fee, and the Terminations Fee. Fees relating to the processing of registered representatives that FINRA collects and retains will remain in the Exchange's equities fee schedule. In particular, the following "Registration Fees" will remain in the equities fee schedule: the Disclosure Processing Fee, the Fingerprint Card Processing Fee, and the fee for Fingerprint Results Processed thru other SROs. The Exchange will separately submit a rule filing to address funding for equities regulation.

[6] Such transactions must be cleared by an ATP Holder in the customer range for the ORF to apply. Subject to the foregoing, the ORF would apply to all customer orders executed by an ATP Holder on NYSE Amex. Exchange rules require each ATP Holder to submit trade information in order to allow the Exchange to properly prioritize and match orders and quotations and report resulting transactions to the OCC. *See* NYSE Amex Rule 956NY. The Exchange represents that it has surveillances in place to verify that ATP Holders comply with the rule.

[7] The Exchange also participates in The Options Regulatory Surveillance Authority ("ORSA") national market system plan and in doing so shares information and coordinates with other exchanges designed to detect the unlawful use of undisclosed material information in the trading of securities options. ORSA is a national market system comprised of several self-regulatory organizations whose functions and objectives include the joint development, administration, operation and maintenance of systems and facilities utilized in the regulation, surveillance, investigation and detection of the unlawful use of undisclosed material information in the trading of securities options. The Exchange compensates ORSA for the Exchange's portion of the cost to perform insider trading surveillance on behalf of the Exchange. The ORF will cover the costs associated with the Exchange's arrangement with ORSA.

Holder's customer options business. The Exchange believes the amount of the ORF is fair and reasonably allocated because it is a closer approximation to the Exchange's actual costs in administering its regulatory program with respect to customer options activity.

The ORF would be collected indirectly from ATP Holders through their clearing firms by OCC on behalf of the Exchange. The Exchange expects that ATP Holders will pass-through the ORF to their customers in the same manner that firms pass-through to their customers the fees charged by Self Regulatory Organizations ("SROs") to help the SROs meet their obligations under Section 31 of the Exchange Act.

The ORF is designed to recover a material portion of the costs to the Exchange of the supervision and regulation of ATP Holders, including performing routine surveillances, investigations, as well as policy, rulemaking, interpretive and enforcement activities.[8] The Exchange believes that revenue generated from the ORF will cover the substantial majority of the Exchange's regulatory costs related to the NYSE Amex options market. At present, RR Fees make up the largest part of the Exchange's total options regulatory fee revenue, however, the total amount of NYSE Amex specific regulatory fees collected by the Exchange is significantly less than the regulatory costs incurred by NYSE Amex on an annual basis. The Exchange notes that its regulatory responsibilities with respect to an ATP Holder's compliance with options sales practice rules have been allocated to FINRA under a 17d-2 agreement. The ORF is not designed to cover the cost of options sales practice regulation.

The Exchange would monitor the amount of revenue collected from the ORF to ensure that it, in combination with its other NYSE Amex regulatory fees and fines, does not exceed the Exchange's total regulatory costs. The Exchange expects to monitor NYSE Amex regulatory costs and revenues at a minimum on an annual basis. If the Exchange determines NYSE Amex regulatory revenues exceed regulatory costs, the Exchange would adjust the ORF by submitting a fee change filing to the Commission. The Exchange would notify ATP Holders of adjustments to the ORF via a Regulatory Bulletin.

The Exchange believes the proposed ORF is equitably allocated because it would be charged to all ATP Holders on all their customer options business. The Exchange believes the proposed ORF is reasonable because it will raise revenue related to the amount of customer options business conducted by an ATP Holder, and thus the amount of Exchange regulatory services those ATP Holders will require with respect to that activity, instead of how many registered representatives a particular ATP Holder employs.[9]

With almost all transactions on the Exchange conducted electronically, the amount of resources required by the Exchange to surveil non-customer trading activity is significantly less than the amount of resources the Exchange must dedicate to surveil customer trading activity. This is because surveilling customer trading activity is much more labor-intensive and requires greater expenditure of human and technical resources than surveilling non-customer trading activity, which tends to be more automated and less labor-intensive. As a result, the costs associated with administering the customer component of the Exchange's overall regulatory program are materially higher than the costs associated with administering the non-customer component (*e.g.,* market maker) of its regulatory program.

The Exchange believes it is reasonable and appropriate for the Exchange to charge the ORF for options transactions regardless of the exchange on which the transactions occur. The Exchange has a statutory obligation to enforce compliance by ATP Holders and their associated persons under the Exchange Act and the rules of the Exchange and to surveil for other manipulative conduct by market participants (including non-ATP Holders) trading on the Exchange. The Exchange cannot effectively surveil for such conduct without looking at and evaluating activity across all options markets. Many of the Exchange's market surveillance programs require the Exchange to look at and evaluate activity across all options markets, such as surveillance for position limit violations, manipulation, front-running and contrary exercise advice violations/expiring exercise declarations.[10] Also, the Exchange and the other options exchanges are required to populate a consolidated options audit trail ("COATS") system in order to surveil an ATP Holder's activities across markets.[11]

In addition to its own surveillance programs, the Exchange works with other SROs and exchanges on intermarket surveillance related issues. Through its participation in the Intermarket Surveillance Group ("ISG"),[12] the Exchange shares information and coordinates inquiries and investigations with other exchanges designed to address potential intermarket manipulation and trading abuses. The Exchange's participation in ISG helps it to satisfy the Exchange Act requirement that it have coordinated surveillance with markets on which security futures are traded and markets on which any security underlying security futures are traded to detect manipulation and insider trading.[13]

The Exchange believes that charging the ORF across markets will avoid having ATP Holders direct their trades to other markets in order to avoid the fee and to thereby avoid paying for their fair share of regulation. If the ORF did not apply to activity across markets then an ATP Holder would send their orders to the least cost, least regulated exchange. Other exchanges do impose a similar fee on their member's activity, including the activity of those members on NYSE Amex.[14]

The Exchange notes that there is established precedent for an SRO charging a fee across markets, namely, FINRA's Trading Activity Fee[15] and the CBOE's, PHLX's, ISE's and BOX's ORF.

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[8] As stated above, the RR Fees collected by the Exchange were originally intended to cover only a portion of the cost of the Exchange's regulatory programs.

[9] The Exchange expects that implementation of the proposed ORF will result generally in many traditional brokerage firms paying less regulatory fees while Internet and discount brokerage firms will pay more.

[10] The Exchange and other options SROs are parties to a 17d–2 agreement allocating among the SROs regulatory responsibilities relating to compliance by the common members with rules for expiring exercise declarations, position limits, OCC trade adjustments, and Large Option Position Report reviews. *See, e.g.,* Securities Exchange Act Release No. 61588 (February 25, 2010).

[11] COATS effectively enhances intermarket options surveillance by enabling the options exchanges to reconstruct the market promptly to effectively surveil certain rules.

[12] ISG is an industry organization formed in 1983 to coordinate intermarket surveillance among the SROs by cooperatively sharing regulatory information pursuant to a written agreement between the parties. The goal of the ISG's information sharing is to coordinate regulatory efforts to address potential intermarket trading abuses and manipulations.

[13] *See* Exchange Act Section 6(h)(3)(I).

[14] The Exchange notes that CBOE currently assesses an options regulatory fee similar to the one proposed herein, which fee is also assessed on the trading activity of a CBOE member on NYSE Amex. *See* Securities Exchange Act Release No. 58817 (October 20, 2008), 73 FR 63744 (October 27, 2008). Similar regulatory fees have also been instituted by PHLX (*See* Securities Exchange Act Release No. 61133 (December 9, 2009), 74 FR 66715 (December 16, 2009) (SR–Phlx–2009–100)); and ISE (*See* Securities Exchange Act Release No. 61154 (December 11, 2009), 74 FR 67278 (December 18, 2009) (SR–ISE–2009–105)).

[15] *See* Securities Exchange Act Release No. 47946 (May 30, 2003), 68 FR 3402 (June 6, 2003).

While the Exchange does not have all the same regulatory responsibilities as FINRA, the Exchange believes that, like other exchanges that have adopted an ORF, its broad regulatory responsibilities with respect to an ATP Holders' activities, irrespective of where their transactions take place, supports a regulatory fee applicable to transactions on other markets. Unlike FINRA's Trading Activity Fee, the ORF would apply only to a an ATP Holder's customer options transactions.

The Exchange has designated this proposal to be operative on May 1, 2011.

2. *Statutory Basis*

Exchange believes the proposed rule change is consistent with Section 6(b) of the Act [16] in general, and furthers the objectives of Section6(b)(4) [17] of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its ATP Holders and other persons using its facilities. The Exchange believes that the ORF is objectively allocated because it would be charged to all ATP Holders for all their transactions that clear as customer at the OCC through an ATP Holder. Moreover, the Exchange believes the ORF ensures fairness by assessing higher fees to those participants that require more Exchange regulatory services based on the amount of customer options business they conduct.

The Exchange notes that the Commission has addressed the funding of an SRO's regulatory operations in the Concept Release Concerning Self-Regulation[18] and the release on the Fair Administration and Governance of Self-Regulatory Organizations.[19] In the Concept Release, the Commission states that: "Given the inherent tension between an SRO's role as a business and as a regulator, there undoubtedly is a temptation for an SRO to fund the business side of its operations at the expense of regulation."[20] In order to address this potential conflict, the Commission proposed in the Governance Release rules that would require an SRO to direct monies collected from regulatory fees, fines, or penalties exclusively to fund the regulatory operations and other programs of the SRO related to its regulatory responsibilities.[21] The Exchange has designed the ORF to generate revenues that, when combined with all of the Exchange's other regulatory fees, will be less than or equal to the Exchange's regulatory costs, which is consistent with the Commission's view that regulatory fees be used for regulatory purposes and not to support the Exchange's business side. In this regard, the Exchange believes that the initial level of the fee is reasonable.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [22] of the Act and subparagraph (f)(2) of Rule 19b–4 [23] thereunder, because it establishes a due, fee, or other charge imposed by the NYSE Amex.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSEAmex–2011–27 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAmex–2011–27. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAmex–2011–27 and should be submitted on or before May 31, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–11337 Filed 5–9–11; 8:45 am]

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[16] 15 U.S.C. 78f (b).

[17] 15 U.S.C. 78f (b)(4).

[18] *See* Securities Exchange Act Release No. 50700 (November 18, 2004), 69 FR 71256 (December 8, 2004) ("Concept Release").

[19] *See* Securities Exchange Act Release No. 50699 (November 18, 2004), 69 FR 71126 (December 8, 2004) ("Governance Release").

[20] Concept Release at 71268.

[21] Governance Release at 71142.

[22] 15 U.S.C. 78s(b)(3)(A).

[23] 17 CFR 240.19b–4(f)(2).

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64402; File No. SR–NYSEArca–2011–25]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Proposing To Extend Its Program That Allows Transactions To Take Place at a Price That Is Below $1 per Option Contract Until June 1, 2012

May 4, 2011.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on May 2, 2011, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") 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 extend its program that allows transactions to take place at a price that is below $1 per option contract until June 1, 2012. The text of the proposed rule change is available at the Exchange, at *http://www.nyse.com,* at the Commission's Public Reference Room, and on the Commission's Web site at *http://www.sec.gov.*

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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to extend the Pilot Program[4] under Rule 6.80 to allow accommodation transactions ("Cabinet Trades") to take place at a price that is below $1 per option contract to June 1, 2012. The Exchange proposes to extend the program for one year.

An "accommodation" or "cabinet" trade refers to trades in listed options on the Exchange that are worthless or not actively traded. Cabinet trading is generally conducted in accordance with the Exchange Rules, except as provided in Exchange Rule 6.80 Accommodation Transactions (Cabinet Trades), which sets forth specific procedures for engaging in cabinet trades. Rule 6.80 currently provides for cabinet transactions to occur via open outcry at a cabinet price of a $1 per option contract in any options series open for trading in the Exchange, except that the Rule is not applicable to trading in option classes participating in the Penny Pilot Program. Under the procedures, bids and offers (whether opening or closing a position) at a price of $1 per option contract may be represented in the trading crowd by a Floor Broker or by a Market-Maker or provided in response to a request by a Trading Official, a Floor Broker or a Market-Maker, but must yield priority to all resting orders in the Cabinet (those orders held by the Trading Official, and which resting cabinet orders may be closing only). So long as both the buyer and the seller yield to orders resting in the cabinet book, opening cabinet bids can trade with opening cabinet offers at $1 per option contract.

The Exchange has temporarily amended the procedures through June 1, 2011 to allow transactions to take place in open outcry at a price of at least $0 but less than $1 per option contract. These lower priced transactions are permitted to be traded pursuant to the same procedures applicable to $1 cabinet trades, except that (i) bids and offers for opening transactions are only permitted to accommodate closing transactions in order to limit use of the procedure to liquidations of existing positions, and (ii) the procedures are also made available for trading in option classes participating in the Penny Pilot Program.[5] The Exchange believes that allowing a price of at least $0 but less than $1 better accommodates the closing of options positions in series that are worthless or not actively traded, particularly due to recent market conditions which have resulted in a significant number of series being out-of-the-money. For example, a market participant might have a long position in a call series with a strike price of $100 and the underlying stock might be trading at $30. In such an instance, there might not otherwise be a market for that person to close-out the position even at the $1 cabinet price (*e.g.,* the series might be quoted no bid).

As with other accommodation liquidations under Rule 6.80, transactions that occur for less than $1 will not be disseminated to the public on the consolidated tape. In addition, as with other accommodation liquidations under Rule 6.80, the transactions will be exempt from the Consolidated Options Audit Trail ("COATS") requirements of Exchange Rule 6.67 Order Format and System Entry Requirements. However, the Exchange will maintain quotation, order and transaction information for the transactions in the same format as the COATS data is maintained. In this regard, all transactions for less than $1 must be reported to the Exchange following the close of each business day.

2. Statutory Basis

The Exchange believes that this proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 ("Act"),[6] in general, and furthers the objectives of Section 6(b)(5) of the Act[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that allowing for liquidations at a price less than $1 per option contract will better facilitate the

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 63476 (December 8, 2010), 75 FR 77930 (December 14, 2010) (SR–NYSE Arca-2010–109).

[5] Currently the $1 cabinet trading procedures are limited to options classes traded in $0.05 or $0.10 standard increment. The $1 cabinet trading procedures are not available in Penny Pilot Program classes because in those classes an option series can trade in a standard increment as low as $0.01 per share (or $1.00 per option contract with a 100 share multiplier). Because the temporary procedures allow trading below $0.01 per share (or $1.00 per option contract with a 100 share multiplier), the procedures are available for all classes, including those classes participating in the Penny Pilot Program.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

closing of options positions that are worthless or not actively trading, especially in Penny Pilot issues where Cabinet Trades are not otherwise permitted.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9] Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6) thereunder.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2011–25 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–NYSEArca–2011–25. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2011–25 and should be submitted on or before May 31, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–11316 Filed 5–9–11; 8:45 am]

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[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. NYSE Arca has satisfied this requirement.

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64397; File No. SR–FINRA–2011–019]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Rename the OTC Bulletin Board in the FINRA Rulebook

May 4, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 25, 2011, Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a "non-controversial" rule change under paragraph (f)(6) of Rule 19b–4 under the Exchange Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend FINRA Rule 6500 Series and Rules 7700, 7720 and 7740 to replace references to "OTC Bulletin Board" and "OTCBB" with "Non-NMS Quotation Service" and "NNQS."

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA, at the Commission's Public Reference Room, and on the Commission's Web site at *http://www.sec.gov.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

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

As initially announced by FINRA in September 2009, FINRA currently is seeking to divest itself of the OTCBB trademark, related domain name, and all informational content from the *http://www.OTCBB.com* Web site that is not otherwise required to be retained by FINRA for regulatory purposes ("OTCBB assets"). FINRA reached agreement with an entity for the sale of the OTCBB assets in the third quarter of 2010.[4] In connection with this effort, and to remove certain current impediments to the completion of such a transaction, FINRA is filing the proposed rule change to rename the OTC Bulletin Board ("OTCBB") as the Non-NMS Quotation Service ("NNQS").

The OTCBB assets do not include the technology comprising the interdealer quotation system operated by FINRA, which is currently known as "OTCBB." Thus, the renaming of OTCBB as NNQS, as proposed here, enables FINRA to proceed with the sale of the OTCBB assets by removing references to OTCBB from the current FINRA Rulebook, while continuing to permit FINRA to operate its interdealer quotation system under the new name without change or interruption to the availability of this service by FINRA. The FINRA Rule 6500 Series will govern the operation of the NNQS as it currently does for OTCBB, and the functionality of the NNQS will be identical to that of the current OTCBB.

While FINRA has filed the proposed rule change for immediate effectiveness, the renaming, transitioning of the related domain name, and consummation of the sale transaction will be implemented at a later date to be announced by FINRA (the "implementation date").[5] However, the implementation date will be no sooner than 120 days following the date of filing of the proposed rule change. Until such implementation date, FINRA will continue to operate the *http://www.OTCBB.com* Web site and the OTCBB interdealer quotation system in the same manner as it currently does. Thus, the operation of the OTCBB facilities as an inter-dealer quotation system by FINRA and support of the *http://www.OTCBB.com* Web site will not change in any respect until the actual implementation date, which is anticipated to be before the end of 2011, but in no event will be sooner than 120 days following the date of this filing. Subsequent to the implementation date, FINRA will continue to operate the NNQS in the same manner it currently operates the OTCBB, consistent with FINRA's statutory obligations under Section 15A[6] of the Exchange Act.[7]

Upon the implementation of the proposed rule change, FINRA will offer data on or through the FINRA Web site that is substantially equivalent to the type of quotation and last sale data for OTC equity securities currently available on *http://www.OTCBB.com.* In addition, FINRA will undertake a concerted communications campaign to ensure that the public (including retail investors) is well-informed with respect to the pending changes. This campaign will include outreach to OTCBB-quoted issuers regarding the status of their continued eligibility to quote on the NNQS upon the implementation date.

FINRA has filed the proposed rule change for immediate effectiveness. FINRA will announce the implementation date no later than 270 days following the date of filing of the proposed rule change, but in no event will be sooner than 120 days following the date of filing of the proposed rule change.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Exchange Act,[8] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. Section 15A(b)(11) of the Exchange Act[9] requires that FINRA rules include provisions governing the form and content of quotations relating to securities sold otherwise than on a national securities exchange which may be distributed or published by any member or person associated with a member, and the persons to whom such quotations may be supplied. In addition, Section 15A(b)(11) of the Exchange Act[10] requires that such rules be designed to produce fair and informative quotations, to prevent fictitious or misleading quotations, and to promote orderly procedures for collecting, distributing, and publishing quotations.

FINRA believes the proposed rule change is consistent with Section 15A(b)(6) and (11) of the Exchange Act in that it facilitates FINRA's continued ability to operate an interdealer quotation system for use by market makers in OTC equity securities that is functionally identical to the service provided under the current name, thereby supporting the availability of quotation information in the over-the-counter equity securities market.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) impose any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12]

[4] *See* Rodman & Renshaw Capital Group, Inc., Press Release September 14, 2010 ("Rodman and FINRA Reach Preliminary Agreement on Terms for Rodman Acquisition of OTCBB Assets").

[5] Upon implementation of the proposed rule change, FINRA's interdealer quotation system will be known as NNQS, and FINRA no longer will own the *http://www.OTCBB.com* Web site.

[6] 15 U.S.C. 78*o*–3(b)(11).

[7] On August 7, 2009, FINRA filed with the Commission a proposed rule change to restructure quotation collection and dissemination for OTC Equity Securities that is currently pending with the Commission. *See* Securities Exchange Act Release No. 60999 (November 13, 2009), 74 FR 61183 (November 23, 2009) ("QCF Proposal"). The instant proposed rule change does not alter FINRA's current quotation transparency activities in the over-the-counter market through the operation of an interdealer quotation system unless the QCF Proposal is approved by the Commission and takes effect. Thus, unless and until the SEC approves the QCF and it takes effect, FINRA intends to operate the NNQS after the implementation date.

[8] 15 U.S.C. 78*o*–3(b)(6).

[9] 15 U.S.C. 78*o*–3(b)(11).

[10] *Id.*

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the self-regulatory organization to submit to the Commission written notice of its intent to file the proposed rule change, along with

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2011–019 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2011–019. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2011–019 and should be submitted on or before May 31, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Elizabeth M. Murphy,

Secretary.

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a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. FINRA has satisfied this requirement.

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64395; File No. SR–CBOE–2011–044]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change To Reduce the Minimum Size of the Nominating and Governance Committee

May 4, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act" or "Exchange Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 27, 2011, Chicago Board Options Exchange, Incorporated ("CBOE") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, and II below, which Items have been prepared by CBOE. 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

CBOE proposes to amend its Bylaws to change the minimum size of the CBOE Nominating and Governance Committee.

The text of the proposed amendments to CBOE's Bylaws and the proposed amendments to CBOE's rules is available on CBOE's Web site (*http://www.cboe.org/Legal*), at CBOE's Office of the Secretary, 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, CBOE 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. CBOE 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to reduce the minimum size of CBOE's Nominating and Governance Committee from seven to five directors. Section 4.4 of the Second Amended and Restated Bylaws of CBOE ("Bylaws") currently provides, in pertinent part, that the Nominating and Governance Committee shall consist of at least seven directors, including both Industry and Non-Industry Directors; that a majority of the directors on the Committee shall be Non-Industry Directors; and that the exact number of members on the Committee shall be determined from time to time by CBOE's Board of Directors. This rule change would be effectuated by amending Section 4.4 of the Bylaws to provide that the Nominating and Governance Committee shall consist of at least five directors. The other provisions of Section 4.4 of the Bylaws would remain unchanged. Additionally, the title of the Bylaws would be changed to the Third Amended and Restated Bylaws of CBOE.

Section 3.1 of the Bylaws provides that the CBOE Board of Directors shall consist of not less than eleven and not more than twenty-three directors, with the exact size determined by the Board. CBOE's Board size has declined recently from twenty-three directors prior to CBOE's demutualization in 2010 to the current size of nineteen directors. In addition, the Board size will be declining further to sixteen directors at the time of the 2011 annual election of CBOE directors (which is anticipated to occur in May 2011). As the Board size declines, it becomes more challenging to populate large Board committees since there are fewer directors to serve on the various CBOE Board committees. The Exchange believes that reducing the minimum size of the Nominating and

Governance Committee to five directors will help to alleviate this issue.

Changing the minimum size of the Nominating and Governance Committee to five directors would also make the minimum size consistent with the minimum size of the Nominating and Governance Committee of CBOE Holdings, Inc. ("CBOE Holdings"), CBOE's parent company. CBOE believes that having the same composition requirements for the Nominating and Governance Committees of both CBOE and CBOE Holdings will promote consistency and efficiency. CBOE and CBOE Holdings currently have the same individuals serving on the CBOE and CBOE Holdings Boards of Directors and on the CBOE and CBOE Holdings Nominating and Governance Committees. This approach simplifies the process of scheduling and conducting meetings and allows the Boards and Nominating and Governance Committees of both entities to operate most efficiently. To the extent that CBOE and CBOE Holdings desire to continue this approach in the future, this proposed rule change better enables CBOE and CBOE Holdings to do so.

The Exchange believes that its Nominating and Governance Committee will continue to be able to appropriately perform its functions if it were to be composed of five directors. The Exchange also believes that having a Nominating and Governance Committee with a minimum size of five directors is consistent with prior precedent, in that the Chicago Stock Exchange ("CHX") has a Nominating and Governance Committee with a size of four directors.[3] Additionally, it should be noted that although the proposed rule change would permit the Exchange appoint a five-person Nominating and Governance Committee and that the Exchange may do so in the future, it is the current intention of the Exchange to appoint a six-person Nominating and Governance Committee at the time of the 2011 annual election of CBOE directors.

The Exchange will continue to provide for the fair representation of CBOE Trading Permit Holders in the selection of directors and the administration of the Exchange consistent with Section 6(b)(3) of the Act[4] following this rule change. In particular, the CBOE Bylaws will continue to require that at least thirty percent of the directors on the CBOE Board of Directors must be Industry Directors and that at least twenty percent of CBOE's directors must be Representative Directors. Also, the CBOE Nominating and Governance Committee will continue to include both Industry and Non-Industry Directors and to have an Industry-Director Subcommittee that is composed of all of the Industry Directors serving on the Committee. Representative Directors will continue to be nominated (or otherwise selected through a petition process) by the Industry-Director Subcommittee. Additionally, CBOE Trading Permit Holders will continue to be able to nominate alternative Representative Director candidates to those nominated by the Industry Director Subcommittee, in which case a Run-off Election will be held in which CBOE's Trading Permit Holders vote to determine which candidates will be elected to the CBOE Board of Directors to serve as Representative Directors.

2. Statutory Basis

For the reasons set forth above, CBOE believes that this filing is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(1) of the Act[6] and Section 6(b)(5) of the Act[7] in particular, in that (i) It enables CBOE to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its Trading Permit Holders and persons associated with its Trading Permit Holders, with the provisions of the Act, the rules and regulations thereunder, and the rules of CBOE and (ii) to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of, a free and open market and, in general, to protect investors and the public interest.

Specifically, the proposed changes will streamline, make more efficient, and improve CBOE's governance structure by conforming the minimum size requirements of the CBOE Nominating and Governance Committee and the CBOE Holdings Nominating and Governance Committee, which the Exchange believes will promote consistency and efficiency and better enable CBOE and CBOE Holdings to have the same Nominating and Governance Committee compositions if desired. To the extent that the proposed changes enable CBOE and CBOE Holdings to have the same Nominating and Governance Committee compositions if desired, the process of scheduling and conducting Nominating and Governance Committee meetings is simplified, as there can be meetings held at the same time instead of multiple separate meetings at different times. This furthers CBOE's ability to be organized in a manner to have the capacity to be able to carry out the purposes of the Act consistent with Section 6(b)(1) of the Act[8] and to carry out the purposes of Section 6(b)(5) of the Act.[9]

The proposed rule change will not impact the current provisions of the CBOE Bylaws that are designed to assure the fair representation of CBOE Trading Permit Holders in the selection of directors and the administration of CBOE, and thus is consistent with Section 6(b)(3) of the Act.[10] In particular, the Bylaws will continue to require that at least thirty percent of CBOE's directors be Industry Directors; that at least twenty percent of CBOE's directors be Representative Directors; that the CBOE Nominating and Governance Committee include both Industry and Non-Industry Directors and have an Industry-Director Subcommittee composed of all of the Industry Directors on the Committee; that Representative Directors be nominated (or otherwise selected through a petition process) by the Industry-Director Subcommittee; and that CBOE Trading Permit Holders are able to nominate alternative Representative Director candidates to those nominated by the Industry Director Subcommittee, in which case a Run-off Election is held in which CBOE's Trading Permit Holders vote to determine which candidates are elected as Representative Directors.

The proposed rule change was prompted by the reduction in the size of the CBOE Board of Directors since, as the Board size declines, it becomes more challenging to populate large Board committees. The Exchange believes that reducing the minimum size of the CBOE Nominating and Governance Committee will help to alleviate this issue and that, notwithstanding this change, the Committee will continue to be able to appropriately perform its functions, operate effectively, and thus enable the Exchange to comply with Section 6(b)(1) of the Act.[11]

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not

[3] *See* Article II, Section 3 of the Bylaws of the Chicago Stock Exchange, Inc.

[4] 15 U.S.C. 78f(b)(3).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(1).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78f(b)(1).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78f(b)(3).

[11] 15 U.S.C. 78f(b)(1).

necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2011–044 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2011–044. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–CBOE–2011–044 and should be submitted on or before May 31, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–11381 Filed 5–9–11; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64411; File No. SR–NYSEArca-2011–21]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To List and Trade the WisdomTree Global Real Return Fund

May 5, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 20, 2011, NYSE Arca, Inc. ("Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade the shares ("Shares") of the following series of the WisdomTree Trust ("Trust") under NYSE Arca Equities Rule 8.600: WisdomTree Global Real Return Fund ("Fund"). The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade the Shares of the Fund under NYSE Arca Equities Rule 8.600,[3] which governs the listing and trading of "Managed Fund Shares," on the Exchange.[4] The Fund will be an actively

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] NYSE Arca Equities Rule 8.600(c)(1) provides that a Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a) ("1940 Act") organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index, or combination thereof.

[4] The Commission approved NYSE Arca Equities Rule 8.600 and the listing and trading of certain funds of the PowerShares Actively Managed Funds Trust on the Exchange pursuant to Rule 8.600 in Securities Exchange Act Release No. 57619 (April 4, 2008), 73 FR 19544 (April 10, 2008) (SR–NYSEArca-2008–25). The Commission also previously approved listing and trading on the Exchange, or trading on the Exchange pursuant to unlisted trading privileges ("UTP"), of a number of actively managed funds under Rule 8.600: *See, e.g.,* Securities Exchange Act Release Nos. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR–NYSEArca-2008–31) (order approving Exchange listing and trading of twelve actively-managed funds of the WisdomTree Trust); 58564 (September 17, 2008), 73 FR 55194 (September 24, 2008) (SR–NYSEArca-2008–86) (order approving Exchange listing and trading of WisdomTree Dreyfus Emerging Currency Fund); 60981 (November 10, 2009), 74 FR 59594 (November 18, 2009) (SR–NYSEArca-2009–79) (order approving listing of five

Continued

managed exchange-traded fund ("ETF"). The Shares will be offered by the Trust, which was established as a Delaware statutory trust on December 15, 2005. The Fund is registered with the Commission as an investment company.[5] The Fund was formerly known as the "WisdomTree Real Return Fund." The Commission approved listing and trading on the Exchange of the WisdomTree Real Return Fund pursuant to Section 19(b)(2) of the Exchange Act in March 2010.[6] The Fund Shares have not yet been listed and have not commenced trading, and the Fund seeks to make certain changes to its investment strategy that are not reflected in the March 12, 2010 Order. The Exchange seeks to propose the listing and trading of Shares of the Fund based on this new investment strategy, as described herein.

Description of the Shares and the Fund

WisdomTree Asset Management, Inc. ("WisdomTree Asset Management") is the investment adviser to the Fund ("Adviser").[7] WisdomTree Asset Management is not affiliated with any broker-dealer. Mellon Capital Management Corporation ("Sub-Adviser") serves as the sub-adviser for the Fund.[8] The Bank of New York Mellon is the administrator, custodian, and transfer agent for the Fund. ALPS Distributors, Inc. serves as the distributor ("Distributor") for the Fund.[9]

Commentary .06 to Rule 8.600 provides that, if the investment adviser to the Investment Company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a "fire wall" between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such Investment Company portfolio.[10] In addition, Commentary .06 further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the open-end fund's portfolio. The Sub-Adviser is affiliated with multiple broker-dealers and has implemented a "fire wall" with respect to such broker-dealers regarding access to information concerning the composition and/or changes to the Fund's portfolio. In the event (a) the Adviser or the Sub-Adviser becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser becomes affiliated with a broker-dealer, they will implement a fire wall with respect to such broker-dealer regarding access to information concerning the composition and/or changes to a portfolio.

WisdomTree Global Real Return Fund

According to the Registration Statement, the Fund seeks total returns that exceed the rate of inflation over long-term investment horizons. To achieve its objective, the Fund will invest in Fixed Income Securities (defined below) and other instruments designed to provide protection against inflation. The Fund will be actively managed and will have targeted exposure to commodities and commodity strategies. Using this approach, the Fund will seek to provide investors with both inflation protection and income.

Fixed Income Securities

The Fund intends to invest at least 70% of its net assets in Fixed Income Securities. For these purposes, Fixed Income Securities include bonds, notes, or other debt obligations, such as government or corporate bonds, denominated in U.S. dollars or non-U.S. currencies. The Fund will invest in Fixed Income Securities tied to U.S. inflation rates, such as U.S. Treasury Inflation Protected Securities ("TIPS").[11] The Fund also will invest in inflation-linked Fixed Income Securities tied to non-U.S. inflation rates.[12] The Fund's investments outside the United States will focus on inflation-linked securities from countries that are leading exporters of global commodities, such as Australia, Brazil, Canada, Chile, and South Africa. The Fund will not invest more than 35% of its net assets in Fixed Income Securities of issuers in emerging markets.[13] The Fund may invest in

fixed income funds of the PIMCO ETF Trust); 62604 (July 30, 2010), 75 FR 47323 (August 5, 2010) (SR–NYSEArca-2010–49) (order approving listing and trading of WisdomTree Emerging Markets Local Debt Fund); 62623 (August 2, 2010), 75 FR 47652 (August 6, 2010) (SR–NYSEArca-2010–51) (order approving listing and trading of WisdomTree Dreyfus Commodity Currency Fund); 63598 (December 22, 2010), 75 FR 82106 (December 29, 2010) (SR–NYSEArca-2010–98) (order approving listing and trading of WisdomTree Managed Futures Strategy Fund); 63919 (February 16, 2011), 76 FR 10073 (February 23, 2011) (SR–NYSEArca-2010–116) (order approving listing and trading of WisdomTree Asia Local Debt Fund).

[5] *See* Post Effective Amendment No. 43 to the Registration Statement on Form N–1A for the Trust filed with the Securities and Exchange Commission on February 4, 2011 (File Nos. 333–132380 and 811–21864) ("Registration Statement"). The descriptions of the Fund and the Shares contained herein are based on information in the Registration Statement.

[6] *See* Securities Exchange Act Release No. 61697 (March 12, 2010), 75 FR 13616 (March 22, 2010) (SR–NYSEArca-2010–04) ("March 12, 2010 Order").

[7] WisdomTree Investments, Inc. ("WisdomTree Investments") is the parent company of WisdomTree Asset Management.

[8] The Sub-Adviser is responsible for day-to-day management of the Fund and, as such, typically makes all decisions with respect to portfolio holdings. The Adviser has ongoing oversight responsibility.

[9] The Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 28471 (October 27, 2008) (File No. 812–13458). In compliance with Commentary .04 to NYSE Arca Equities Rule 8.600, the Trust's application for exemptive relief under the 1940 Act states that the Fund will comply with the Federal securities laws in accepting securities for deposits and satisfying redemptions with redemption securities, including that the securities accepted for deposits and the securities used to satisfy redemption requests are sold in transactions that would be exempt from registration under the Securities Act of 1933 (15 U.S.C. 77a).

[10] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 ("Advisers Act"). As a result, the Adviser and Sub-Adviser and their related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[11] According to the U.S. Treasury Web site, as of March 17, 2011, the market for TIPS is the largest inflation indexed securities market in the world with over $550 billion of TIPS outstanding. (Source: United States Department of the Treasury, Overview of Treasury Inflation-Indexed Securities, *http://www.treasury.gov/resource-center/fin-mkts/Pages/tips.aspx*). The Adviser represents that this market is highly liquid and transparent.

[12] As of December 31, 2010, the total market capitalization of inflation-linked bonds in the Barclays Capital World Inflation Linked Index, a leading index of inflation-linked bonds in developed markets outside the United States, was approximately $1 trillion. As of December 31, 2010, the total market capitalization of inflation-linked bonds in the Barclays Capital Emerging Markets Government Inflation Linked Bond Index, a leading index of inflation-linked debt issued by emerging market governments, was approximately $408 billion. The Adviser represents that inflation-linked bonds outside the United States are issued in large par size (*i.e.,* $200 million or more) and tend to be liquid. Intra-day, executable price quotations on such instruments are available from major broker-dealer firms. Intra-day price information is available through subscription services, such as Bloomberg and Thomson Reuters, which can be accessed by Authorized Participants and other investors.

[13] According to the Adviser, while there is no universally accepted definition of what constitutes an "emerging market," in general, emerging market

Fixed Income Securities that are not linked to inflation, such as U.S. or non-U.S. government bonds, as well as Fixed Income Securities that pay variable or floating rates.

The Fund expects that it will have at least 70% of its assets invested in investment grade securities, and no more than 30% of its assets invested in non-investment grade securities. Because the debt ratings of issuers will change from time to time, the exact percentage of the Fund's investments in investment grade and non-investment grade Fixed Income Securities will change from time to time in response to economic events and changes to the credit ratings of such issuers.[14] Within the non-investment grade category, some issuers and instruments are considered to be of lower credit quality and at higher risk of default. In order to limit its exposure to these more speculative credits, the Fund will not invest more than 10% of its assets in securities rated BB or below by Moody's, or equivalently rated by S&P or Fitch. The Fund does not intend to invest in unrated securities. However, it may do so to a limited extent, such as where a rated security becomes unrated, if such security is determined by the Adviser and Sub-Adviser to be of comparable quality. In determining whether a security is of "comparable quality," the Adviser and Sub-Adviser will consider, for example, whether the issuer of the security has issued other rated securities.

While the Fund intends to focus its investments in Fixed Income Securities on bonds andother obligations of U.S. and non-U.S. governments and agencies, the Fund may invest up to 20% of its net assets in corporate bonds. The Fund will invest only in corporate bonds that the Adviser or Sub-Adviser deems to be sufficiently liquid.[15] Generally, a corporate bond must have $200 million or more par amount outstanding and significant par value traded to be considered as an eligible investment. Economic and other conditions may, from time to time, lead to a decrease in the average par amount outstanding of bond issuances. Therefore, although the Fund does not intend to do so, the Fund may invest up to 5% of its net assets in corporate bonds with less than $200 million par amount outstanding if (i) the Adviser or Sub-Adviser deems such security to be sufficiently liquid based on its analysis of the market for such security (based on, for example, broker-dealer quotations or its analysis of the trading history of the security or the trading history of other securities issued by the issuer), and (ii) such investment is deemed by the Adviser or Sub-Adviser to be in the best interest of the Fund.

The Fund may invest in securities with effective or final maturities of any length. The Fund will seek to keep the average effective duration of its portfolio between 2 and 8 years. Effective duration is an indication of an investment's interest rate risk or how sensitive an investment or a fund is to changes in interest rates. Generally, a fund or instrument with a longer effective duration is more sensitive to interest rate fluctuations, and therefore more volatile, than a fund with a shorter effective duration. The Fund's actual portfolio duration may be longer or shorter depending on market conditions.

The Fund intends to invest in Fixed Income Securities of at least 13 non-affiliated issuers. The Fund will not concentrate 25% or more of the value of its total assets (taken at market value at the time of each investment) in any one industry, as that term is used in the 1940 Act (except that this restriction does not apply to obligations issued by the U.S. government or any non-U.S. government or their respective agencies and instrumentalities, or government-sponsored enterprises).[16] Although the Fund intends to invest in a variety of securities and instruments, the Fund will be considered non-diversified, which means that it may invest more of its assets in the securities of a smaller

countries are characterized by developing commercial and financial infrastructure with significant potential for economic growth and increased capital market participation by foreign investors. The Adviser and Sub-Adviser look at a variety of commonly used factors when determining whether a country is an "emerging" market. In general, the Adviser and Sub-Adviser consider a country to be an emerging market if:

(1) It is either (a) classified by the World Bank in the lower middle or upper middle income designation for one of the past 3 years (*i.e.,* per capita gross national product of less than U.S. $9,385), or (b) classified by the World Bank as high income in each of the last three years, but with a currency that has been primarily traded on a non-delivered basis by offshore investors (*e.g.,* Korea and Taiwan); and

(2) The country's debt market is considered relatively accessible by foreign investors in terms of capital flow and settlement considerations; and

(3) The country has issued the equivalent of $5 billion in local currency sovereign debt. The criteria used to evaluate whether a country is an "emerging market" will change from time to time based on economic and other events.

The category of "emerging market bonds" includes both U.S. dollar-denominated debt and non-U.S. or "local" currency debt. The global market for local currency debt is larger and more actively traded than the global market for dollar-denominated debt. The total dollar amount of emerging market debt instruments traded through September 30, 2010 was $4.903 trillion. Turnover in local currency debt instruments during the same period was $3.44 trillion and accounted for approximately 70% of the total turnover in emerging market debt instruments. For calendar year 2009, the total dollar amount of emerging market debt instruments traded was $4.445 trillion. Turnover in local currency debt instruments in 2009 was $2.870 trillion and accounted for approximately 65% of the total turnover in emerging market debt instruments. (Source: Emerging Markets Traders Association Press Release(s) dated December 8, 2010, August 12, 2010, May 20, 2010, and March 8, 2010). As of December 31, 2010, the total market capitalization of emerging market local currency sovereign debt in the J.P. Morgan Government Bonds Index—Emerging Markets Global ("GBI–EM Global") was $791 billion. This is an increase from $625 billion at the end of September 2009. The GBI–EM Global is a widely followed index of regularly traded, liquid, fixed-rate domestic currency government bonds. As of December 31, 2010, the market capitalization of emerging market dollar-denominated bonds in the J.P. Morgan Emerging Markets Bond Index ("EMBI") was approximately $370 billion. This is up from $326 billion at the end of September 2009. The EMBI is a widely followed index of U.S. dollar denominated debt instruments issued by emerging market sovereign and quasi-sovereign entities. (Source: J.P. Morgan as of December 31, 2010 and September 30, 2009). The Adviser represents that sovereign debt of many emerging market countries is issued in large par size and tends to be liquid. Locally denominated debt issued by supra-national entities, such as the European Investment Bank or the International Bank for Reconstruction and Development, is also actively traded. Intra-day, executable price quotations on emerging market debt instruments, including all instruments described above, are available from major broker-dealer firms. Intra-day price information is available through subscription services, such as Bloomberg and Thomson Reuters, which can be accessed by Authorized Participants and other investors.

[14] As of December 31, 2010, government debt of the United States, Australia, Brazil, Canada, Chile, and South Africa was rated investment grade by S&P and Fitch. As noted, the Fund intends to focus its investment outside the United States in commodity-producing countries such as Australia, Brazil, Canada, Chile, and South Africa.

[15] The Adviser represents that the size and liquidity of the market for corporate bonds, including corporate bonds of emerging market issuers, generally, has been increasing in recent years. The aggregate dollar amount of emerging market corporate bonds traded through the first three quarters of 2010 ($563 billion) exceeded the amount traded for the entire calendar year in 2009 ($514 billion). The $514 billion traded in 2009 represented a substantial increase over the amount traded in 2008 ($380 billion). Turnover in emerging market corporate debt has also increased significantly. Turnover in emerging market corporate debt through the first three quarters of 2010 was approximately 11.5% of the overall volume of emerging market debt of $4.903 trillion for the same period. This is similar to calendar year 2009 where turnover in emerging market corporate debt accounted for 12% of the overall volume of emerging market debt of $4.445 trillion in 2009, an increase over the 9% share in 2008. (Source: Emerging Markets Traders Association Press Release(s), December 8, 2010, August 12, 2010, May 20, 2010, and March 8, 2010.)

[16] *See* Form N–1A, Item 9. The Commission has taken the position that a fund is concentrated if it invests more than 25% of the value of its total assets in any one industry. *See, e.g.,* Investment Company Act Release No. 9011 (October 30, 1975), 40 FR 54241 (November 21, 1975).

number of issuers than if it were a diversified Fund.[17]

The Fund intends to qualify each year as a regulated investment company ("RIC") under Subchapter M of the Internal Revenue Code of 1986, as amended.[18] The Fund will invest its assets, and otherwise conduct its operations, in a manner that is intended to satisfy the qualifying income, diversification, and distribution requirements necessary to establish and maintain RIC qualification under Subchapter M. The Subchapter M diversification tests generally require that (i) the Fund invest no more than 25% of its total assets in securities (other than securities of the U.S. government or other RICs) of any one issuer or two or more issuers that are controlled by the Fund and that are engaged in the same, similar, or related trades or businesses, and (ii) at least 50% of the Fund's total assets consist of cash and cash items, U.S. government securities, securities of other RICs, and other securities, with investments in such other securities limited in respect of any one issuer to an amount not greater than 5% of the value of the Fund's total assets and 10% of the outstanding voting securities of such issuer.

In addition to satisfying the above referenced RIC diversification requirements, no portfolio security held by the Fund (other than U.S. government securities and non-U.S. government securities) will represent more than 30% of the weight of the Fund, and the five highest weighted portfolio securities of the Fund (other than U.S. government securities and/or non-U.S. government securities) will not in the aggregate account for more than 65% of the weight of the Fund. For these purposes, the Fund may treat repurchase agreements collateralized by U.S. government securities or non-U.S. government securities as U.S. or non-U.S. government securities, as applicable.

Money Market Securities

The Fund intends to invest in Money Market Securities in order to help manage cash flows in and out of the Fund, such as in connection with payment of dividends or expenses and to satisfy margin requirements, to provide collateral, or to otherwise back investments in derivative instruments. For these purposes, Money Market Securities include: Short-term, high-quality obligations issued or guaranteed by the U.S. Treasury or the agencies or instrumentalities of the U.S. government; short-term, high-quality securities issued or guaranteed by non-U.S. governments, agencies, and instrumentalities; repurchase agreements backed by U.S. government securities; money market mutual funds; and deposits and other obligations of U.S. and non-U.S. banks and financial institutions. All Money Market Securities acquired by the Fund will be rated investment grade. The Fund does not intend to invest in any unrated Money Market Securities.

Derivative Instruments and Other Investments

The Fund may use derivative instruments as part of its investment strategies. The Fund expects that no more than 30% of the value of the Fund's net assets will be invested in derivative instruments. Such investments will be consistent with the Fund's investment objective and will not be used to enhance leverage. For example, the Fund may engage in swap transactions that provide exposure to inflation rates, inflation-linked bonds, inflation-sensitive indices, or interest rates.[19] The Fund also may buy or sell listed futures contracts on U.S. Treasury securities, non-U.S. government securities, and major non-U.S. currencies. The Fund's use of derivative instruments will be collateralized or otherwise backed by investments in short-term, high-quality U.S. money market securities.

With respect to certain kinds of derivative transactions entered into by the Fund that involve obligations to make future payments to third parties, including, but not limited to, futures and forward contracts, swap contracts, the purchase of securities on a when-issued or delayed delivery basis, or reverse repurchase agreements, the Fund, in accordance with applicable Federal securities laws, rules, and interpretations thereof, will "set aside" liquid assets, or engage in other measures to "cover" open positions with respect to such transactions.[20]

The Fund may engage in foreign currency transactions and may invest directly in foreign currencies in the form of bank and financial institution deposits, certificates of deposit, and bankers acceptances denominated in a specified non-U.S. currency. The Fund may enter into forward currency contracts in order to "lock in" the exchange rate between the currency it will deliver and the currency it will receive for the duration of the contract.[21]

The Fund may invest in the securities of other investment companies (including money market funds and ETFs). The Fund may invest up to an aggregate amount of 15% of its net assets in illiquid securities. Illiquid securities include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets.[22]

Investments in the WisdomTree Subsidiary and Commodity Strategies

The Fund intends to have targeted exposure to commodities across a number of sectors, such as energy, precious metals, and agriculture. The Fund will seek to gain exposure to commodity markets through investments in a subsidiary organized in the Cayman Islands ("Subsidiary"). The Subsidiary is wholly-owned and controlled by the Fund, and its investments will be consolidated into the Fund's financial statements. The Fund's and Subsidiary's investments will be disclosed on the Fund's Web site

[17] A "non-diversified company," as defined in Section 5(b)(2) of the 1940 Act, means any management company other than a diversified company (as defined in Section 5(b)(1) of the 1940 Act).

[18] 26 U.S.C. 851.

[19] An inflation-linked swap is an agreement between two parties to exchange payments at a future date based on the difference between a fixed payment and a payment linked to an inflation rate or value at a future date. A typical interest rate swap involves the exchange of a floating interest rate payment for a fixed interest payment.

[20] *See* 15 U.S.C. 80a–18. *See also* Investment Company Act Release No. 10666 (April 18, 1979), 44 FR 25128 (April 27, 1979); Dreyfus Strategic Investing, Commission No-Action Letter (June 22, 1987); Merrill Lynch Asset Management, L.P., Commission No-Action Letter (July 2, 1996).

[21] The Fund and the Subsidiary (as defined herein) will invest only in currencies, and instruments that provide exposure to such currencies, that have significant foreign exchange turnover and are included in the Bank for International Settlements Triennial Central Bank Survey, December 2007 ("BIS Survey"). Specifically, the Fund and Subsidiary may invest in currencies, and instruments that provide exposure to such currencies, selected from the top 40 currencies (as measured by percentage share of average daily turnover for the applicable month and year) included in the BIS Survey.

[22] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14617 (March 18, 2008), footnote 34. *See also* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding "Restricted Securities"); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act of 1933).

on a daily basis. The Fund's investment in the Subsidiary may not exceed 25% of the Fund's total assets at the end of each fiscal quarter. The Subsidiary's shares will be offered only to the Fund, and the Fund will not sell shares of the Subsidiary to other investors. The Fund will not invest in any non-U.S. equity securities (other than shares of the Subsidiary).

The Fund's investment in the Subsidiary is designed to help the Fund achieve exposure to commodity returns in a manner consistent with the Federal tax requirements applicable to the Fund and other regulated investment companies. The Subsidiary will comply with the 1940 Act and will have essentially the same compliance policies and procedures as the Fund, except that, unlike the Fund, the Subsidiary may invest without limitation in commodity-linked investments. The Subsidiary will otherwise operate in essentially the same manner as the Fund. The Fund's Registration Statement states that, since the Subsidiary's investments are consolidated into the Fund's, the Fund's combined holdings (including the investments in the Subsidiary) must comply with the 1940 Act.

The Subsidiary will achieve exposure to commodities through investments in a combination of listed commodity futures, commodity index swaps, and structured notes that provide commodity returns. A listed commodity future is a financial instrument in which a party agrees to pay a fixed price for a designated commodity at a specified future date. Listed commodity futures contracts are traded at market prices on exchanges pursuant to terms common to all market participants.[23] A swap agreement is an agreement between two parties to exchange cash flows or returns (or differences in return) on a reference instrument, such as commodity or commodity index, according to agreed upon terms.[24] The Subsidiary also may invest in commodity-linked notes.[25]

The Shares

According to the Registration Statement, the Fund issues and redeems Shares on a continuous basis at net asset value ("NAV")[26] only in large blocks of Shares, typically 100,000 Shares or more ("Creation Unit Aggregations"), in transactions with Authorized Participants. Only institutional investors who have entered into an Authorized Participant agreement purchase or redeem Creation Unit Aggregations. The consideration for purchase of Creation Unit Aggregations of the Fund generally consists of the in-kind deposit of a designated portfolio of Fixed Income Securities held by the Fund ("Deposit Securities") and an amount of cash ("Cash Component"). Together, the Deposit Securities and the Cash Component constitute the "Fund Deposit," which represents the minimum initial and subsequent investment amount for a Creation Unit Aggregation of the Fund. Shares may be redeemed from the Fund only in Creation Unit Aggregations. Upon delivery and settlement of the Shares upon redemption, the Fund will deliver to the redeeming Authorized Participant a designated basket of fixed income securities ("Portfolio Securities") and Cash Component. Together, the Portfolio Securities and the Cash Component constitute the "Redemption Payment." The Redemption Payment may consist entirely of cash at the discretion of the Fund.

Each business day prior to the opening of trading, the Fund will publish the specific securities and designated amount of cash included in that day's basket for the Fund through the National Securities Clearing Corporation ("NSCC") or other method of public dissemination. The Fund reserves the right to accept or pay out a basket of securities or cash that differs from the published basket. The prices at which creations and redemptions occur are based on the next calculation of NAV after an order is received in proper form.

Creations and redemptions must be made by an Authorized Participant or through a firm that is either a member of the NSCC or a Depository Trust Company participant, and in each case, must have executed an agreement with the Distributor with respect to creations and redemptions of Creation Unit Aggregations.

Additional information regarding the Trust and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, distributions, and taxes is included in the Registration Statement. All terms relating to the Fund that are referred to, but not defined in, this proposed rule change are defined in the Registration Statement.

Availability of Information

The Fund's Web site (*http://www.wisdomtree.com*), which will be publicly available prior to the public offering of Shares, will include a form of the Prospectus for the Fund that may be downloaded. The Web site will include additional quantitative information updated on a daily basis, including, for the Fund: (1) The prior

[23] The Subsidiary's investments will be subject to applicable requirements of the Commodity Exchange Act (7 U.S.C. 1 *et seq.*) and rules thereunder, and to rules of applicable U.S. futures exchanges.

The Subsidiary's investments in commodity futures contracts will be limited by the application of position limits imposed by the Commodity Futures Trading Commission and U.S. futures exchanges intended to prevent undue influence on prices by a single trader or group of affiliated traders. The Adviser has represented that the Subsidiary intends to invest only in listed futures contracts that are heavily traded and are based on some of the world's most liquid and actively-traded commodities. The Subsidiary intends to invest in or have exposure to the following listed futures contracts: Cocoa; coffee; corn; cotton; light crude oil; gold; heating oil; high grade copper; lean hogs; live cattle; natural gas; silver; soybeans; sugar; unleaded gas; and wheat. As of December 31, 2010, the three month Average Daily Dollar Volume ("ADDV") of each of these contracts was: Cocoa (ADDV $224,966,443); coffee (ADDV $763,835,166); cotton (ADDV $902,108,625); corn (ADDV $4.308,052,565); crude oil (ADDV $29,502,020,531); gold (ADDV $13,311,058,209); heating oil (ADDV $4,890,080,900); high grade copper (ADDV $106,356,378); lean hogs (ADDV $517,336,897); live cattle (ADDV $751,594,460); natural gas (ADDV $4,981,670,245); silver (ADDV $3,500,016,194); soybeans (ADDV $4,397,418.179); sugar (ADDV $1,808,678,695); unleaded gas (ADDV $3,950,780,447); and wheat (ADDV $1,675,560,847).

[24] The Subsidiary intends to enter into over-the-counter swap transactions only with respect to transactions based on the commodities described herein or on major commodity indexes or indicators, such as the S&P GSCI Total Return Index, Dow Jones-UBS Commodity Returns Index or the AFT Commodity Trends Indicator (each, an "Index"). Each Index is widely followed and serves as the basis for a variety of investment products (such as swap contracts). Intra-day, executable price quotations on such Indexes and commodities are available from major broker-dealer firms. Intra-day price information is available through subscription services, such as Bloomberg and Thomson Reuters, which can be accessed by Authorized Participants and other investors.

[25] Commodity-linked notes are over-the-counter debt instruments, typically issued by a bank or broker-dealer, that are designed to provide cash flows linked to the value of a reference asset. They provide exposure, which may include long and/or short exposure, to the investment returns of the reference asset underlying the note. The performance of these notes is determined by the price movement of the reference asset underlying the note. The Subsidiary's investment in commodity-linked notes will be limited to notes providing exposure to the commodities described herein or any commodity index. As noted, there is a liquid and active market for the commodities described herein. Intra-day and end-of-day prices are readily available through Bloomberg, other major market data providers and broker-dealers for the listed futures contracts and commodities described herein. As a result, information necessary to evaluate the value of any swap or commodity-linked note purchased by the Subsidiary will be readily available to market participants.

[26] The NAV of the Fund's Shares generally will be calculated once daily Monday through Friday as of the close of regular trading on the New York Stock Exchange, generally 4:00 p.m. Eastern time ("NAV Calculation Time"). NAV per Share will be calculated by dividing the Fund's net assets by the number of Fund Shares outstanding. For more information regarding the valuation of Fund investments in calculating the Fund's NAV, *see* the Registration Statement.

business day's reported NAV, mid-point of the bid/ask spread at the time of calculation of such NAV ("Bid/Ask Price"),[27] and a calculation of the premium and discount of the Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of trading in Shares in the Core Trading Session [28] on the Exchange, the Trust will disclose on its Web site the identities and quantities of the portfolio of securities and other assets ("Disclosed Portfolio") [29] held by the Fund and the Subsidiary that will form the basis for the Fund's calculation of NAV at the end of the business day.[30] The Web site and information will be publicly available at no charge.

On a daily basis, the Adviser will disclose for each portfolio security or other financial instrument of the Fund the following information: Ticker symbol (if applicable), name or description of security or financial instrument; number of shares or dollar value of financial instruments held in the portfolio; and percentage weighting of the security or financial instrument in the portfolio.

In addition, for the Fund, an estimated value, defined in NYSE Arca Equities Rule 8.600 as the "Portfolio Indicative Value," that reflects an estimated intraday value of the Fund's portfolio, will be disseminated. The Portfolio Indicative Value will be based upon the current value for the components of the Disclosed Portfolio and will be updated and disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session on the Exchange. The dissemination of the Portfolio Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and to provide a close estimate of that value throughout the trading day.

Investors can also obtain the Trust's Statement of Additional Information ("SAI"), the Fund's Shareholder Reports, and its Form N–CSR and Form N–SAR, filed twice a year. The Trust's SAI and Shareholder Reports will be available free upon request from the Trust, and those documents and the Form N–CSR and Form N–SAR may be viewed on-screen or downloaded from the Commission's Web site at *http://www.sec.gov.* Information regarding market price and trading volume of the Shares is and will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information will be published daily in the financial section of newspapers. Quotation and last-sale information for the Shares will be available via the Consolidated Tape Association ("CTA") high-speed line.

Initial and Continued Listing

The Shares will be subject to NYSE Arca Equities Rule 8.600(d), which sets forth the initial and continued listing criteria applicable to Managed Fund Shares. The Exchange represents that, for initial and/or continued listing, the Fund must be in compliance with Rule 10A–3 under the Exchange Act,[31] as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per share for the Fund will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund. Shares of the Fund will be halted if the "circuit breaker" parameters in NYSE Arca Equities Rule 7.12 are reached. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments comprising the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4 a.m. to 8 p.m. Eastern time in accordance with NYSE Arca Equities Rule 7.34 (Opening, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, Commentary .03, the minimum price variation ("MPV") for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

Surveillance

The Exchange intends to utilize its existing surveillance procedures applicable to derivative products (which includes Managed Fund Shares) to monitor trading in the Shares. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable Federal securities laws.

The Exchange's current trading surveillance focuses on detecting securities trading outside their normal patterns. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange may obtain information via the Intermarket Surveillance Group ("ISG") from other exchanges who are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[32]

[27] The Bid/Ask Price of the Fund will be determined using the midpoint of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and/or its service providers.

[28] The Core Trading Session is 9:30 a.m. to 4 p.m. Eastern time.

[29] The Exchange notes that NYSE Arca Equities Rule 8.600(d)(2)(B)(ii) provides that the Reporting Authority that provides the Disclosed Portfolio must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the actual components of the portfolio.

[30] Under accounting procedures followed by the Fund, trades made on the prior business day ("T") will be booked and reflected in NAV on the current business day ("T+1"). Notwithstanding the foregoing, portfolio trades that are executed prior to the opening of the Exchange on any business day may be booked and reflected in NAV on such business day. Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

[31] *See* 17 CFR 240.10A–3.

[32] For a list of the current members of ISG, *see http://www.isgportal.org.* The Exchange notes that not all of the components of the Disclosed Portfolio for the Fund may trade on exchanges that are members of ISG.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin ("Bulletin") of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Unit Aggregations (and that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated Portfolio Indicative Value will not be calculated or publicly disseminated; (4) how information regarding the Portfolio Indicative Value is disseminated; (5) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Bulletin will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Exchange Act. The Bulletin will also disclose that the NAV for the Shares will be calculated after 4:00 p.m. Eastern time each trading day.

2. Statutory Basis

The basis under the Exchange Act for this proposed rule change is the requirement under Section 6(b)(5)[33] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.600. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable Federal securities laws. The Exchange may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. According to the Registration Statement, the Fund currently expects that it will have at least 70% of its assets invested in investment grade securities, and no more than 30% of its assets invested in non-investment grade securities. The Fund will not invest more than 35% of its net assets in Fixed Income Securities of issuers in emerging markets. The Fund will invest only in corporate bonds that the Adviser or Sub-Adviser deems to be sufficiently liquid, and, generally, a corporate bond must have $200 million or more par amount outstanding and significant par value traded to be considered as an eligible investment. The U.S. and non-U.S. inflation linked bond markets, the corporate bond market, and emerging market debt markets in which the Fund may invest are characterized by substantial amounts outstanding, substantial liquidity, and price transparency. The Fund expects that no more than 30% of the value of the Fund's net assets will be invested in derivative instruments. Such investments will be consistent with the Fund's investment objective. Such investments also will not be used to enhance leverage. The Fund will not invest in any non-U.S. equity securities (other than shares of the Subsidiary).

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information is publicly available regarding the Fund and the Shares, thereby promoting market transparency. The Fund's portfolio holdings will be disclosed on its Web site daily after the close of trading on the Exchange and prior to the opening of trading on the Exchange the following day. Moreover, the Portfolio Indicative Value will be disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. Information regarding market price and trading volume of the Shares is and will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last-sale information will be available via the CTA high-speed line. The Web site for the Fund will include a form of the Prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Moreover, prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Portfolio Indicative Value, the Disclosed Portfolio, and quotation and last-sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Portfolio Indicative Value, the Disclosed Portfolio, and quotation and last-sale information for the Shares.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not

[33] 15 U.S.C. 78f(b)(5).

necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

The Exchange has requested accelerated approval of this proposed rule change prior to the 30th day after the date of publication of notice in the **Federal Register**. The Commission is considering granting accelerated approval of the proposed rule change at the end of a 21-day comment period.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–NYSEArca–2011–21 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2011–21. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2011–21 and should be submitted on or before May 31, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–11327 Filed 5–9–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64406; File No. SR–NASDAQ–2011–065]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt a Two-Sided Order for NOM Market Makers

May 4, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on May 3, 2011, The NASDAQ Stock Market LLC ("Exchange" or "NASDAQ") 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

NASDAQ is filing with the Securities and Exchange Commission ("Commission") a proposal for the NASDAQ Options Market ("NOM") to amend Chapter VI, Trading Systems, Section 1, Definitions, to adopt a "One-cancels-the-other" order type, as described further below.

This change is scheduled to be implemented on NOM on or about August 1, 2011; the Exchange will announce the implementation schedule by Options Trader Alert, once the rollout schedule is finalized.

The text of the proposed rule change is available at *nasdaq.cchwallstreet.com,* at NASDAQ's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDAQ 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. NASDAQ has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to introduce a new order type to assist Market Makers with their market making requirements under NOM rules. Currently, on NOM, an Options Market Maker is a Participant[3] registered with NASDAQ as a Market Maker.[4] Market Makers on NOM have certain obligations such as maintaining two-sided markets and participating in transactions that are "reasonably calculated to contribute to the

[34] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C.78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term "Options Participant" or "Participant" means a firm or organization that is registered with the Exchange pursuant to Chapter II of the NOM Rules for purposes of participating in options trading on NOM as a "Nasdaq Options Order Entry Firm" or "Nasdaq Options Market Maker."

[4] *See* NOM Rules, Chapter VII, Section 2.

maintenance of a fair and orderly market."[5] The Exchange recently amended its rules to: (a) Require market maker assignment by option rather than by series; (b) adopt a $5 quotation spread parameter; and (c) amend the quoting requirement for Market Makers.[6]

Today, Market Makers comply with their obligation to make a two-sided market by submitting orders into the NOM System, because NOM is designed as an order-driven system. For example, in the current rules, the terms "bid," "offer," and "quote" are defined in terms of an order, and the term "quote" generally refers to the bid/offer of a Market Maker. These terms would remain the same.

Under this proposal, Market Makers will continue to be able to submit orders to fulfill their two-sided market making obligation, but will also be able to submit a two-sided order, called a "one-cancels-the-other" order, consisting of both a bid and an offer; specifically, it consists of a buy order and a sell order treated as a unit. The new "one-cancels-the-other" order is part of a technological enhancement intended to offer to Market Makers a two-sided alternative, rather than having to enter two separate orders each with a bid or offer. Accordingly, the Exchange proposes to amend its rules to reflect the new two-sided order. Specifically, the new order type is being added to Chapter VI, Section 1(e) as new subparagraph (9).

Because NOM Rules require that when there is a bid from a Market Maker there must also be an offer,[7] in the case of the new two-sided order, if after entry into the System either the bid or offer side is fully executed, the side that is unexecuted is canceled and returned to the entering Market Maker. Similarly, the new two-sided order is not routable.

The Exchange believes that this new order type is a useful, additional method of entering orders for Market Makers; the new order type should aid Market Makers in complying with their continuous quoting obligations by using this two-sided order rather than two separate orders. Market Maker obligations are not changing in this proposal.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[8] in general, and furthers the objectives of Section 6(b)(5) of the Act[9] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposal is appropriate and reasonable, because it offers an additional method for Market Makers to comply with their quoting obligations. The Exchange also believes that the proposal is consistent with the obligation in Section 6(b)(5) that the proposal not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Although the new order type is only available to Market Makers, only Market Makers are required by the Exchange's rules to provide a continuous, two-sided market, which the new order type is intended to facilitate. It is not unfairly discriminatory because it is intended to assist Market Makers in complying with their continuous quoting obligations, including providing two-sided markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6)[11] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *(http://www.sec.gov/rules/sro.shtml);* or,
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR–NASDAQ–2011–065 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2011–065. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site *(http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the

[5] *See* NOM Rules, Chapter VII, Section 5(a).

[6] Securities Exchange Act Release No. 64054 (March 8, 2011), 76 FR 14111 (March 15, 2011) (SR–NASDAQ–2011–036).

[7] *See* NOM Rules, Chapter VII, Section 6(b), which provides that a Market Maker that enters a bid (offer) in a series in which he is registered on NOM must enter an offer (bid).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2011–065 and should be submitted on or before May 31, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–11326 Filed 5–9–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64404; File No. SR–NYSEAmex–2011–31]

Self-Regulatory Organizations; NYSE Amex LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Proposing To Extend Its Program That Allows Transactions To Take Place at a Price That Is Below $1 per Option Contract Until June 1, 2012

May 4, 2011.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on May 2, 2011, NYSE Amex LLC (the "Exchange" or "NYSE Amex") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend its program that allows transactions to take place at a price that is below $1 per option contract until June 1, 2012. The text of the proposed rule change is available at the Exchange, at *http://www.nyse.com,* at the Commission's Public Reference Room, and on the Commission's Web site at *http://www.sec.gov.*

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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to extend the Pilot Program[4] under Rule 968NY to allow accommodation transactions "Cabinet Trades") to take place at a price that is below $1 per option contract to June 1, 2012. The Exchange proposes to extend the program for one year.

An "accommodation" or "cabinet" trade refers to trades in listed options on the Exchange that are worthless or not actively traded. Cabinet trading is generally conducted in accordance with the Exchange Rules, except as provided in Exchange Rule 968NY Accommodation Transactions (Cabinet Trades), which sets forth specific procedures for engaging in cabinet trades. Rule 968NY currently provides for cabinet transactions to occur via open outcry at a cabinet price of a $1 per option contract in any options series open for trading in the Exchange, except that the Rule is not applicable to trading in option classes participating in the Penny Pilot Program. Under the procedures, bids and offers (whether opening or closing a position) at a price of $1 per option contract may be represented in the trading crowd by a Floor Broker or by a Market-Maker or provided in response to a request by a Trading Official, a Floor Broker or a Market-Maker, but must yield priority to all resting orders in the Cabinet (those orders held by the Trading Official, and which resting cabinet orders may be closing only). So long as both the buyer and the seller yield to orders resting in the cabinet book, opening cabinet bids can trade with opening cabinet offers at $1 per option contract.

The Exchange has temporarily amended the procedures through June 1, 2011 to allow transactions to take place in open outcry at a price of at least $0 but less than $1 per option contract. These lower priced transactions are permitted to be traded pursuant to the same procedures applicable to $1 cabinet trades, except that (i) bids and offers for opening transactions are only permitted to accommodate closing transactions in order to limit use of the procedure to liquidations of existing positions, and (ii) the procedures are also made available for trading in option classes participating in the Penny Pilot Program.[5] The Exchange believes that allowing a price of at least $0 but less than $1 better accommodates the closing of options positions in series that are worthless or not actively traded, particularly due to recent market conditions which have resulted in a significant number of series being out-of-the-money. For example, a market participant might have a long position in a call series with a strike price of $100 and the underlying stock might be trading at $30. In such an instance, there might not otherwise be a market for that person to close-out the position even at the $1 cabinet price (*e.g.,* the series might be quoted no bid).

As with other accommodation liquidations under Rule 968NY, transactions that occur for less than $1 will not be disseminated to the public on the consolidated tape. In addition, as with other accommodation liquidations under Rule 968NY the transactions will be exempt from the Consolidated Options Audit Trail ("COATS") requirements of Exchange Rule 955NY Order Format and System Entry Requirements. However, the Exchange will maintain quotation, order and transaction information for the transactions in the same format as the COATS data is maintained. In this regard, all transactions for less than $1 must be reported to the Exchange

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 63475 (December 8, 2010), 75 FR 77932 (December 14, 2010) (SR–NYSE Amex–2010–114).

[5] Currently the $1 cabinet trading procedures are limited to options classes traded in $0.05 or $0.10 standard increment. The $1 cabinet trading procedures are not available in Penny Pilot Program classes because in those classes an option series can trade in a standard increment as low as $0.01 per share (or $1.00 per option contract with a 100 share multiplier). Because the temporary procedures allow trading below $0.01 per share (or $1.00 per option contract with a 100 share multiplier), the procedures are available for all classes, including those classes participating in the Penny Pilot Program.

following the close of each business day.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)[6] of the Securities Exchange Act of 1934 (the "Act"), in general, and furthers the objectives of Section 6(b)(5)[7] 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 to perfect the mechanism for a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that allowing for liquidations at a price less than $1 per option contract will better facilitate the closing of options positions that are worthless or not actively trading, especially in Penny Pilot issues where Cabinet Trades are not otherwise permitted.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9] Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6) thereunder.[11]

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. NYSE Amex has satisfied this requirement.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSEAmex–2011–31 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAmex–2011–31. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAmex–2011–31 and should be submitted on or before May 31, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–11318 Filed 5–9–11; 8:45 am]

BILLING CODE 8011–01–P

[12] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12556 and #12557]

Tennessee Disaster #TN–00051

AGENCY: U.S. Small Business Administration.

ACTION: Notice

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Tennessee (FEMA–1974–DR), dated 05/01/2011.

Incident: Severe Storms, Tornadoes, Straight-line Winds, and Associated Flooding.

Incident Period: 04/25/2011 through 04/28/2011.

Effective Date: 05/01/2011.

Physical Loan Application Deadline Date: 06/30/2011.

Economic Injury (EIDL) Loan Application Deadline Date: 02/01/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 05/01/2011, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans)

Bradley, Greene, Hamilton, Washington.

Contiguous Counties (Economic Injury Loans Only)
Tennessee
Bledsoe, Carter, Cocke, Hamblen, Hawkins, Marion, McMinn, Meigs, Polk, Rhea, Sequatchie, Sullivan, Unicoi.
Georgia
Catoosa, Dade, Murray, Walker, Whitfield.
North Carolina
Madison.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	5.375
Homeowners without Credit Available Elsewhere	2.688
Businesses with Credit Available Elsewhere	6.000
Businesses without Credit Available Elsewhere	4.000
Non-Profit Organizations with Credit Available Elsewhere	3.250
Non-Profit Organizations without Credit Available Elsewhere	3.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Non-Profit Organizations without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 12556C and for economic injury is 125570.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–11423 Filed 5–9–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 12554 and # 12555]

Georgia Disaster # GA–00033

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Georgia (FEMA—1973—DR), dated 04/29/2011.

Incident: Severe storms, tornadoes, straight-line winds, and associated flooding

Incident Period: 04/27/2011 through 04/28/2011

Effective Date: 04/29/2011

Physical Loan Application Deadline Date: 06/28/2011

Economic Injury (EIDL) Loan Application Deadline Date: 01/30/2012

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 04/29/2011, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:
Bartow, Catoosa, Coweta, Dade, Floyd, Greene, Lamar, Meriwether, Monroe, Morgan, Pickens, Polk, Rabun, Spalding, Troup, Walker.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere	3.250
Non-Profit Organizations without Credit Available Elsewhere	3.000
For Economic Injury:	
Non-Profit Organizations without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 12554C and for economic injury is 12555C.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–11445 Filed 5–9–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 12558 and # 12559]

Tennessee Disaster # TN–00052

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Tennessee (FEMA–1974–DR), dated 05/01/2011.

Incident: Severe Storms, Tornadoes, Straight-line Winds, and Associated Flooding.

Incident Period: 04/25/2011 through 04/28/2011.

Effective Date: 05/01/2011.

Physical Loan Application Deadline Date: 06/30/2011.

Economic Injury (Eidl) Loan Application Deadline Date: 02/01/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 05/01/2011, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Bradley, Greene, Hamilton, Washington.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere	3.250
Non-Profit Organizations Without Credit Available Elsewhere	3.000
For Economic Injury:	
Non-Profit Organizations without Credit Available Elsewhere	3.000
The number assigned to this disaster for physical damage is 12558C and for economic injury is 12559C.	

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–11424 Filed 5–9–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12560 and #12561]

Arkansas Disaster #AR–00048

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Arkansas (FEMA–1975–DR), dated 05/02/2011.

Incident: Severe storms, tornadoes, and associated flooding.

Incident Period: 04/23/2011 and continuing.

Effective Date: 05/02/2011.

Physical Loan Application Deadline Date: 07/01/2011.

Economic Injury (EIDL) Loan Application Deadline Date: 02/02/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 05/02/2011, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans):
Benton, Clay, Faulkner, Garland, Lincoln, Pulaski, Randolph, Saline.

Contiguous Counties (Economic Injury Loans Only):
Arkansas: Arkansas, Carroll, Cleburne, Cleveland, Conway, Desha, Drew, Grant, Greene, Hot Spring, Jefferson, Lawrence, Lonoke, Madison, Montgomery, Perry, Sharp, Van Buren, Washington, White, Yell.
Missouri: Barry, Butler, Dunklin, McDonald, Oregon, Ripley.
Oklahoma: Adair, Delaware.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	5.375
Homeowners without Credit Available Elsewhere	2.688
Businesses with Credit Available Elsewhere	6.000
Businesses without Credit Available Elsewhere	4.000
Non-Profit Organizations with Credit Available Elsewhere	3.250
Non-Profit Organizations without Credit Available Elsewhere	3.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Non-Profit Organizations without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 12560B and for economic injury is 125610.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–11427 Filed 5–9–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 12545 and # 12546]

Alabama Disaster Number AL–00036

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Alabama (FEMA–1971–DR), dated 04/28/2011.

Incident: Severe Storms, Tornadoes, Straight-line Winds, and Flooding.

Incident Period: 04/15/2011 and continuing.

Effective Date: 05/02/2011.

Physical Loan Application Deadline Date: 06/27/2011.

Loan Application Deadline Date: 01/30/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of Alabama, dated 04/28/2011 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties: (Physical Damage and Economic Injury Loans): Bibb, Blount, Cherokee, Choctaw, Colbert, Fayette, Greene, Hale, Jackson, Limestone, Madison, Morgan, Washington, Winston.

Contiguous Counties: (Economic Injury Loans Only):
Alabama: Baldwin, Mobile
Georgia: Floyd, Polk
Mississippi: Clarke, Greene, Wayne,
Tennessee: Franklin, Giles, Lincoln, Marion.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–11429 Filed 5–9–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 12548 and # 12549]

Mississippi Disaster # MS–00045

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Mississippi (FEMA–1972–DR), dated 04/29/2011.

Incident: Severe storms, tornadoes, straight-line winds, and associated flooding

Incident Period: 04/15/2011 through 04/28/2011

Effective Date: 04/29/2011

Physical Loan Application Deadline Date: 06/28/2011

Economic Injury (Eidl) Loan Application Deadline Date: 01/30/2012

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 04/29/2011, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans):

Clarke, Greene, Hinds, Jasper, Kemper, Lafayette, Monroe.
Contiguous Counties (Economic Injury Loans Only):
Mississippi
Calhoun, Chickasaw, Claiborne, Clay, Copiah, George, Itawamba, Jones, Lauderdale, Lee, Lowndes, Madison, Marshall, Neshoba, Newton, Noxubee, Panola, Perry, Pontotoc, Rankin, Scott, Simpson, Smith, Tate, Union, Warren, Wayne, Winston, Yalobusha, Yazoo.
Contiguous Counties (Economic Injury Loans Only) continued:
Alabama
Choctaw, Lamar, Marion, Mobile, Sumter, Washington.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	5.125
Homeowners without Credit Available Elsewhere	2.563
Businesses with Credit Available Elsewhere	6.000
Businesses without Credit Available Elsewhere	4.000
Non-Profit Organizations with Credit Available Elsewhere	3.250
Non-Profit Organizations without Credit Available Elsewhere	3.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Non-Profit Organizations without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 12548C and for economic injury is 125490.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–11433 Filed 5–9–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 12562 and # 12563]

Arkansas Disaster # AR–00049

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Arkansas (FEMA–1975–DR), dated 05/02/2011.

Incident: Severe Storms, Tornadoes, and Associated Flooding.

Incident Period: 04/23/2011 and continuing.

Effective Date: 05/02/2011.

Physical Loan Application Deadline Date: 07/01/2011.

Economic Injury (Eidl) Loan Application Deadline Date: 02/02/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 05/02/2011, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Benton, Clay, Faulkner, Garland, Lincoln, Pulaski, Randolph, Saline.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere	3.250
Non-Profit Organizations without Credit Available Elsewhere	3.000
For Economic Injury:	
Non-Profit Organizations without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 12562B and for economic injury is 12563B.
(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–11420 Filed 5–9–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 12545 and # 12546]

Alabama Disaster Number AL–00036

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 3.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Alabama (FEMA–1971–DR), dated 04/28/2011.

Incident: Severe Storms, Tornadoes, Straight-line Winds, and Flooding.

Incident Period: 04/15/2011 and continuing.

Effective Date: 05/02/2011.

Physical Loan Application Deadline Date: 06/27/2011.

Eidl Loan Application Deadline Date: 01/30/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of Alabama, dated 04/28/2011 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties: (Physical Damage and Economic Injury Loans):

Chilton, Coosa, Shelby, Pickens, Talladega.

Contiguous Counties: (Economic Injury Loans Only):

Mississippi, Lowndes.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–11447 Filed 5–9–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 12545 and # 12546]

ALABAMA Disaster Number AL–00036

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Alabama (FEMA–1971–DR), dated 04/28/2011.

Incident: Severe Storms, Tornadoes, Straight-line Winds, and Flooding.

Incident Period: 04/15/2011 and continuing.

Effective Date: 04/30/2011.

Physical Loan Application Deadline Date: 06/27/2011.

EIDL Loan Application Deadline Date: 01/30/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of ALABAMA, dated 04/28/2011 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties: (Physical Damage and Economic Injury Loans): Autauga, Calhoun, Elmore, Etowah, Marengo, Marion, Saint Clair, Sumter, Tallapoosa.

Contiguous Counties: (Economic Injury Loans Only)

Alabama: Chambers, Chilton, Choctaw, Clarke, Clay, Cleburne, Coosa, Dallas, Lamar, Lee, Lowndes, Macon, Montgomery, Perry, Randolph, Talladega, Wilcox.

Mississippi: Kemper, Lauderdale, Monroe, Noxubee.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–11431 Filed 5–9–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 12545 and # 12546]

Alabama Disaster # AL–00036

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Alabama (FEMA–1971–DR), dated 04/28/2011.

Incident: Severe Storms, Tornadoes, Straight-line Winds, and Flooding.

Incident Period: 04/15/2011 and continuing.

Effective Date: 04/28/2011.

Physical Loan Application Deadline Date: 06/27/2011.

Economic Injury (Eidl) Loan Application Deadline Date: 01/30/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 04/28/2011, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans):

Cullman, De Kalb, Franklin, Jefferson, Lawrence, Marshall, Tuscaloosa, Walker.

Contiguous Counties (Economic Injury Loans Only):

Alabama:

Bibb, Blount, Cherokee, Colbert, Etowah, Fayette, Greene, Hale, Jackson, Lauderdale, Limestone, Madison, Marion, Morgan, Pickens, Saint Clair, Shelby, Winston.

Georgia:

Chattooga, Dade, Walker.

Mississippi:

Itawamba, Tishomingo.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	5.125
Homeowners Without Credit Available Elsewhere	2.563
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	3.250
Non-Profit Organizations Without Credit Available Elsewhere	3.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 12545C and for economic injury is 125460.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–11428 Filed 5–9–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 12552 and # 12553]

Georgia Disaster Number GA–00032

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Georgia (FEMA–1973–DR), dated 04/29/2011.

Incident: Severe storms, tornadoes, straight-line winds, and associated flooding

Incident Period: 04/27/2011 through 04/28/2011

Effective Date: 05/02/2011

Physical Loan Application Deadline Date: 06/28/2011

EIDL loan application deadline date: 01/30/2012

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of GEORGIA, dated 04/29/2011 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties: (Physical Damage and Economic Injury Loans):

Gordon, Harris, Heard, Lumpkin.

Contiguous Counties: (Economic Injury Loans Only):

Alabama

Lee.

Georgia

Fannin, Hall, Murray, Muscogee, Union, White.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–11426 Filed 5–9–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 12550 and # 12551]

Mississippi Disaster Number MS–00047

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Mississippi (FEMA–1972–DR), dated 04/29/2011.

Incident: Severe Storms, Tornadoes, Straight-line Winds, and Associated Flooding.

Incident Period: 04/15/2011 through 04/28/2011.

Effective Date: 05/01/2011.

Physical Loan Application Deadline Date: 06/28/2011.

Economic Injury (Eidl) Loan Application Deadline Date: 01/30/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit Organizations in the State of Mississippi, dated 04/29/2011, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Chickasaw, Choctaw, Neshoba, Webster.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–11446 Filed 5–9–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 12552 and # 12553]

Georgia Disaster # GA–00032

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Georgia (FEMA–1973–DR), dated 04/29/2011.

Incident: Severe Storms, Tornadoes, Straight-line Winds, and Associated Flooding.

Incident Period: 04/27/2011 through 04/28/2011.

Effective Date: 04/29/2011.

Physical Loan Application Deadline Date: 06/28/2011.

Economic Injury (EIDL) Loan Application Deadline Date: 01/30/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 04/29/2011, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Bartow, Catoosa, Coweta, Dade, Floyd, Greene, Lamar, Pickens, Polk, Spalding, Troup, Walker.

Contiguous Counties (Economic Injury Loans Only): Georgia:

Butts, Carroll, Chattooga, Cherokee, Clayton, Cobb, Dawson, Fayette, Fulton, Gilmer, Gordon, Hancock, Haralson, Harris, Heard, Henry, Meriwether, Monroe, Morgan, Oconee, Oglethorpe, Paulding, Pike, Putnam, Taliaferro, Upson, Whitfield.

Contiguous Counties (Economic Injury Loans Only) continued: Alabama:

Chambers, Cherokee, Cleburne, De Kalb, Jackson, Randolph.

Tennessee:

Hamilton, Marion.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	5.375
Homeowners Without Credit Available Elsewhere	2.688
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	3.250
Non-Profit Organizations Without Credit Available Elsewhere	3.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 12552C and for economic injury is 125530.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–11436 Filed 5–9–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12548 and #12549]

Mississippi Disaster Number MS–00045

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Mississippi (FEMA—1972—DR), dated 04/29/2011.

Incident: Severe Storms, Tornadoes, Straight-line Winds, and Associated Flooding.

Incident Period: 04/15/2011 through 04/28/2011.

Effective Date: 05/01/2011.

Physical Loan Application Deadline Date: 06/28/2011.

EIDL Loan Application Deadline Date: 01/30/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of Mississippi, dated 04/29/2011 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties: (Physical Damage and Economic Injury Loans):

Chickasaw, Choctaw, Neshoba, Webster.

Contiguous Counties: (Economic Injury Loans Only):

Mississippi, Attala, Grenada, Leake, Montgomery, Oktibbeha.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–11434 Filed 5–9–11; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2010–0038]

Future Systems Technology Advisory Panel Meeting

AGENCY: Social Security Administration (SSA).

ACTION: Notice of Eleventh Panel Meeting.

DATES: May 24, 2011, 10 a.m.–5 p.m.

Location: Hyatt Regency Crystal City, Arlington, VA, Regency B.

ADDRESSES: 2799 Jefferson Davis Highway, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION:

Type of meeting: The meeting is open to the public.

Purpose: The Panel, under the Federal Advisory Committee Act of 1972, as amended, (hereinafter referred to as "the FACA") shall report to and provide the Commissioner of Social Security independent advice and recommendations on the future of systems technology and electronic services at the agency five to ten years into the future. The Panel will recommend a road map to aid SSA in determining what future systems technologies may be developed to assist in carrying out its statutory mission. Advice and recommendations can relate to our systems in the area of internet application, customer service, or any other arena that would improve SSA's ability to serve the American people.

Agenda: The Panel will meet on Tuesday, May 24, 2011 from 10 a.m. until 5 p.m. The agenda will be available on the Internet at *http://www.ssa.gov/fstap/index.htm* or available by e-mail or fax on request, one week prior to the starting date.

During the meeting, the Panel may have experts address items of interest and other relevant topics to the Panel. This additional information will further the Panel's deliberations and the effort of the Panel subcommittees.

The Panel will hear Public comments on Tuesday, May 24, 2011, from 4:30 p.m. until 5 p.m. Individuals interested in providing comments in person should contact the Panel staff as outlined below to schedule a time slot. Members of the public must schedule a time slot in order to comment. In the event public comments do not take the entire scheduled time period, the Panel may use that time to deliberate or conduct other Panel business. Each individual providing public comment will be acknowledged by the Chair in the order in which they are scheduled to testify. Individuals providing public comment are limited to a maximum five-minute, verbal presentation. In lieu of public comments provided in person, individuals may provide written comments to the panel for their review and consideration. Comments in written or oral form are for informational purposes only for the Panel. Public comments will not be specifically addressed or receive a written response by the Panel.

For individuals that are hearing impaired and in need of sign language services please contact the Panel staff as outlined below at least 10 business days prior to the meeting so that timely arrangements can be made to provide this service.

Contact Information: Records are kept of all proceedings and will be available for public inspection by appointment at the Panel office. Anyone requiring information regarding the Panel should contact the staff by:

Mail addressed to SSA, Future Systems Technology Advisory Panel, Room 500, Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–0001; Telephone at 410–966–2203; Fax at 410–966–7474; or E-mail to *FSTAP@ssa.gov.*

Dated: May 4, 2011.

Karen Palm,

Designated Federal Officer, Future Systems Technology Advisory Panel.

[FR Doc. 2011–11240 Filed 5–9–11; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 7448]

Bureau of Educational and Cultural Affairs (ECA) Request for Cooperative Agreement Proposals; English Language Fellow Program for Academic Year (AY) 2012–2013

Announcement Type: New Cooperative Agreement.

Funding Opportunity Number: ECA/A/L–12–01.

Catalog of Federal Domestic Assistance Number: 19.421.

Key Program Dates: N/A.

Application Deadline: June 24, 2011.

The Office of English Language Programs of the Bureau of Educational and Cultural Affairs announces an open competition for proposals to advance the Bureau's objectives through support of academic exchanges that will result in the improvement of English teaching capacity around the world and the enhancement of mutual understanding between the people of the United States and those of other countries through exchanges of U.S. English language educators to all regions of the world.

The English Language Fellow (EL Fellow) Program sends U.S. educators in the field of Teaching English as a Foreign Language (TEFL) on ten-month fellowships to overseas academic institutions. The Program brings foreign English as a Foreign Language (EFL) Educators to the U.S. for a three-week workshop/institute including participation in the annual Teachers of English to Speakers of Other Languages (TESOL) Convention. Pending the availability of Fiscal Year FY 2012 funds, the Bureau anticipates the placement of approximately 112 English Language Fellows overseas in AY 2012–2013. Public and private non-profit organizations meeting the provisions described in Internal Revenue Code, Section 26 U.S.C. 501 (c) (3) may submit proposals to administer and manage the EL Fellow Program for AY 2012–2013.

I. Funding Opportunity Description:

Authority

Overall Grant and Agreement-making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." The funding authority for the program above is provided through legislation.

Purpose

The English Language Fellow Program fosters mutual understanding between the people of the United States and those of other countries through exchanges of U.S. English language educators. The EL Fellow Program sends talented, highly qualified U.S. educators in the field of Teaching English to Speakers of Other Languages

(TESOL) on ten-month assignments to academic institutions in all regions of the world. Through projects recommended by U.S. embassies, EL Fellows share their expertise, hone their skills, gain international experience, and learn about other cultures. Upon returning to the United States, they share their experiences and acquired knowledge with their communities and professional colleagues. Projects are carried out with host-country ministries of education, universities, teacher-training institutions, NGOs, binational centers, and other English language teaching institutions.

The EL Fellow Program allows students and teachers at host institutions to benefit from the EL Fellows' expertise and to gain a better understanding of American values, representative government, free enterprise, and the rule of law. EL Fellows provide foreign educators, professionals, and students with communications skills they need to participate in the global economy and to improve their access to diverse perspectives on a broad variety of issues.

During the program, EL Fellows typically serve as full-time (up to 20 classroom contact hours per week) educators assigned to foreign host institutions and may be engaged in teacher training, curriculum and materials development, English for Specific Purposes (ESP) instruction, assessment, evaluation, research, English club or American Corner programming, summer camps, and other outreach projects.

The overarching goals of the EL Fellow Program are to:

- Advance the Department of State's mutual understanding objectives;
- Enhance English teaching capacity overseas in order to provide foreign teachers and students with the communication skills they need to participate in the global economy;
- Allow students and teachers at host institutions to benefit from the EL Fellows' expertise and to gain a better understanding of American values, representative government, free enterprise, and the rule of law; and
- Provide an opportunity for U.S. English language educators to share their expertise, hone their skills, and learn about other cultures, so that upon returning to the United States, they can share their experiences and acquired knowledge with their communities and professional colleagues.

EL Fellow Eligibility Requirements

- U.S. citizenship;
- Master's degree with focus on Teaching English as a Foreign or Second Language (TEFL/TESL), Applied Linguistics, or relevant field, conferred no later than end of 2012 spring semester;
- Minimum of three years of professional experience in the field of teaching English to non-native speakers (one year of experience equals two semesters of 15–16 hours per week); and
- Teacher training experience (Senior EL Fellows should have at least four years of teacher training experience and one full year of international teaching experience).

Background

The Bureau seeks to award a Cooperative Agreement to an applicant with the ability to achieve these objectives and that has the necessary infrastructure and experience conducting academic exchange programs. The timing of the award and the amount of funding for the EL Fellow Program are subject to the availability of funds in FY 2012.

EL Fellow Program Guidelines

With the approval of the Office of English Language Programs, the roles and responsibilities of the Recipient administering the EL Fellow Program are to:

- Design and develop promotional materials to support advertisement and recruitment for the EL Fellow Program.
- Conduct an extensive, comprehensive, and ongoing promotional and advertising campaign to recruit qualified and experienced candidates for the EL Fellow Program.
- Identify and review with the Bureau of Educational and Cultural Affairs, Office of English Language Programs, and U.S. embassies, candidates for approximately 112 EL Fellow projects selected by the U.S. Department of State. Qualified staff must interview candidates and match candidates' skills to the needs of specific projects. The recruitment, selection, and placement process shall be completed by May 1, 2012.
- Plan and conduct a pre-departure orientation in Washington, DC in August 2012.
- Conduct all financial management aspects of the EL Fellow Program, including processing of all EL Fellow grant payments electronically to EL Fellows' designated bank accounts. Maintain an EL Fellow Program budget spreadsheet.
- Provide fiscal management for EL Fellows' professional development activities during the assignment. These activities are selected by the Bureau and are supported by U.S. embassies and the Public Diplomacy Offices of the U.S. Department of State's Regional Geographic Bureaus.
- Make all necessary travel arrangements for the EL Fellows including reservations and issuance of tickets.
- Enroll the selected EL Fellows in the Bureau Accident and Sickness Program for Exchanges (ASPE) Benefit Plan.
- Collect EL Fellows' health verification forms and arrange for proper medical clearance by a qualified medical practitioner.
- Monitor the EL Fellow Program activities and the EL Fellows, including emergencies, project performance, housing, security, terminations, and making regional site visit(s).
- Prepare and enter into a fellowship agreement which establishes the terms and conditions of the 10-month fellowship including communications, project performance, terminations, and other program-related issues.
- Communicate directly with EL Fellows with regard to fellowship-related issues including, in consultation with the relevant U.S. embassy and host institution(s), project performance, emergencies, terminations, reporting, highlights, and successes.
- Notify and consult with the Office of English Language Programs (ECA/A/L) immediately in regard to EL Fellows' emergencies, evacuations, project performance, terminations, *etc.,* and act in accordance to guidance from the Bureau.
- Develop evaluation and implement strategies designed to measure the impact and outcome of the EL Fellow Program and the effectiveness of each individual EL Fellow's professional activities at his/her designated host institution(s).
- Maintain information sharing tools (*e.g.,* Web site/listserv, database, and social networking media) and provide EL Fellow information to the Bureau's Alumni Office.
- Organize and implement activities related to the annual TESOL Convention, including: conducting a one-week Exchange EFL (English as a Foreign Language) Educators Fellow workshop/institute for foreign participants chosen by the State Department; arranging for the workshop/institute participants to attend the annual TESOL Convention; and, making all provisions for the Office of English Language Programs' networking event at the TESOL Convention for the workshop/institute participants and EL Fellow Program alumni;

• Prepare Form DS–2019 and send the Form to each selected Exchange EFL Educator Fellow at least 60 days before his/her departure from his/her home country for the workshop/institute.

The responsibilities of the Recipient are clearly detailed in the Project Objectives, Goals, and Implementation (POGI). Due to the diverse responsibilities involved in administering the Cooperative Agreement, the Bureau welcomes the submission of proposals involving partnering organizations. In addition to the primary grantee, these other organizations may be sub-grantees responsible for carrying out specific activities or components of the EL Fellow Program, such as recruitment, financial and logistical management, reporting requirements, pre-departure orientation, evaluations, clearance of health verification records, TESOL 2012 related activities, *etc.* Applicants should include a minimum of two management staff with qualifications and experience in TEFL/TESL or Applied Linguistics. Applications involving partnering organizations, if applicable, must clearly delineate the role each partnering organization will play and its responsibilities. Letters of commitment from any potential partnering organization(s) must be included.

In a Cooperative Agreement, ECA/A/L is substantially involved in the program activities above and beyond routine monitoring. ECA/A/L activities and responsibilities for this program are as follows:

• Providing overall program and policy design and direction;

• Inviting U.S. embassies to submit EL Fellow proposals;

• Reviewing and analyzing the ability of projects to raise the academic standards of English language teaching and to promote the Bureau's public diplomacy and exchanges goals;

• Analyzing the prospective impact of projects on host-country English teaching institutions and the likelihood of projects meeting host-country institutional needs;

• Prioritizing and finalizing selection of projects for which the Recipient will recruit EL Fellow candidates;

• Reviewing candidates' qualifications and résumés;

• Monitoring participants and program activities;

• Communicating and working with U.S. embassies to resolve EL Fellow issues (academic, health, security, *etc.*); and

• Reviewing reports of EL Fellow activities and projects in host countries.

U.S. embassies submit proposals to the Bureau identifying opportunities for placement of Fellows in host-country institutions in accordance with the guidance provided by the Bureau. U.S. embassies are responsible for managing the EL Fellow Program in-country. The role of the U.S. embassies includes:

• Selecting host institutions, including evaluating the security of prospective sites;

• Establishing viable partnerships with prospective in-country host institutions that have critical English language programming needs;

• Developing project proposals in consultation with in-country host institutions to be implemented by EL Fellows;

• Reviewing applicants' qualifications and making final selections of EL Fellow candidates in consultation with in-country host institutions;

• Contacting EL Fellows prior to their arrival to answer questions about work-related issues, and to ensure that they have accurate information regarding housing, visa requirements, security, *etc.;*

• Conducting an EL Fellows' in-country arrival orientation and ensuring that the EL Fellows receive a security briefing by the embassy's Regional Security Officer;

• Working to maximize participants' safety and well-being, locating and securing quality housing, ensuring that the EL Fellows' visa/residency status is adjusted immediately after arrival in host country to comply with host-country immigration regulations, and acting as the EL Fellows' and Bureau's direct point of contact;

• Conducting site visits and jointly monitoring EL Fellows' programs and activities with the recipient and sharing of information with the recipient; and

• Selecting nominees (foreign teachers of English as a Foreign language) for participation in the 46th Annual TESOL Convention (TESOL 2012) and related activities in the U.S.

II. Award Information

Type of Award: Cooperative Agreement.

Bureau's level of involvement in the EL Fellow Program is listed under number I above.

Fiscal Year Funds: FY 2012 (pending availability of funds).

Approximate Total Funding: $8,500,000.

Approximate Number of Awards: 1.

Approximate Average Award: $8,500,000.

Floor of Award Range: N/A.

Ceiling of Award Range: N/A.

Anticipated Award Date: October 1, 2011, pending availability of funds.

Anticipated Project Completion Date: March 31, 2014.

Additional Information: Pending successful implementation of the EL Fellow Program and the availability of funds in subsequent fiscal years, it is the Bureau's intent to renew this Cooperative Agreement for two additional fiscal years before openly competing it again.

III. Eligibility Information

III.1. Eligible applicants: Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

III.2. Cost sharing or matching funds: There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs. When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved Cooperative Agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, the applicant must maintain written records to support all costs which are claimed as contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event the applicant does not provide the minimum amount of cost sharing as stipulated in the approved budget, the Bureau's contribution will be reduced in like proportion.

III.3. Other Eligibility Requirements

Bureau Cooperative Agreement guidelines require that organizations with less than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. ECA anticipates awarding one Cooperative Agreement in an amount up to $8,500,000 to support program and administrative costs required to implement this exchange program. Therefore, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition. The Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

IV. Application and Submission of Information

Note: Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1. Contact Information To Request an Application Package

Please contact the Office of English Language Programs, ECA/A/L, U.S. Department of State, SA–5, 4th Floor, 2200 C Street, NW., Washington, DC 20522, telephone (202) 632–9267, fax: (202) 632–9267, e-mail *williamsoncj@state.gov* to request a Solicitation Package. Please refer to Funding Opportunity Number ECA/A/L–12–01 located at the top of this announcement when making your request.

Alternatively, an electronic application package may be obtained from Grants.gov. Please see section IV.2 for further information.

The Solicitation Package contains the Proposal Submission Instructions (PSI) document which consists of required application forms, and standard guidelines for proposal preparation.

It also contains the Project Objectives, Goals, and Implementation (POGI) document, which provides specific information, award criteria, and budget instructions tailored to this competition.

Please specify ECA/A/L Program Officer, Catherine Williamson, and refer to Funding Opportunity Number ECA/A/L–12–01 located at the top of this announcement on all other inquiries and correspondence.

IV.2. To Download a Solicitation Package via Internet

The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/rfgps/menu.htm* or from the Grants.gov Web site at *http://www.grants.gov*.

Please read all information before downloading.

IV.3. Content and Form of Submission: Applicants must follow all instructions in the Solicitation Package. The application should be submitted per the instructions under IV.3f. "Application Deadline and Methods of Submission" section below.

IV.3a. Applicant is required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a Grant or Cooperative Agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that the applicant's DUNS number is included in the appropriate box of the SF–424, which is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative, and budget. Please refer to the Solicitation Package for formatting and technical requirements. The package contains the mandatory Proposal Submission Instructions (PSI) document and the Project Objectives, Goals, and Implementation (POGI) document.

IV.3c. All Federal award recipients and sub-recipients must maintain current registrations in the Central Contractor Registration (CCR) database and have a Dun and Bradstreet Data Universal Numbering System (DUNS) number. Recipients and sub-recipients must maintain accurate and up-to-date information in the CCR until all program and financial activity and reporting have been completed. All entities must review and update the information at least annually after the initial registration and more frequently if required information changes or another award is granted. Applicant must have nonprofit status with the IRS at the time of application. **Please note:** Effective March 14, 2008, all applicants for ECA Federal assistance awards must include with their application, a copy of page 5, Part V–A, "Current Officers, Directors, Trustees, and Key Employees" of their most recent Internal Revenue Service (IRS) Form 990, "Return of Organization Exempt From Income Tax." If the organization is a private nonprofit which has not received a Grant or Cooperative Agreement from ECA in the past three years, or if the applicant organization has received nonprofit status from the IRS within the past four years, the applicant must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause the proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing the proposal narrative:

IV.3d.1 Adherence to All Regulations Governing the J Visa

The Bureau of Educational and Cultural Affairs places critical emphases on the security and proper administration of Exchange Visitor (J visa) programs and adherence by the Recipient and sponsors to all regulations governing the J visa. Therefore, proposals should demonstrate the applicant's capacity to meet all requirements governing the administration of the Exchange Visitor Programs as set forth in 22 CFR 62, including the oversight of Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting, and other requirements.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: Office of Designation, Private Sector Programs Division, U.S. Department of State, ECA/EC/D/PS, SA–5, 5th Floor, 2200 C Street, NW., Washington, DC 20037.

Please refer to Solicitation Package for further information.

IV.3d.2 Diversity, Freedom, and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into the proposal. Public Law 104–319 provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy," the Bureau "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Public Law 106–113 requires that the governments of the countries described above not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. Program Monitoring and Evaluation

Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that the proposal include a draft survey questionnaire, or other technique, plus a description of a methodology to be used to link outcomes to original project objectives. The Bureau expects that the Recipient will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. The evaluation plan should include a description of the project's objectives, the anticipated project outcomes, and how and when the Recipient intends to measure these outcomes (performance indicators). The more that outcomes are "smart" (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. The Recipient should also show how the project objectives link to the goals of the program described in this RFGP. The monitoring and evaluation plan should clearly distinguish between program *outputs* and *outcomes. Outputs* are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes, *i.e.,* the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. *Outcomes,* in contrast, represent specific intended project results to achieve, and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage the applicant to assess the following four levels of outcomes as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. *Participant satisfaction* with the program and exchange experience.

2. *Participant learning,* such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.

3. *Participant behavior,* concrete actions to apply knowledge in work or community; such as greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.

4. *Institutional changes,* such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of the monitoring and evaluation plan will be judged on how well it (1) specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (*i.e.,* surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

The Recipient will be required to provide reports analyzing the evaluation findings to the Bureau in the regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV. 3d.4. Describe plans for sustainability, *e.g.,* overall program management, staffing, coordination with ECA and embassies.

IV.3e. Please take the following information into consideration when preparing the budget:

IV.3e.1. Applicants must submit SF–424A—"Budget Information—Non-Construction Programs" along with a comprehensive budget for the entire program. The budget request may not exceed $8,500,000. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

IV.3e.2. For allowable costs for the program and complete budget guidelines and formatting instructions, please refer to the Solicitation Package and POGI.

IV.3f. Application Deadline and Methods of Submission

Application Deadline Date: June 24, 2011.

Reference Number: ECA/A/L–12–01.

Methods of Submission:

Applications may be submitted in one of two ways:

1. In hard-copy, via a nationally recognized overnight delivery service (*i.e.,* DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, *etc.*), or

2. Electronically through *http://www.grants.gov.*

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1 Submitting Printed Applications

Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals, shipped after the established deadline, are ineligible for consideration under this competition. ECA will *not* notify the applicant upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages *may not* be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important note: When preparing the submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to "ECA/EX/PM."

The original and 11 copies of the application should be sent to: Program Management Division, ECA–IIP/EX/PM, Ref: ECA/A/L–12–01, SA–5, Floor 4, U.S. Department of State, 2200 C Street, NW., Washington, DC 20037.

IV.3f.2—Submitting Electronic Applications

Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the "Find" portion of the system.

Please note: ECA bears no responsibility for applicant timeliness of submission or data errors resulting from transmission or conversion processes for proposals submitted via Grants.gov.

Please follow the instructions available in the 'Get Started' portion of the site (*http://www.grants.gov/GetStarted*).

Several of the steps in the Grants.gov registration process could take several weeks to complete. Therefore, applicants should check with appropriate staff within their organizations immediately after reviewing this RFGP to confirm or determine their registration status with Grants.gov.

Once registered, 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 connectivity. In addition, validation of an electronic submission via Grants.gov can take up to two business days.

Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov.

The Grants.gov Web site includes extensive information on all phases/aspects of the Grants.gov process, including an extensive section on frequently asked questions, located under the "For Applicants" section of the Web site. ECA bears no responsibility for data errors resulting from transmission or conversion processes.

Direct all questions regarding Grants.gov registration and submission to:

Grants.gov Customer Support.

Contact Center Phone: 800–518–4726.

Business Hours: Monday–Friday, 7 a.m.–9 p.m. Eastern Time.

E-mail: support@grants.gov.

Applicants have until midnight (12 a.m.), Washington, DC time of the closing date to ensure that their entire application has been uploaded to the Grants.gov site. There are no exceptions to the above deadline. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the Grants.gov system and will be technically ineligible.

Please refer to the Grants.gov Web site, for definitions of various "application statuses" and the difference between a submission receipt and a submission validation. Applicants will receive a validation e-mail from Grants.gov upon the successful submission of an application. Again, validation of an electronic submission via Grants.gov can take up to two business days. Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov. ECA will not notify you upon receipt of electronic applications.

IV.3g. Intergovernmental Review of Applications: Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau Grant and Agreement panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for a Cooperative Agreement resides with the Bureau's Grants Officer.

V.2. Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Quality of the program idea/program planning:* Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission. Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above. Proposal should clearly demonstrate how the applicant will meet the program's objectives and plan.

2. *Ability to achieve program objectives:* Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.

3. *Multiplier effect/impact:* Proposed programs should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages.

4. *Support of diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue, and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials, and follow-up activities).

5. *Institutional capacity:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals.

6. *Institution's record/ability:* Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau Cooperative Agreements as determined by Bureau Grants Staff. The Bureau will consider the past performance of prior Recipients and the demonstrated potential of new applicants.

7. *Follow-on activities:* Proposals should provide a plan for continued follow-on activity (without Bureau support), ensuring that Bureau supported programs are not isolated events.

8. *Project evaluation:* Proposals should include a plan to evaluate the activities' success, both as the activities unfold and at the end of the program. A draft survey questionnaire, or other technique, plus description of a methodology to be used to link outcomes to original project objectives is recommended.

9. *Cost-effectiveness and Cost Sharing:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other budgeted items should be necessary and appropriate. Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

10. *Professional expertise in teaching English as a Foreign/Second Language (TEFL/TESL):* The proposal should demonstrate a publicity and recruitment plan that allows for the greatest dissemination of information to professionals in the areas of teaching English as a foreign language, Applied Linguistics, and related fields.

VI. Award Administration Information

VI.1a. Award Notices

Final awards cannot be made until funds have been appropriated by Congress, allocated, and committed through internal Bureau procedures. Successful applicants will receive a Federal Assistance Award (FAA) from the Bureau's Grants Office. The FAA and the original proposal with subsequent modifications (if applicable) shall be the only binding authorizing documents between the Recipient and the U.S. Government. The FAA will be signed by an authorized Grants Officer and mailed to the Recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

The Recipient shall insert the foregoing provision in all sub-agreements under the award.

This provision includes express terms and conditions of the agreement and any violation of it shall be grounds for unilateral termination of the agreement by the Department of State prior to the end of its term.

VI.2 Administrative and National Policy Requirements

Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, "Cost Principles for Nonprofit Organizations."

Office of Management and Budget Circular A–21, "Cost Principles for Educational Institutions."

OMB Circular A–87, "Cost Principles for State, Local, and Indian Governments."

OMB Circular No. A–110 (Revised), "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations."

OMB Circular No. A–102, "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments."

OMB Circular No. A–133, "Audits of States, Local Government, and Non-profit Organizations."

Please reference the following Web sites for additional information: *http://www.whitehouse.gov/omb/grants.*

VI.3. *Reporting Requirements:* You must provide ECA with a hard copy original plus two copies of the following reports:

1. A final program and financial report no more than 90 days after the expiration of the award;

2. A concise, one-page final program report summarizing program outcomes no more than 90 days after the expiration of the award. This one-page report will be transmitted to OMB, and be made available to the public via OMB's USAspending.gov Web site—as part of ECA's Federal Funding Accountability and Transparency Act (FFATA) reporting requirements.

3. A SF–PPR, "Performance Progress Report" Cover Sheet with all program reports.

4. *A Quarterly Program Report:* A narrative program report describing and evaluating the activities shall be submitted within 30 days following each calendar year quarter.

5. *A Quarterly Financial Report:* A financial report using SF 425–FFR to reflect expenditures shall be submitted within 30 days following each calendar year quarter. The report must be certified by the Recipient's Chief Fiscal Officer or an officer of comparable rank.

Award recipients will be required to provide reports analyzing evaluation findings to the Bureau in the regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information).

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VI.4. *Optional Program Data Requirements:* Organizations awarded a Cooperative Agreement will be required to maintain specific data on program participants and activities in an electronically accessible database format that can be shared with the Bureau as required. As a minimum, the data must include the following:

(1) Name, address, contact information, and biographic sketch of all persons who travel internationally on funds provided by the Cooperative Agreement or who benefit from the Cooperative Agreement funding but do not travel. (2) Itineraries of international and domestic travel, providing dates of travel and cities in which any exchange experiences take place. Final schedules for in-country and U.S. activities must be received by the ECA Program Officer at least three work days prior to the official opening of the activity.

VII. Agency Contacts

For questions about this announcement, contact: Catherine Williamson, Office of English Language Programs, ECA/A/L, U.S. Department of State, SA–5, 2200 C Street, NW., Washington, DC 20522, telephone (202)632–9267, fax (202) 632–9464, e-mail *williamsoncj@state.gov.*

All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/A/L–12–01.

Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: May 3, 2011.

Ann Stock,

Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2011–11430 Filed 5–9–11; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 7449]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals; Access Teacher Development Online Program

Announcement Type: New Cooperative Agreement.

Funding Opportunity Number: ECA/A/L–11–05.

Catalog of Federal Domestic Assistance Number: 19.421.

Key Dates: Application Deadline: June 4, 2011.

Executive Summary: The Office of English Language Programs of the Bureau of Educational and Cultural Affairs (ECA/A/L) announces an open

competition for the Access Teacher Development Online Program (ATDOP), including online distance education, a U.S. exchange component in summer 2012 and a follow-on program for exchange participants. The award level for this cooperative agreement will be up to $900,000. The purpose of this program is to increase the oral and aural proficiency of English as a foreign language teachers while developing their speaking and listening teaching methods.

U.S. public and private universities with graduate TESOL or Applied Linguistics programs meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3) may submit proposals to implement the program that will include the following:

1. A teacher needs analysis survey and English language proficiency assessment plan to be administered at the beginning and end of the online program;

2. A multi-platform online distance education program developed in collaboration with selected English Access Microscholarship Program (Access) providers and designed to improve the oral/aural English Language proficiency and teaching methodologies of 250–350 Access and potential Access teachers working with 14–18 year olds;

3. A four-week, U.S. exchange program for 26 of the top performing participants from the online courses;

4. A five-week online follow-up course designed to assist the 26 teachers in developing and implementing professional development seminars for English teachers in their respective countries;

5. The creation of an on-going online community via a Ning site where Access teachers and in-country providers can continue to communicate and collaborate.

Access provides a foundation of English language skills to bright, economically disadvantaged 14- to 18-year-olds through two-year programs of after-school classes and intensive summer learning activities. Access students also gain an appreciation for U.S. culture and democratic values through cultural enhancement activities. Since its inception in 2004, over 70,000 students in more than 85 countries have participated in the Access Program. More detailed information about each of the five components of this cooperative agreement are detailed below and in the Program Objectives, Goals, and Implementation (POGI).

Applicant organizations should demonstrate a significant track record of conducting substantive academic programs for EFL educators with a particular emphasis on the innovative use of internet media and mobile-based technologies in the development and implementation of training programs, conducting needs assessments internationally with foreign partners, developing English language teaching curriculum for English learners with diverse levels of English language proficiency and managing the U.S. and foreign logistical and administrative aspects of similar programs.

The participants in the online course will be selected by Access providers and Regional English Language Officers (RELOs) and will be approved by ECA/A/L. Participants will be: Citizens of one of 6–8 ECA selected strategic countries in which they reside; university degree holders; employed as English teachers and have been working with disadvantaged 14–18 year old students for at least two but not more than approximately seven years; have no significant previous US travel experience; employed by one of the selected Access host institutions teaching Access or other secondary school level classes; and able to have regular and easy access to a computer with reliable broadband Internet.

I. Funding Opportunity Description

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic, and peaceful relations between the United States and the other countries of the world." The funding authority for the program above is provided through legislation.

Purpose

The purpose of the ATDOP is to improve overall English Access Microscholarship Program capacity to educate students by significantly enhancing the oral/aural proficiency and teaching practices of current and future Access teachers and providing opportunities to augment the impact of the course by having the program participants create and implement replicable teacher development seminars for other high school level English teachers in their countries. The project should also develop a self-sustaining online community for Access teachers and providers where ideas and experiences can be shared for years to come.

Overview

The online teacher development course and the U.S. based exchange component should significantly enhance the oral/aural proficiency and teaching skills needed for participants to confidently create and present seminars on practical English language teaching methods and American culture/values to other Access teachers in their respective countries. This program should expose participants to up-to-date methodologies for teaching listening and speaking to 14–18 year old English learners, insights into the role online technologies can play in English language learning, teaching, and professional development, and approaches to developing learner-centered activities with technology and electronic materials. The program should also include a substantive cultural/educational exchange experience in the United States.

Program Design

The program should be designed as an intensive, practically focused online course and exchange component for early career high school teachers from abroad. Both the online course and exchange component should reflect the participants' previous experience, education, and the realities of their regional challenges while promoting strategies for participants to share their knowledge with course participants and colleagues in their home countries.

Participants for the online teacher development course will be selected by local providers in consultation with RELOs at U.S. embassies and approved by the Office of English Language Programs in Washington, DC. Exchange component participants will be selected by recipient in coordination with local providers and approved by ECA/A/L and RELOs. Approximately the same number of participants for the online program and the U.S. exchange will be selected from each of the 6–8 participating countries.

ATDOP will focus on developing teaching skills relevant and appropriate to ECA/A/L's ongoing English language programming efforts around the world. Activities should focus on enhancing language and teaching methodologies and creating new capacities (student

centered teaching, authentic examples of American culture/values, and using internet based activities) for use in Access curricula. Selection of ATDOP curricula will be made by the recipient in consultation with select Access providers and RELOs and approved by ECA/A/L. Curricula will be based on the results of the needs assessment carried out by the recipient.

The Department of State will retain full ownership of the prepared curriculum and all online social networking and mobile sites created to fulfill program objectives, including the right to print, publish, repurpose, and distribute all media including electronic media, and in all languages and editions.

Program Content

Proposals must include preliminary ideas regarding the structure and content of the online program, the exchange component and follow-on course that can be revised in light of the results of the participant needs analysis and English language proficiency assessment results. Possible speakers and trainers, site visits, ways of using social media, video and chat conferencing programs and the use of mobile technology should be discussed. The accompanying Project Objectives, Goals, and Implementation (POGI) document provides program-specific guidelines that all proposals must address fully.

Program Dates

It is anticipated that the cooperative agreement will begin on or about September 1, 2011, and the recipient should complete all post-exchange activities by December 31, 2012. The exchange program will take place during June/July, 2012. Please refer to additional program specific guidelines in the Program Objectives, Goals, and Implementation (POGI) document.

Program Guidelines

Under the auspices of the Cooperative Agreement, the Bureau's Office of English Language Programs and U.S. embassies are substantially involved in ATDOP. The Bureau provides overall program and policy design and direction, with substantial involvement at all levels of the program while U.S. embassies are responsible for in-country aspects of the program. The roles and responsibilities of the Bureau include:

- Selection of strategic countries and Access providers from which teachers will be selected;
- Inviting RELOs and providers to nominate program participants;
- Approving nominees for the online course and exchange component;
- Participating in the Washington segment of the exchange program.

Posts are responsible for:

- Identifying and nominating program participants from their countries/regions in collaboration with providers;
- Briefing program participants on all aspects of the program;
- Monitoring and supporting the online segment of the program;
- Monitoring and reporting to ECA/A/L on program impact;
- Facilitating communication between the recipient and program participants regarding exchange logistics (e.g. obtaining visas); and
- Conducting post-program follow-up opportunities as appropriate.

II. Award Information

Type of Award: Cooperative Agreement. ECA's level of involvement in this program is listed under number I above.

Fiscal Year Funds: FY 2011.

Approximate Total Funding: $900,000.

Approximate Number of Awards: One (1).

Approximate Average Award: One award of $900,000.

Anticipated Award Date: September 1, 2011.

Anticipated Program Completion Date: July 31, 2013.

Additional Information: Pending successful implementation of this program and the availability of funds in subsequent fiscal years, it is ECA's intent to renew this cooperative agreement for two additional fiscal years, before openly competing it again.

III. Eligibility Information

III.1. Eligible Applicants

Applications may be submitted by public and private U.S. colleges and universities with a graduate TESOL or applied linguistics program meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

III.2. Cost Sharing or Matching Funds

There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved cooperative agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs which are claimed as your contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. Other Eligibility Requirements

(a) Bureau grant guidelines require that organizations with fewer than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. ECA anticipates awarding one cooperative agreement, in an amount up to $900,000 to support program and administrative costs required to implement ATDOP. Therefore, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition. The Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

(b) Technical Eligibility: All proposals must comply with the following: (list requirements) or they will result in your proposal being declared technically ineligible and given no further consideration in the review process.

—Eligible applicants may not submit more than one proposal in this competition.

—If more than one proposal is received from the same applicant, all submissions will be declared technically ineligible and will receive no further consideration in the review process. **Please note:** Applicant organizations are defined by their legal name, and EIN number as stated on their completed SF–424 and additional supporting documentation outlined in the Proposal Submission Instructions (PSI) document.

IV. Application and Submission Information

Note: Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1. Contact Information To Request an Application Package

Please contact Craig Dicker of the Office of English Language Programs, ECA/A/L, Room 4–B15, U.S. Department of State, SA–5, 2200 C Street, NW., Washington, DC 20037, *telephone:* (202) 632–9277, *fax:* (202) 632–9464, e-mail: *Dickercl@state.gov* to request a Solicitation Package. Please refer to the Funding Opportunity Number ECA/A/L–11–05 located at the top of this announcement when making your request.

Alternatively, an electronic application package may be obtained from grants.gov. Please see section IV.3f for further information.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document which consists of required application forms, and standard guidelines for proposal preparation.

It also contains the Program Objectives, Goals and Implementation (POGI) document, which provides specific information, award criteria and budget instructions tailored to this competition.

Please specify Craig Dicker, telephone: (202) 632–9277, and refer to the Funding Opportunity Number ECA/A/L–11–05 located at the top of this announcement on all other inquiries and correspondence.

IV.2. To Download a Solicitation Package Via Internet

The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/grants/open2.html* or from the Grants.gov Web site at *http://www.grants.gov*.

Please read all information before downloading.

IV.3. Content and Form of Submission

Applicants must follow all instructions in the Solicitation Package. The original and seven copies of the application should be submitted per the instructions under IV.3f. "Application Deadline and Methods of Submission" section below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget.

Please Refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document and the Program Objectives, Goals and Implementation (POGI) document for additional formatting and technical requirements.

IV.3c. All federal award recipients and sub-recipients must maintain current registrations in the Central Contractor Registration (CCR) database and have a Dun and Bradstreet Data Universal Numbering System (DUNS) number. Recipients and sub-recipients must maintain accurate and up-to-date information in the CCR until all program and financial activity and reporting have been completed. All entities must review and update the information at least annually after the initial registration and more frequently if required information changes or another award is granted. You must have nonprofit status with the IRS at the time of application. **Please note:** Effective January 7, 2009, all applicants for ECA federal assistance awards must include in their application the names of directors and/or senior executives (current officers, trustees, and key employees, regardless of amount of compensation). In fulfilling this requirement, applicants must submit information in one of the following ways:

(1) Those who file Internal Revenue Service Form 990, "Return of Organization Exempt From Income Tax," must include a copy of relevant portions of this form.

(2) Those who do not file IRS Form 990 must submit information above in the format of their choice.

In addition to final program reporting requirements, award recipients will also be required to submit a one-page document, derived from their program reports, listing and describing their grant activities. For award recipients, the names of directors and/or senior executives (current officers, trustees, and key employees), as well as the one-page description of grant activities, will be transmitted by the State Department to OMB, along with other information required by the Federal Funding Accountability and Transparency Act (FFATA), and will be made available to the public by the Office of Management and Budget on its USASpending.gov Web site as part of ECA's FFATA reporting requirements.

If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1. Adherence To All Regulations Governing The J Visa. The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs is the official program sponsor of the exchange program covered by this RFGP, and an employee of the Bureau will be the "Responsible Officer" for the program under the terms of 22 CFR part 62, which covers the administration of the Exchange Visitor Program (J visa program). Under the terms of 22 CFR part 62, organizations receiving awards (either a grant or cooperative agreement) under this RFGP will be third parties "cooperating with or assisting the sponsor in the conduct of the sponsor's program." The actions of recipient organizations shall be "imputed to the sponsor in evaluating the sponsor's compliance with" 22 CFR part 62. Therefore, the Bureau expects that any organization receiving an award under this competition will render all assistance necessary to enable the Bureau to fully comply with 22 CFR part 62 *et seq*.

The Bureau of Educational and Cultural Affairs places critically important emphases on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by recipient organizations and program participants to all regulations governing the J visa program status. Therefore, proposals should explicitly state in writing that the applicant is prepared to assist the Bureau in meeting all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR part 62. If your organization has experience as a designated Exchange Visitor Program Sponsor, the applicant should discuss their record of compliance with 22 CFR part 62 *et seq.,* including the oversight of their Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements.

The Office of Citizen Exchanges of ECA will be responsible for issuing DS–

2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from:

Office of Designation, Private Sector Programs Division, U.S. Department of State, ECA/EC/D/PS, SA–5, 5th Floor, 2200 C Street, NW., Washington, DC 20037.

IV.3d.2. Diversity, Freedom and Democracy Guidelines. Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the "Support for Diversity" section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy," the Bureau "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Public Law 106—113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. Program Monitoring and Evaluation Proposals must include a plan to monitor and evaluate the Program's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original Program objectives. The Bureau expects that the recipient will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your Program's objectives, your anticipated Program outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are "smart" (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your Program objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program *outputs* and *outcomes. Outputs* are products and services delivered, often stated as an amount. Output information is important to show the scope or size of Program activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. *Outcomes,* in contrast, represent specific results a Program is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. Participant satisfaction with the program and exchange experience.

2. Participant learning, such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.

3. Participant behavior, concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.

4. Institutional changes, such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (i.e., surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

The recipient will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3.d.4. Describe your plans for staffing: Please provide a staffing plan which outlines the responsibilities of each staff person and explains which staff member will be accountable for each program responsibility. The Office of English Programs requests that several members of the staff be well versed in current methodology of teaching English as a foreign language, preferably holding an advanced degree in Teaching English as a Foreign Language (TEFL), applied linguistics or a related field. In depth knowledge of best practices in the English language teaching (ELT) field is preferable. Wherever possible please streamline administrative processes.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3e.1. Applicants must submit SF–424A—"Budget Information—Non-Construction Programs" along with a comprehensive budget for the entire program. The budget request from ECA should not exceed $900,000, including all administrative costs. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets for host campus and foreign teacher involvement in the program. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

The summary and detailed administrative and program budgets should be accompanied by a narrative which provides a brief rationale for each line item including a methodology for

estimating appropriate average maintenance allowance levels and tuition costs (as applicable) for the participants, and the number that can be accommodated at the levels proposed. The total administrative costs funded by the Bureau must be reasonable and appropriate.

IV.3e.2. Allowable costs for the program and additional budget guidance are outlined in detail in the POGI document. Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3f. Application Deadline and Methods of Submission:

Application Deadline Date: June 4, 2011.

Reference Number: ECA/A/L–11–05.

Methods of Submission: Applications may be submitted in one of two ways:

(1) In hard-copy, via a nationally recognized overnight delivery service (i.e., DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or

(2) electronically through *http://www.grants.gov.*

Along with the Program Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1. Submitting Printed Applications:

Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will not notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages may not be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to "ECA/EX/PM".

The original and nine (9) copies of the application should be sent to: U.S. Department of State, Program Management Division, ECA–IIP/EX/PM, Ref.: ECA/A/L–11–05 SA–5, Floor 4, Department of State, 2200 C Street, NW., Washington, DC 20037.

Applicants submitting hard-copy applications must also submit the "Executive Summary" and "Proposal Narrative" sections of the proposal in text (.txt) format on a PC-formatted disk.

IV.3f.2. Submitting Electronic Applications: Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the "Find" portion of the system. Please follow the instructions available in the 'Get Started' portion of the site (*http://www.grants.gov/GetStarted*).

Please Note: ECA bears no responsibility for applicant timeliness of submission or data errors resulting from transmission or conversion processes for proposals submitted via Grants.gov.

Several of the steps in the Grants.gov registration process could take several weeks. Therefore, applicants should check with appropriate staff within their organizations immediately after reviewing this RFGP to confirm or determine their registration status with Grants.gov.

Once registered, 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. In addition, validation of an electronic submission via Grants.gov can take up to two business days. Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov.

The Grants.gov Web site includes extensive information on all phases/aspects of the Grants.gov process, including an extensive section on frequently asked questions, located under the "For Applicants" section of the Web site. ECA strongly recommends that all potential applicants review thoroughly the Grants.gov Web site, well in advance of submitting a proposal through the Grants.gov system. ECA bears no responsibility for data errors resulting from transmission or conversion processes.

Direct all questions regarding Grants.gov registration and submission to: Grants.gov Customer Support Contact Center Phone: 800–518–4726. Business Hours: Monday–Friday, 7 a.m.–9 p.m. Eastern Time. E-mail: *support@grants.gov.*

Applicants have until midnight (12 a.m.), Washington, DC time of the closing date to ensure that their entire application has been uploaded to the Grants.gov site. There are no exceptions to the above deadline. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the grants.gov system, and will be technically ineligible.

Please refer to the Grants.gov Web site, for definitions of various "application statuses" and the difference between a submission receipt and a submission validation. Applicants will receive a validation e-mail from grants.gov upon the successful submission of an application. Again, validation of an electronic submission via Grants.gov can take up to two business days. Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov. ECA will not notify you upon receipt of electronic applications.

Applicants will receive a confirmation e-mail from grants.gov upon the successful submission of an application. ECA will not notify you upon receipt of electronic applications.

It is the responsibility of all applicants submitting proposals via the Grants.gov web portal to ensure that proposals have been received by Grants.gov in their entirety, and ECA bears no responsibility for data errors resulting from transmission or conversion processes.

IV.3g. Intergovernmental Review of Applications: Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards (cooperative

agreement) resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Quality of Program Plan and Ability to Achieve Program Objectives:* Proposals should exhibit originality, innovation, substance, precision, and relevance to the Bureau's mission as well as the objectives of ATDOP. It should include an effective, feasible plan and clearly demonstrate how the institution will meet the program's objectives. A detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity.

2. *Multiplier effect/impact:* The proposed program should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages.

3. *Support for Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of speakers, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

4. *Institutional Capacity and Record:* Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grants Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants. The successful proposal will demonstrate the organization's experience in international educational exchange, intensive asynchronous and synchronous online programs, and teaching English as a foreign language methodology.

5. *Follow-up and Follow-on Activities:* Proposals should discuss provisions made for follow-up with returned participants as a means of establishing longer-term individual and institutional linkages. Proposals also should provide a plan for continued follow-on activity (without Bureau support) ensuring that the Bureau supported programs are not isolated events. Proposals also should include a plan for tracking and maintaining updated lists of all alumni. These lists should be made available to ECA/A/L and the Office of Alumni Affairs.

6. *Program Evaluation:* Proposals should discuss provisions to quantifiably evaluate the program's success, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original program objectives is recommended.

7. *Cost-effectiveness and Cost Sharing:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

VI. Award Administration Information

VI.1a. Award Notices

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive an Federal Assistance Award (FAA) from the Bureau's Grants Office. The FAA and the original cooperative agreement proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The FAA will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.2. Administrative and National Policy Requirements

Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, "Cost Principles for Nonprofit Organizations."

Office of Management and Budget Circular A–21, "Cost Principles for Educational Institutions."

OMB Circular A–87, "Cost Principles for State, Local and Indian Governments".

OMB Circulr No. A–110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutiions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference the following Web sites for additional information:

http://www.whitehouse.gov/omb/grants.
http://exchanges.state.gov/education/grantsdiv/terms.htm#articleI.

VI.3. Reporting Requirements

You must provide ECA with a hard copy original plus one copy of the following reports:

(1) Quarterly program and financial reports;

(2) A final program and financial report no more than 90 days after the expiration of the award;

(3) A concise, one-page final program report summarizing program outcomes no more than 90 days after the expiration of the award. This one-page report will be transmitted to OMB, and be made available to the public via OMB's USAspending.gov website—as part of ECA's Federal Funding Accountability and Transparency Act (FFATA) reporting requirements;

(4) A SF–PPR, "Performance Progress Report" Cover Sheet with all program reports.

Award recipients will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information.

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final Federal Assistance Award.

VII. Agency Contacts

For questions about this announcement, contact: Craig Dicker, Office of English Language Programs, ECA/A/L, Room 4–B015, ECA/A/L, U.S. Department of State, SA–5, 2200 C Street, NW., Washington, DC 20037, *Tel:* 202–632–9277; *Fax:* 202–632–9464, *DickerCL@state.gov.*

All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/A/L–11–05. Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: May 3, 2011.

Ann Stock,

Assistant Secretary for Educational and Cultural Affairs, Bureau of Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 2011–11421 Filed 5–9–11; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 7450]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals; Teacher Exchange Program

Announcement Type: New Cooperative Agreement.

Funding Opportunity Number: ECA/A/S/X–12–01.

Catalog of Federal Domestic Assistance Number: 19.408.

Key Dates: Application Deadline: June 23, 2011.

Executive Summary: The Office of Global Educational Programs of the Bureau of Educational and Cultural Affairs (ECA), U.S. Department of State, announces an open competition for three assistance awards to administer components of the Office's Teacher Exchange Program in Fiscal Year 2012. Public and private non-profit organizations or consortia or other combinations of eligible organizations meeting the provisions described in Internal Revenue Code section 501(c)(3) may submit proposals to cooperate with the Bureau in the administration of the teacher exchange programs as categorized below. To facilitate effective communication between ECA's Teacher Exchange Branch (ECA/A/S/X) and the organization(s) cooperating on these programs, applicant organizations should have offices and staffs located in Washington, DC at the time of application.

In recent years, the Bureau has revised and diversified its programming for teachers consistent with the Bureau's emphasis on reaching younger and underserved, non-elite populations, given the influence teachers can have on these populations in classrooms in the U.S. and around the world. This Request for Grant Proposals is part of an effort to reinforce the Bureau's engagement with primary and secondary school educators and to present a range of teacher program opportunities to potential applicant organizations, which may submit proposals to administer and implement one, two, or all three clusters of the following FY 2012 Teacher Exchange Programs as outlined below (organizations must submit a separate proposal for each cluster for which they apply): Cluster A: The Fulbright Classroom Teacher Exchanges and the Distinguished Fulbright Awards in Teaching; Cluster B: Professional Development Programs for International and U.S. Teachers; and/or Cluster C: the Educational Seminars, the Intensive Summer Language Institutes, and the Teachers of Critical Languages Program. Details about these program components are provided under the Funding Opportunity Description section of this document and in the Project Objectives, Goals, and Implementation (POGI) document associated with this solicitation. Proposals should reflect a vision for the program, interpreting the goals of the Fulbright-Hays Act and the Teacher Exchange Program with creativity, as well as providing innovative ideas and recommendations.

The cooperating organization(s) for each cluster will have responsibility for program administration, which includes the following broad categories: Program planning and management; participant placement; orientation and preparation of participants and host/mentor educators; enrichment activities; participant supervision and support services; fiscal management and budgeting; program reporting and evaluation (including ad hoc program and financial reports as requested by the Teacher Exchange Branch); and alumni programming and follow-on activities. Proposals should include schedules and timelines for notifying ECA, overseas partners, and participants of recruitment cycles, placements, travel arrangements and cross-cultural and program information in a timely manner. Programs must comply with J–1 visa regulations. Teacher exchange participants in the U.S. and abroad should be identified through open, merit-based competitions.

Although the amount that will be available to support these programs in FY 2012 has not yet been determined, for planning purposes the total amount of funding that may be available to cover administrative and program costs of these programs will be up to $14,800,000. The amounts listed for each program are provided below to enable applicant organizations to prepare budgets for planning purposes and are subject to change. More specific information for each program is provided below and in the Project Objectives, Goals, and Implementation (POGI) document. All awards are pending availability of FY 2012 funds.

I. Funding Opportunity Description

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world." The funding authority for the program above is provided through legislation.

Purpose

The purpose of the program is to improve mutual understanding among teachers, school administrators, and their schools and communities in the U.S. and abroad through professional development and exchange. Teacher exchanges support the internationalization of schools and classrooms, increase the quality of classroom instruction, expand the knowledge of students and communities about global issues and cultures, and improve knowledge of English and foreign languages. Teacher exchanges also encourage the professional development of teachers by broadening their familiarity with approaches to their subjects, pedagogical methods, and instructional technologies.

Applicant organizations may propose to administer and implement one, two, or all three clusters of the following teacher exchange program components.

Cluster A

The Presidentially appointed J. William Fulbright Foreign Scholarship

Board is responsible for the two program components in Cluster A, and has issued overall policy guidelines and selection criteria which are available at the following Web site: *http://fulbright.state.gov/fsb/program-policies.* The Fulbright Foreign Scholarship Board is responsible for the final selection of Fulbright candidates. Organizations cooperating with the Bureau must ensure full and proper identification of the Fulbright Program with the U.S. government and the Department of State.

1. Fulbright Classroom Teacher Exchange Program: Under this program component, a teacher from the U.S. and a teacher from a participating foreign country exchange teaching positions and professional duties for a semester or a year. Countries currently anticipated for participation are the Czech Republic, France, Hungary, India, Mexico, Switzerland, and the United Kingdom, although additional countries may be added or deleted, depending on Bureau priorities and the availability of funds. Applicant organizations must demonstrate flexibility and willingness to work with countries that may not be identified at the present time. In this program model, U.S. teachers apply to participate in the program through the cooperating organization; international counterparts apply through a Fulbright Commission or U.S. Embassy overseas, or other overseas partner organization. Recruitment of U.S. participants for the FY 2012 program (academic year 2012–2013) is being conducted with FY 2011 resources by the organization currently administering this program component. FY 2012 proposals should include the funding for the recruitment of participants for academic year 2013–2014. In consultation with the Bureau, the U.S. cooperating organization and the nominating entity overseas will facilitate the matching of U.S. and international teacher applicants with one another for the consideration of relevant supervising school administrators. The cooperating U.S. organization will provide an orientation program for all participants and will monitor and support their programs in consultation with overseas counterparts. In FY 2012, approximately 48 exchanges are anticipated for the 2012–2013 academic year, for an approximate total of 96 teachers. For planning purposes, the amount for program and administration is estimated at up to $2,500,000.

2. The Distinguished Fulbright Awards in Teaching: This program component recognizes and encourages excellence in teaching in the U.S. and selected countries abroad. Countries participating in the program in FY 2012 may include Argentina, Finland, India, Israel, Mexico, Morocco, Singapore, South Africa, and the United Kingdom, although countries may be added or deleted from the list depending on Bureau priorities and the availability of funds. Applicant organizations must demonstrate flexibility and the willingness to work with countries that may not be identified at the present time. These awards provide a rich professional growth opportunity to the Distinguished Fulbright Teachers while enhancing mutual understanding among international and U.S. teachers, administrators, their students, and host communities. Teachers from participating countries are nominated by a U.S. Embassy or Fulbright Commission to pursue projects in the U.S. during the fall semester, and U.S. teachers apply to the U.S. cooperating organization to pursue individual projects in the participating countries for a period of 3 to 6 months. The Distinguished Fulbright Teachers conduct research, take courses for professional development, and lead master classes or seminars for teachers and students in the host countries. Based on proposals submitted by U.S. teachers to conduct these activities in specific eligible countries, the U.S. Embassy, Fulbright Commission, or other organization as applicable in each participating country will facilitate a relevant academic or professional affiliation in consultation with each U.S. Distinguished Teacher. The U.S. cooperating organization should propose a U.S. university to provide the international Distinguished Teachers with broad-ranging access to faculty resources, schools, and other educational opportunities. For FY 2012, a program for approximately twenty international teachers in the fall of 2012 is anticipated; twenty U.S. teachers are anticipated to participate in the program for periods ranging from 3 to 6 months between August 2012 and August 2013. For planning purposes, the amount for program and administration is estimated at up to $1,900,000.

Cluster B

3. Professional Development Program for International Teachers: This program component brings international secondary school teachers from a wide range of countries and regions to U.S. universities for six weeks or a semester to develop teaching skills, to increase subject-matter expertise, and to pursue coursework and practical teaching experiences in American high schools. The six-week component for teachers is known as Teaching Excellence and Achievement and the semester-long component is known as International Leaders in Education. This solicitation consolidates their administration and anticipates additional possibilities for fluidity and synergy.

The international teachers gain an in-depth understanding of U.S. schools, universities, and culture, share information about their home countries with U.S. audiences, and prepare training workshops for colleagues after returning to their home countries. Participants are teachers of English, math, science and social studies although the majority of participants are teachers of English as a Foreign Language.

Fulbright Commissions and U.S. Embassies are responsible for recruiting applicants and nominating candidates. The cooperating U.S. organization will be responsible for reviewing applications for technical eligibility; and for convening independent committees to recommend candidates for approval by ECA (for the semester-long program only). This organization will also be responsible for identifying appropriate host universities through a national competition; organizing a three-day orientation session and a three-day end-of-program review in Washington, DC; and actively monitoring program implementation at host universities and schools.

International teachers in the U.S. for a semester audit two courses relevant to their teaching fields at U.S. graduate schools. Placed in cohorts of approximately 15–16 participants, the teachers help to internationalize courses, collaborate with U.S. professors of education and practicing U.S. teachers, attend professional development and technology seminars, workshops, and conferences on education-related and pedagogical topics designed especially for them, and teach or team-teach for ninety hours in U.S. secondary school classrooms in cooperation with experienced U.S. partner teachers.

The six-week model facilitates the participation of teachers who cannot participate in a longer program due to family or professional responsibilities. The program model is also attractive to some foreign ministries of education that cannot release teachers for longer periods.

Placed in cohorts of approximately 20–22 during the spring or fall semester, six-week program participants take part in intensive seminars and teach or job-shadow for forty hours in U.S. secondary schools under the guidance of experienced mentor teachers or administrators.

For FY 2012, approximately 75 teachers will come to the U.S. for a semester in the spring of 2013. Approximately 210 teachers are expected for six weeks in multi-national cohorts in the spring and fall of 2013. In addition, approximately 18–20 student teachers of English from Turkey are expected in a separate cohort in the summer of 2012 at a school of education at a U.S. university for a six-week program of academic seminars and practical teaching internships at U.S. high schools with partner teachers. For planning purposes, the amount for program and administration of this program is estimated at approximately $6,630,000.

4. Professional Development Program for U.S. teachers: Five cohorts of approximately ten U.S. teachers (for a total of 50 teachers) travel to approximately five countries for two weeks in the spring of 2013 or three weeks in the summer of 2013 to visit the home schools of selected international teacher alumni, to develop lesson plans on courses for use in U.S. classrooms, and to gain a deeper understanding of the educational systems and cultures of the host countries. To prepare for the visits, U.S. teachers also participate in online workshops, group meetings, and mentored preparation administered by the U.S. cooperating partner organization with the goal of maximizing the eventual integration of the participants' experience with U.S. classroom activities and curricula. For planning purposes, the amount available for program and administration is estimated at up to approximately $540,000.

Cluster C

5. Educational Seminars:

(a) Seminar on U.S. Education for International Educators: Teachers, administrators and other educators travel to the U.S. to learn about the U.S. educational system in a three-week seminar that includes work shadowing arrangements with U.S. partner educators in U.S. schools. Currently anticipated for participation in the seminar are Argentina, Brazil, and Uruguay; countries may be added or dropped, depending on Bureau priorities. Applicant organizations must demonstrate the flexibility and willingness to work in countries that may not be identified at the present time. These seminars provide an introduction to the U.S. educational system and to U.S. society and culture. Fulbright Commissions, U.S. Embassies, or other partner organizations in participating countries recruit and select international educators for the seminars; the U.S. cooperating organization is responsible for recruiting and selecting geographically and socially diverse U.S. candidates to host the international educators, for implementing a three-day orientation in Washington, DC, and for conducting an end-of-program review. Seminars will require translation and interpretation services as noted in the POGI. For FY 2012, approximately 45 international participants are anticipated for a seminar to be held in October, 2012. For planning purposes, the amount for program and administration is estimated at up to approximately $590,000.

(b) Seminars for U.S. Educators on International Education: U.S. educators from the host schools for the Seminar for International Educators on U.S. Education will travel in cohorts of six to twelve participants to the host countries for three weeks in summer 2013 to share best practices, engage in professional development, shadow their international colleagues, and work on collaborative projects with their international partners. Seminars are organized by the Fulbright Commission or the U.S. Embassy in the host country. The U.S. cooperating organization is responsible for organizing pre-departure orientations and coordinating travel arrangements. For FY 2012, approximately 24 U.S. participants are anticipated. For planning purposes, the amount for program and administration is estimated at up to approximately $380,000.

(c) Classics Seminars for U.S. Teachers: Approximately 16 U.S. secondary school teachers of Greek, Latin, or the Classics attend intensive courses lasting from six to eight weeks in the summer of 2012 and organized by the Fulbright Commissions and non-profit partner organizations in Greece and Italy. The Fulbright Commissions arrange orientation meetings for the participants upon their arrival in Greece and Italy. The U.S. cooperating organization is responsible for notifying participants of their selection, coordinating transportation arrangements, and providing participants with maintenance allowances. For planning purposes, the amount for program and administration is estimated at up to approximately $110,000.

(d) Approximately 10 U.S. teachers will travel to India for a four-week summer program with Indian teachers and students. The U.S. cooperating organization is responsible for administering an open competition to select the participants, and for administering their awards. The Fulbright Commission in India organizes the program in Indian schools for discussions, team-teaching, and observation of best practices with Indian counterpart teachers. For planning purposes, the amount for program and administration is estimated at up to approximately $110,000.

Recruitment of U.S. participants for the FY 2012 Educational Seminars is being undertaken by an incumbent organization with FY 2011 resources. Proposals for FY 2012 should support the costs of recruitment for the 2013 seminars.

6. Intensive Summer Language Institutes (ISLI): U.S. Kindergarten through grade 12 (K–12) teachers and community college instructors of Mandarin and Arabic study these languages intensively abroad. The U.S. cooperating organization is responsible for recruiting and selecting approximately 20 U.S. teachers; implementing a one-day orientation in Washington, DC; and overseeing an end-of-program review. The cooperating organization partners with academic institutions in the People's Republic of China and in an Arabic-speaking country to provide language instruction for academic credit under the supervision of a U.S. Resident Director, who also oversees in-country orientations at the institute sites, peer language tutors, home hospitality visits, cultural excursions, and curriculum projects. Language materials, shipping allowances, and follow-on grants are also features of this program. For planning purposes, the amount for program and administration of the summer language institutes is estimated at up to approximately $360,000.

7. Teachers of Critical Languages Program (TCLP): Approximately 16 teachers from China and 10 teachers from Egypt teach Chinese and Arabic in U.S. elementary and secondary schools for the 2012–13 academic year. The cooperating U.S. organization recruits U.S. host schools, oversees the placement of Chinese and Arabic teachers, provides a comprehensive two-week orientation session in the U.S. on relevant U.S. pedagogical, educational, and social issues, and monitors and supports the teachers and their engagement with the U.S. host schools. The cooperating organization is responsible for issuing a sub-award to a partner organization in each partner country to assist with recruitment and selection of teachers in China and Egypt. For planning purposes, the amount for program and administration is estimated at up to approximately $1,680,000.

Program Administration

In a Cooperative Agreement, ECA/A/S/X is substantially involved in program activities above and beyond routine monitoring. Bureau activities and responsibilities for all seven teacher exchange program components in all three clusters include:

(1) Participation in the design and direction of program activities;

(2) Approval of key personnel;

(3) Approval and input on program timelines, agendas and administrative procedures;

(4) Guidance in execution of all program components;

(5) Review and approval of all program publicity and recruitment materials;

(6) Approval of participating teachers and administrators, in cooperation with Fulbright commissions, U.S. embassies, and other partner organizations (Fulbright program candidates are also subject to selection by the J. William Fulbright Scholarship Board);

(7) Approval of decisions related to special circumstances or problems throughout the duration of the program;

(8) Assistance with non-immigration status and other SEVIS-related issues;

(9) Assistance with participant emergencies;

(10) Liaison with relevant U.S. embassies, Fulbright commissions and country desk officers at the State Department.

Programs must conform with Bureau requirements and guidelines outlined in the Solicitation Package which includes the Request for Grant Proposals (RFGP), the Project Objectives, Goals and Implementation (POGI) and the Proposal Submission Instructions (PSI).

Cooperating Agency Responsibilities

For all clusters, the cooperating agency or agencies is/are responsible for various aspects of outreach, recruitment, and screening of applicants; SEVIS duties and preparation of form DS–2019 under a G Program Number under the Bureau's responsibility on behalf of the Teacher Exchange Branch; orientation programs, professional in-service meetings, and debriefings; placement and, as required for the classroom teacher exchanges and some of the Educational Seminars, matching U.S. teachers with international counterparts; briefing and training/orientation of host U.S. educators and mentor teachers; monitoring, supervision, and support of participants; administering sub-award competitions as necessary; and fiscal management, evaluation, and follow-on and alumni activities for the program components described above. Please see the POGI for details pertaining to these activities for each program component. The Bureau's program office and the cooperating agency or agencies will meet regularly regarding program implementation. The Bureau's program office and the cooperating agency or agencies will also maintain regular telephone, email, and fax communications with each other.

Additional Guidelines

Applicant organizations should submit separate proposals with budgets and narratives outlining a comprehensive strategy for the administration and implementation of each cluster of program components for which they are applying: (Cluster A: Fulbright Classroom Teacher Exchanges/Distinguished Fulbright Awards in Teaching; Cluster B: Professional Development Program for International Teachers/Professional Development Program for U.S. Teachers; Cluster C: Educational Seminars/Intensive Summer Language Institutes/Teachers of Critical Languages Programs. Organizations may apply for more than one cluster of components: a separate proposal must be submitted for each program cluster. Organizations may not apply to administer program components except in the combinations prescribed for each cluster. Proposals should reflect a vision for the programs, interpreting the goals of the Fulbright-Hays Act and the Teacher Exchange Program with creativity, as well as providing innovative ideas and recommendations. The Bureau places a priority on ensuring that the positive impact of the Teacher Exchange Program is visible to the public in U.S. and host school communities. Applicant organizations should outline a plan to work with the media and other organizations, in close consultation with the Bureau, to ensure that the program and its awards and achievements receive appropriate publicity.

The narrative portion of the proposal for each cluster of program components should not exceed 20 pages. Proposals may utilize appendices to illustrate elements of the narrative.

Applicants must also provide a separate administrative and program budget for each program cluster. Organizations should submit a separate budget and narrative for each program within each cluster of programs for which they apply. Where possible, proposals should reflect economies of scale and should demonstrate administrative efficiencies.

Please refer to the Solicitation Package for further information.

II. Award Information

Type of Award: Cooperative Agreement(s). ECA's level of involvement in this program is listed under number I above.

Fiscal Year Funds: 2012.

Approximate Total Funding: $14,800,000 pending availability of funds.

Approximate Number of Awards: 3 awards.

Anticipated Award Date: Pending availability of funds, October 1, 2011.

Anticipated Project Completion Date: September 30, 2015.

Additional Information: Pending successful implementation of this program and the availability of funds in subsequent fiscal years, it is ECA's intent to renew the agreements for a period of two additional fiscal years, before openly competing the programs again.

III. Eligibility Information

III.1. Eligible Applicants

Applications may be submitted by public and private non-profit organizations or consortia of institutions meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

Consortia of eligible organizations applying for grants should designate one organization to be the recipient of the Cooperative Agreement award. Proposals from consortia should provide a detailed description of the responsibilities of each partner organization. Organizations with primary responsibility for any of the seven program components must have a staff based in Washington, DC, at the time of application.

III.2. Cost Sharing or Matching Funds

There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs which are claimed as your contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110,

(Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. Other Eligibility Requirements

Bureau grant guidelines require that organizations with less than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. ECA anticipates awarding three Cooperative Agreement awards in (an) amount(s) over $60,000 to support program and administrative costs required to implement this exchange program. Therefore, organizations with less than four years experience in conducting international exchanges are ineligible to apply under this competition. The Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

IV. Application and Submission Information

Note: Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1. Contact Information To Request an Application Package

Please contact Ms. Patricia Mosley in the Teacher Exchange Branch, ECA/A/S/X, SA–5, 4th floor, U.S. Department of State, 2200 C St., NW., Washington, DC 20037, telephone: (202) 632–6338 and fax number: (202) 632–9479, e-mail: *mosleypj@state.gov,* to request a Solicitation Package. Please refer to the Funding Opportunity Number ECA/A/S/X–12–01 located at the top of this announcement when making your request.

Alternatively, an electronic application package may be obtained from www.grants.gov. Please see section IV.3f. for further information.

The Solicitation Package contains the Proposal Submission Instruction (PSI) document which consists of required application forms and standard guidelines for proposal preparation.

It also contains the Project Objectives, Goals and Implementation (POGI) document, which provides specific information, award criteria and budget instructions tailored to this competition.

Please specify Michael Kuban and refer to the Funding Opportunity Number (ECA/A/S/X–12–01) located at the top of this announcement on all other inquiries and correspondence.

IV.2. To Download a Solicitation Package Via the Internet

The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/grants/open2.html* or from the Grants.gov Web site at *http://www.grants.gov.*

Please read all information before downloading.

IV.3. Content and Form of Submission

Applicants must follow all instructions in the Solicitation Package. The application should be submitted per the instructions under IV.3f. "Application Deadline and Methods of Submission" section below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or Cooperative Agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call (1–866) 705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF—424 which is part of the formal application package.

IV.3b. All proposals must contain one executive summary, one proposal narrative, and a separate budget for each program within the program cluster(s) for which the applicant applies. Applicant organizations may apply to administer cluster A, B or C; however, organizations must submit a separate proposal for each cluster for which they are applying. The proposal narrative for each program cluster should not exceed twenty (20) double-spaced pages in length.

Please Refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document and the Project Objectives, Goals and Implementation (POGI) document for additional formatting and technical requirements.

IV.3c. All federal award recipients and sub-recipients must maintain current registrations in the Central Contractor Registration (CCR) database and have a Dun and Bradstreet Data Universal Numbering System (DUNS) number. Recipients and sub-recipients must maintain accurate and up-to-date information in the CCR until all program and financial activity and reporting have been completed. All entities must review and update the information at least annually after the initial registration and more frequently if required information changes or another award is granted.

You must have nonprofit status with the IRS at the time of application. **Please note:** Effective January 7, 2009, all applicants for ECA federal assistance awards must include in their application the names of directors and/or senior executives (current officers, trustees, and key employees, regardless of amount of compensation). In fulfilling this requirement, applicants must submit information in one of the following ways:

(1) Those who file Internal Revenue Service Form 990, "Return of Organization Exempt From Income Tax," must include a copy of relevant portions of this form.

(2) Those who do not file IRS Form 990 must submit information above in the format of their choice.

In addition to final program reporting requirements, award recipients will also be required to submit a one-page document, derived from their program reports, listing and describing their grant activities. For award recipients, the names of directors and/or senior executives (current officers, trustees, and key employees), as well as the one-page description of grant activities, will be transmitted by the State Department to OMB, along with other information required by the Federal Funding Accountability and Transparency Act (FFATA), and will be made available to the public by the Office of Management and Budget on its USASpending.gov website as part of ECA's FFATA reporting requirements.

If your organization is a private nonprofit which has not received a grant or Cooperative Agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1. Adherence to All Regulations Governing the J Visa

The Bureau of Educational and Cultural Affairs places critically important emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantees and sponsors to all regulations governing the J visa. Therefore, proposals should demonstrate the applicant's capacity to meet all requirements governing the administration of the Exchange Visitor Programs as set forth in 22 CFR part 62, including the oversight of Responsible

Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, record-keeping, reporting and other requirements.

The Grantee will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from:

Office of Designation, Private Sector Programs Division, U.S. Department of State, ECA/EC/D/PS, SA–5, 5th Floor, 2200 C Street, NW., Washington, DC 20037.

Please refer to Solicitation Package for further information.

IV.3d.2. Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. "Diversity" should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the "Support for Diversity" section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that "in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy," the Bureau "shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries." Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. Program Monitoring and Evaluation

Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposal include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the recipient organization will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are "smart" (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program *outputs* and *outcomes. Outputs* are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. *Outcomes,* in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

1. Participant satisfaction with the program and exchange experience.

2. Participant learning, such as increased knowledge, aptitude, skills, and changed understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.

3. Participant behavior, concrete actions to apply knowledge in work or community; greater participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued contacts between participants, community members, and others.

4. Institutional changes, such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (i.e., surveys, interviews, or focus cluster(s)). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Recipient organizations will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3d.4. Describe your plans for: i.e. sustainability, overall program management, staffing, coordination with ECA and PAS or any other requirements, etc.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3e.1. Applicants must submit SF–424A—"Budget Information—Non-Construction Programs" along with a comprehensive budget for the entire program. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification. It is anticipated that funding for the Cooperative Agreement awards for program administration of the three clusters of teacher exchange programs described here will be approximately $14,800,000.

IV.3e.2. Allowable costs and additional budget guidance are outlined in detail in the POGI document. Please refer to the Solicitation Package for

complete budget guidelines and formatting instructions.

IV.3f. Application Deadline and Methods of Submission:

Application Deadline Date: June 23, 2011

Reference Number: ECA/A/S/X–12–01

Methods of Submission:

Applications may be submitted in one of two ways:

1. In hard-copy, via a nationally recognized overnight delivery service (i.e., DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or

2. Electronically through *http://www.grants.gov.*

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1. Submitting Printed Applications

Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will not notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages may not be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to "ECA/EX/PM".

The original and 10 copies of the application should be sent to: Program Management Division, ECA–IIP/EX/PM, Ref.: ECA/A/S/X–12–01, SA–5, Floor 4, Department of State, 200 C Street, NW., Washington, DC 20037.

IV.3f.2. Submitting Electronic Applications

Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the "Find" portion of the system.

Please follow the instructions available in the "Get Started" portion of the site (*http://www.grants.gov/GetStarted*).

Several of the steps in the Grants.gov registration process could take several weeks. Therefore, applicants should check with appropriate staff within their organizations immediately after reviewing this RFGP to confirm or determine their registration status with Grants.gov.

Once registered, 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. In addition, validation of an electronic submission via Grants.gov can take up to two business days.

Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov.

The Grants.gov website includes extensive information on all phases/aspects of the Grants.gov process, including an extensive section on frequently asked questions, located under the "For Applicants" section of the website. ECA strongly recommends that all potential applicants review thoroughly the Grants.gov website, well in advance of submitting a proposal through the Grants.gov system. ECA bears no responsibility for data errors resulting from transmission or conversion processes.

Direct all questions regarding Grants.gov registration and submission to: Grants.gov Customer Support, Contact Center Phone: (800) 518–4726, Business Hours: Monday–Friday, 7 a.m.–9 p.m. Eastern Time, Email: *support@grants.gov.*

Applicants have until midnight (12 a.m.), Washington, DC time of the closing date to ensure that their entire application has been uploaded to the Grants.gov site. There are no exceptions to the above deadline. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the grants.gov system, and will be technically ineligible.

Please refer to the Grants.gov website, for definitions of various "application statuses" and the difference between a submission receipt and a submission validation. Applicants will receive a validation e-mail from grants.gov upon the successful submission of an application. Again, validation of an electronic submission via Grants.gov can take up to two business days. Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov. ECA will not notify you upon receipt of electronic applications.

It is the responsibility of all applicants submitting proposals via the Grants.gov web portal to ensure that proposals have been received by Grants.gov in their entirety, and ECA bears no responsibility for data errors resulting from transmission or conversion processes.

IV.3g. Intergovernmental Review of Applications: Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for Cooperative Agreements resides with the Bureau's Grants Officer.

V.2. Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Quality of the program idea:* Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission. Proposals should demonstrate a commitment to excellence and creativity in the implementation and management of this program in its various formats, including the recruitment, matching, and placement of U.S. and international teachers and administrators, quality of professional and pre-academic

workshops, and effectiveness of program design.

2. *Program planning:* Proposals should respond precisely to the planning requirements outlined in the RFGP and POGI. Planning should demonstrate substantive rigor. Detailed agendas and relevant work plans, including timelines, should demonstrate feasibility and the applicant's logistical capacity to implement the programs.

3. *Ability to achieve program objectives:* Proposals should demonstrate clearly how the applicant will fulfill the programs' objectives and implement plans, while demonstrating innovation and a commitment to academic excellence and programmatic impact. Proposals should demonstrate a capacity for flexibility in the management of the programs.

4. *Institutional Capacity:* Proposed personnel and institutional resources should be adequate and appropriate to achieve program goals. Applicants should demonstrate established links to secondary schools and institutions of higher education in the U.S and knowledge of the overseas educational environment, particularly an awareness of conditions in societies and educational institutions outside the United States as they apply to academic exchange programs. Applicants should demonstrate prior experience or the capacity to negotiate significant cost savings for international teachers from American institutions. Applicants should also demonstrate their capacity to provide an information management/database system that meets program requirements, is compatible with the Bureau's systems, and provides for electronic applications, electronic data storage, and electronic payment of maintenance allowances. In its review of proposals, the Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants.

5. *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (recruitment and selection of participants, placements, and program evaluation) and program content (orientation programs, professional meetings, debriefings). Proposals should articulate a diversity plan, not just a statement of compliance.

6. *Project Evaluation:* Proposals should include a plan to evaluate the programs' success, both as the activities unfold and at the end of the programs. The Bureau recommends that proposals include a draft survey questionnaire or other instrument plus description of a methodology to use to link outcomes to original objectives.

7. *Cost-effectiveness/Cost-sharing:* The overhead and administrative components of the proposal, including salaries, should be kept as low as possible while adequate and appropriate to provide the required services. Proposals should document plans to realize innovative cost-sharing, cost-savings and other efficiencies through use of technology, administrative streamlining, and other management techniques. Private sector support as well as institutional direct funding contributions are encouraged.

VI. Award Administration Information

VI.1a. Award Notices

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive a Federal Assistance Award (FAA) from the Bureau's Grants Office. The FAA and the original proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The FAA will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.2. Administrative and National Policy Requirements

Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A 122, "Cost Principles for Nonprofit Organizations."

Office of Management and Budget Circular A–21, "Cost Principles for Educational Institutions."

OMB Circular A–87, "Cost Principles for State, Local and Indian Governments".

OMB Circular No. A 110 (Revised), Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations

Please reference the following Web sites for additional information: *http://www.whitehouse.gov/omb/grants; http://fa.statebuy.state.gov.*

VI.3. Reporting Requirements

You must provide ECA with a hard copy original plus two copies of the following reports:

(1) An annual program report no more than 90 days after the end of each fiscal year for awards longer than one year;

(2) A final program and financial report no more than 90 days after the expiration of the award;

(3) A concise, one-page final program report summarizing program outcomes no more than 90 days after the expiration of the award. This one-page report will be transmitted to OMB, and be made available to the public via OMB's USAspending.gov Web site—as part of ECA's Federal Funding Accountability and Transparency Act (FFATA) reporting requirements.

(4) A SF–PPR, "Performance Progress Report" Cover Sheet with all program reports.

(5) Quarterly financial reports.

Award recipients will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information.)

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VII. Agency Contacts

For questions about this announcement, contact: Mr. Michael Kuban, Teacher Exchange Branch, ECA/A/S/X–12–01, U.S. Department of State, SA–5, 4th floor, 2200 C Street, NW., Washington, DC 20037, *phone:* (202) 632–6346, *fax:* (202) 632–9479; *e-mail: Kubanmm@state.gov.*

All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/A/S/X–12–01.

Please read the complete announcement before sending inquiries or submitting proposals. All inquiries about the RFGP or any aspect of the Teacher Exchange Program should be submitted in writing via e-mail to Mr. Kuban. Any questions or requests for information from overseas Fulbright commissions or Public Affairs Sections

of U.S. embassies should be submitted in writing via e-mail to Ms. Mosley for transmission to those overseas offices. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice: The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: May 3, 2011.

Ann Stock,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 2011–11432 Filed 5–9–11; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 7440]

Extension of Accreditation Agreement With Colorado Department of Human Services Under the Intercountry Adoption Act of 2000

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The Department of State (the Department) is the lead Federal agency for implementation of the 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (the Convention) and the Intercountry Adoption Act of 2000 (IAA). Among other things, the IAA gives the Secretary of State responsibility for the accreditation of agencies and approval of persons to provide adoption services under the Convention. On June 29, 2006, the Department exercised its authority under the IAA and entered into agreement with the Colorado Department of Human Services (CDHS) under which the Department designated CDHS as an accrediting entity. This notice is to inform the public that on January 4, 2011, the Department extended the duration of the agreement with CDHS for an additional two years, pursuant to Article 10 of the Memorandum of Agreement Between the U.S. Department of State and the Colorado Department of Human Services Regarding Performance of Duties as an Accrediting Entity Under the Intercountry Adoption Act of 2000.

The text of the Memorandum of Agreement signed on June 29, 2006 by Maura Harty, Assistant Secretary for Consular Affairs, U.S. Department of State, and Marva Livingston Hammons, Executive Director, Department of Human Services, State of Colorado has not been revised. It is included in its entirety at the end of this Notice. Also included at the end of the Memorandum of Agreement is the text of the Extension of Agreement.

FOR FURTHER INFORMATION CONTACT: Mikiko Stebbing at 202–736–9119. Hearing or speech-impaired persons may use the Telecommunications Devices for the Deaf (TDD) by contacting the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Department, pursuant to section 202(a) of the IAA, must enter into at least one agreement to designate an accrediting entity. Accrediting entities may be (1) Nonprofit private entities with expertise in developing and administering standards for entities providing child welfare services; or (2) State adoption licensing bodies that have expertise in developing and administering standards for entities providing child welfare services and that accredit only agencies located in that State. CDHS is a State adoption licensing body with expertise in developing and administering standards for entities providing child welfare services and only accredits agencies located in the State of Colorado.

The final rule on accreditation and approval of agencies and persons (22 CFR Part 96) was published in the **Federal Register** 971 FR 8064–8066, February 15, 2006) and became effective on March 17, 2006. The final rule establishes the regulatory framework for the accreditation and approval function and provides the standards that the designated accrediting entities will follow in accrediting or approving adoption service providers.

The Department extended the agreement with CDHS pursuant to Article 10 of the Memorandum of Agreement after observing satisfactory performance of duties by CDHS as an accrediting entity through its continued compliance with the regulations set forth in Title 8 of the Code of Federal Regulations, Part 96, and concluding to its satisfactory performance through the Department's ongoing monitoring and yearly annual performance review.

Memorandum of Agreement Between the U.S. Department of State, Bureau of Consular Affairs and the Colorado Department of Human Services Parties and Purpose of the Agreement

The Department of State, Bureau of Consular Affairs (Department) and the Colorado Department of Human Services (Colorado), with its principal office located at 1575 Sherman Street, Denver, CO 80203–1714, hereinafter the "Parties," are entering into this agreement for the purpose of designating Colorado as an accrediting entity under the Intercountry Adoption Act of 2000 (IAA), Public Law 106–279 and 22 CFR Part 96.

Authorities

The Department enters into this agreement pursuant to Sections 202 and 204 of the IAA, 22 CFR Part 96, and Delegation of Authority 261. Colorado has full authority to enter into this MOA pursuant to Colorado Revised Statutes § 26–6–104(6.5), a copy of which is attached hereto as Attachment 1. The Executive Director of the Colorado Department of Human Services is authorized to sign on Colorado's behalf.

Definitions

For purposes of this memorandum of agreement, terms used here that are defined in 22 CFR 96.2 shall have the same meaning as they have in 22 CFR 96.2. In addition, the terms "transitional application deadline" (TAD) and "deadline for initial accreditation or approval" (DIAA) shall have the meaning given them in 22 CFR 96.19 and "uniform notification date" (UND) shall have the meaning given it in 22 CFR 96.58.

The Parties agree as follows:

Article 1—Designation and Jurisdiction of the Accrediting Entity

The Department hereby designates Colorado as an accrediting entity and thereby authorizes it to accredit (including temporarily accredit) agencies and approve persons that are located in Colorado and that are licensed as a child placement agency in the State of Colorado, in accordance with the procedures and standards set forth in 22 CFR Part 96, and to perform all of the accrediting entity functions set forth in 22 CFR 96.7.

Article 2—Accreditation Responsibilities and Duties of the Accrediting Entity

(1) Colorado agrees to perform all accrediting entity functions set forth in

22 CFR 96.7(a) and to perform its functions in accordance with the Convention, the IAA, Part 96 of 22 CFR and any other applicable regulations, and as additionally specified in this agreement. In performing these functions, Colorado will operate under policy direction from the Department regarding U.S. obligations under the Convention and regarding the functions and responsibilities of an accrediting entity.

(2) Colorado will take appropriate staffing, funding, and other measures to allow it to carry out all of its functions and fulfill all of its responsibilities, and will use the Adoptions Tracking System and the Hague complaint registry (ATS/HCR) as directed by the Department, including by updating required data fields in a timely fashion.

(3) In carrying out its accrediting entity functions Colorado will:

(a) Prepare to accept applications by the TAD by expending its own funds and other resources for materials development, staff training, travel and meeting attendance in advance of receiving any fees for its services as an accrediting entity;

(b) Make decisions on accreditation and approval in accordance with the procedures set forth in 22 CFR Part 96 and using only the standards in subpart F of 22 CFR Part 96 and the substantial compliance weighting system approved by the Department pursuant to Article 3, paragraph 5, below;

(c) Make decisions on temporary accreditation in accordance with the procedures and standards in subpart N of 22 CFR Part 96 and the procedures presented to the Department pursuant to Article 3, paragraph 3, subsection (a), below;

(d) Charge applicants for accreditation, approval, or temporary accreditation only fees approved by the Department pursuant to Article 3, paragraph 4 below;

(e) Consistent with 22 CFR 96.19 and 96.97, use its best efforts to evaluate and decide by the DIAA all applications for accreditation, temporary accreditation, or approval that were submitted by the TAD;

(f) Review complaints, including complaints regarding conduct alleged to have occurred abroad, in accordance with subpart J of 22 CFR Part 96 and the additional procedures approved by the Department pursuant to Article 3, paragraph 3, subsections (c) and (d) below. Colorado will exercise its discretion in determining which methods are most appropriate to review complaints regarding conduct alleged to have occurred abroad.

(g) Take adverse actions against accredited agencies, temporarily accredited agencies, and approved persons in accordance with subparts K and N of 22 CFR Part 96, and cooperate with the Department in any case in which the Department considers exercising its adverse action authorities because the accrediting entity has failed or refused after consultation with the Department to take what the Department considers to be appropriate enforcement action;

(h) Assume full responsibility for defending adverse actions in court proceedings, if challenged by the adoption service provider or the adoption service provider's board or officers;

(i) Refer an adoption service provider to the Department for debarment if, but only if, it concludes after investigation that the adoption service provider's conduct meets the standards for action by the Secretary set out in 22 CFR 96.85;

(j) Promptly report any change in the accreditation (including temporary accreditation) or approval status of an adoption service provider to the relevant state licensing authority.

(k) Maintain and use only the required procedures approved by the Department and those procedures presented to the Department pursuant to Article 3 of this agreement whenever they apply.

Article 3—Preparatory Tasks (Tasks Preceding the Transitional Application Deadline)

(1) *Accreditation Materials and Training:* In coordination with any other designated accrediting entities, by a date agreed upon by the Parties, Colorado will:

(a) Develop forms, training materials, and evaluation practices;

(b) Determine whether joint training of evaluators or other personnel is practical, and, if so, assist in conducting or participate in any joint training sessions;

(c) Develop explanatory guidance to assist applicants for accreditation, temporary accreditation, and approval in achieving substantial compliance with the applicable standards.

(2) *Development of Internal Review Procedure:* Colorado will develop and present to the Department for approval, by a date agreed upon by the Parties, procedures that it will maintain and use to determine whether to terminate adverse actions against an accredited agency or approved person on the grounds that the deficiencies necessitating the adverse action have been corrected. Colorado will develop and present to the Department, by a date agreed upon by the Parties, procedures that it will maintain and use:

(a) To evaluate whether a candidate for temporary accreditation meets the applicable eligibility requirements set forth in 22 CFR 96.96;

(b) To carry out its annual monitoring duties;

(c) To review thoroughly complaints or information referred to it through the Hague Complaint Registry or from the Department directly, including procedures for obtaining complete and accurate information about conduct alleged to have occurred abroad;

(d) To review complaints that it receives about its own actions as an accrediting entity for Hague adoption service providers;

(e) To make the public disclosures required by 22 CFR 96.91; and

(f) To ensure the reasonableness of charges for the travel and maintenance of its site evaluators, such as for travel, meals and accommodations.

(4) *Fee Schedule Development:*

(a) Colorado will develop a fee schedule for accreditation, temporary accreditation, and approval services that meets the requirements of 22 CFR 96.8. Fees will be set based on the principle of recovering no more than the full cost, as defined in OMB Circular A–25 paragraph 6(d)(1), of accreditation, temporary accreditation, and approval services. Colorado will submit a fee schedule developed using this methodology together with comprehensive documentation justifying the proposed fees to the Department for approval by a date agreed upon by the Parties.

(b) The approved fee schedule can be amended with the approval of the Department.

(5) *Substantial Compliance Weighting Systems Development:*

(a) Colorado will develop a substantial compliance weighting system as described in 22 CFR 96.27, and will submit it to the Department for approval by a date agreed upon by the Parties.

(b) Colorado will develop a separate substantial compliance weighting system to be used in evaluating temporarily accredited agencies that incorporates the performance standards in 22 CFR 96.104 and will submit it to the Department for approval by a date agreed upon by the Parties.

(c) In developing the systems described in paragraphs (a) and (b) of this section, Colorado will coordinate with any other accrediting entities, and consult with the Department to ensure consistency between the systems used by accrediting entities. These systems

can be amended with the approval of the Department.

Article 4—Initial Accreditation (Including Temporary Accreditation) and Approval Tasks

(1) The Department will consult with Colorado and all other accrediting entities before establishing the transitional application deadline (TAD), the uniform notification date (UND), and the deadline for initial accreditation or approval (DIAA).

(2) Within an agreed number of days following the TAD, Colorado will make public the names and addresses of agencies and persons that have applied to be accredited (including temporarily accredited) or approved, provide a mechanism for the public to comment on applicants, and consider comments received from the public in its decisions on applicants. With respect to additional applications received prior to entry into force of the Convention, Colorado will make the names of such applicants public within an agreed number of days following receipt. Colorado will consider any public comments in its decisions on the additional applicants.

(3) In conformity with 22 CFR 96.58, Colorado will not release its accreditation (including temporary accreditation) and approval decisions prior to the UND. Colorado will prepare the list of decisions to be announced on the UND and transmit the information as directed by the Department. Colorado will immediately notify the Department of any corrections, so that the Department may rely upon this list in compiling the list of initially accredited and approved adoption service providers that it will deposit with the Permanent Bureau of the Hague Conference on Private International Law.

Article 5—Data Collection, Reporting and Records

(1) *Adoptions Tracking System/Hague Complaint Registry (ATS/HCR):*

(a) Colorado will maintain and fund a computer and Internet connection for use with the ATS/HCR that meets system requirements set by the Department;

(b) The Department will provide software or access tokens needed by individuals for secure access to the ATS/HCR and facilitate any necessary training in use of the ATS/HCR;

(c) Colorado will ensure that only individuals that the Department has approved for access have access to the ATS/HCR and to any secure access tokens or passwords.

(2) *Annual Report:* Colorado will report on dates agreed upon by the Parties, in the format specified by the Department, the information required in 22 CFR 96.93 as provided in that section through ATS/HCR.

(3) *Additional Reporting:* Colorado will provide any additional status reports or data as required by the Department, and in the format required by the Department.

(4) *Accrediting Entity Records:* Colorado will retain all records related to its accreditation functions and responsibilities for a minimum of six years after their creation, or until any litigation, claim or audit related to the records filed or noticed within the six year period is finally terminated, whichever is longer.

Article 6—Department Oversight and Monitoring

(1) *Accrediting Entity Obligations:* To facilitate oversight and monitoring by the Department, Colorado will:

(a) Provide copies of its forms and other materials to the Department and give Department personnel the opportunity to participate in any training sessions for its evaluators or other personnel;

(b) Allow the Department to inspect all records relating to its accreditation functions and responsibilities and provide to the Department copies of such records as requested or required for oversight, including to evaluate renewal or maintenance of the accrediting entity's designation, and for purposes of transferring adoption service providers to another accrediting entity;

(c) Submit to the Department by a date agreed upon by the Parties an annual declaration signed by the Licensing Administrator confirming that Colorado is complying with the IAA, 22 CFR Part 96, any other applicable regulations, and this agreement in carrying out its functions and responsibilities;

(d) Make appropriate senior-level officials available to attend a yearly performance review meeting with the Department;

(e) Immediately report to the Department events which have a significant impact on its ability to perform its functions and responsibilities as an accrediting entity, including financial difficulties, changes in key personnel or other staffing issues, State legislative or regulatory changes; legal or disciplinary actions against Colorado and conflicts of interest; requests for information that it receives from Central Authorities of other Hague signatories, or any other foreign government authorities (except for routine requests concerning accreditation, temporary accreditation, or approval status or other information publicly available under subpart M of Part 96), and consult with the Department before releasing information;

(g) Consult immediately with the Department about any issue or event that may affect compliance with the IAA or U.S. compliance with obligations under the Convention.

(2) *Departmental Approval Procedures:* In all instances in which the Department must approve a policy, system, fee schedule, or procedure before Colorado can bring it into effect or amend it, Colorado will submit the policy, system, fee schedule, or procedure or amendment in writing to the Department's AE Liaison via e-mail where possible. The AE Liaison will be responsible for coordinating the Department's approval process and arranging any necessary meetings or telephone conferences with Colorado. Formal approval by the Department will be conveyed in writing by the Deputy Assistant Secretary for Overseas Citizens Services or her or his designee.

(3) *Suspension or Cancellation:* When the Department is considering suspension or cancellation of Colorado's designation:

(a) The Department will notify Colorado in writing of the identified deficiencies in its performance and the time period in which the Department expects correction of the deficiencies;

(b) Colorado will respond in writing to either explain the actions that it has taken or plans to take to correct the deficiencies or to demonstrate that the Department's concerns are unfounded within 10 business days;

(c) Upon request, the Department will also meet with the accrediting entity by teleconference or in person;

(d) If the Department, in its sole discretion, is not satisfied with the actions or explanation of Colorado, it will notify Colorado in writing of its decision to suspend or cancel Colorado's designation and this agreement;

(e) Colorado will stop or suspend its actions as an accrediting entity as directed by the Department in the notice of suspension or cancellation, and cooperate with any Departmental instructions in order to transfer adoption service providers it accredits (including temporarily accredits) or approves to another accrediting entity, including by transferring a reasonable allocation of collected fees for the remainder of the accreditation or

approval period of such adoption service providers.

(4) *Complaint Procedures:* By a date agreed upon by the Parties, the Parties will agree upon procedures for handling complaints against the accrediting entity received by the Department or referred to the Department because the complainant was not satisfied with the accrediting entity's resolution of the complaint. These complaint procedures may be incorporated into the Department's general procedures for handling instances in which the Department is considering whether a deficiency in the accrediting entity's performance may warrant suspension or cancellation of its designation.

Article 7—Other Issues Agreed by the Parties

(1) *Conflict of interest:* Colorado shall disclose to the Department the name of any organization of which it is a member that also has as members intercountry adoption service providers. Colorado shall demonstrate to the Department that it has procedures in place to prevent any such membership from influencing its actions as an accrediting entity and shall maintain and use these procedures.

(2) *Liability:* Colorado agrees to maintain sufficient resources to defend challenges to its actions as an accrediting entity, and to inform the Department immediately of any events that may affect its ability to defend itself. Colorado agrees that it will consult with the Department immediately if it becomes aware of any legal proceedings related to its acts as an accrediting entity, or of any legal proceedings not related to its acts as an accrediting entity that may threaten its ability to continue to function as an accrediting entity.

Article 8—Liaison Between the Department and the Accrediting Entity

(1) Colorado's principal point of contact for communications relating to its functions and duties as an accrediting entity will be the Licensing Administrator in the Department of Human Services. The Department's principal point of contact for communication is the Accrediting Entity Liaison officer in the Office of Children's Issues, Bureau of Consular Affairs, U.S. Department of State.

(2) The parties will keep each other currently informed in writing of the names and contact information for their principal points of contact. As of the signing of this Agreement, the respective principal points of contact are as set forth in Attachment 2.

Article 9—Certifications and Assurances

(1) Colorado certifies that it will comply with all requirements of applicable State and Federal law.

(2) Colorado certifies that it satisfies all of the accrediting entity performance criteria set forth in 22 CFR 96.6 and agrees to continue to do so throughout the duration of its designation.

(3) Colorado agrees to indemnify the Department and any persons acting on its behalf and to hold them harmless from any claim, loss or other liability that is caused by Colorado's fault or negligence in connection with performing duties under this Agreement. Any negligence or alleged negligence by the Department or persons acting on its behalf shall not preclude a claim for indemnification.

Article 10—Agreement, Scope, and Period of Performance

(1) *Scope:*

(a) This agreement is not intended to have any effect on any activities of Colorado that are not related to its functions as an accrediting entity for adoption service providers providing adoption services in intercountry adoptions under the Hague Convention.

(b) Nothing in this agreement shall be deemed to be a commitment or obligation to provide any Federal funds. The Department, consistent with the IAA, may not provide any funds to the accrediting entity for the performance of accreditation and approval functions.

(c) All accrediting entity functions and responsibilities authorized by this agreement are to occur only during the duration of this agreement.

(d) Nothing in this agreement shall release Colorado from any legal requirements or responsibilities imposed on the accrediting entity by the IAA, 22 CFR Part 96, or any other applicable laws or regulations.

(2) *Duration:* Colorado's designation as an accrediting entity and this agreement shall remain in effect for five years from signature, unless terminated earlier by the Department in conjunction with the suspension or cancellation of the designation of Colorado. The Parties may mutually agree in writing to extend the designation of the accrediting entity and the duration of this agreement. If either Party does not wish to renew the agreement, it must provide written notice no less than one year prior to the termination date, and the Parties will consult to establish a mutually agreed schedule to transfer adoption service including by transferring a reasonable allocation of collected fees for the remainder of the accreditation or approval period of such adoption service providers.

(3) *Severability:* To the extent that the Department determines, within its reasonable discretion, that any provision of this agreement is inconsistent with the Convention, the IAA, the regulations implementing the IAA or any other provision of law, that provision of the agreement shall be considered null and void and the remainder of the agreement shall continue in full force and effect as if the offending portion had not been a part of it.

(4) *Entirety of Agreement:* This agreement is the entire agreement of the Parties and may be modified only upon written agreement of the Parties.

Dated: June 29, 2006.

Maura Harty,

Assistant Secretary, Bureau of Consular Affairs, Department of State.

Extension of Agreement Between the United States Department of State and the Colorado Department of Human Services

The United States Department of State and the Colorado Department of Human Services agree that the Agreement Between the U.S. Department of State and the Colorado Department of Human Services Regarding Performance of Duties as an Accrediting Entity Under the Intercountry Adoption Act of 2000 will remain in effect until January 4, 2013.

Dated: April 25, 2011.

Janice Jacobs,

Assistant Secretary, Consular Affairs, U.S. Department of State.

[FR Doc. 2011–11409 Filed 5–9–11; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending April 23, 2011

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions To Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such

procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2010–0096.

Date Filed: April 21, 2011.

Due Date for Answers, Conforming Applications, or Motion To Modify Scope: May 11, 2011.

Description: Application of Skymark Airlines Inc. ("Skymark") requesting renewal and amendment of its existing exemption authority and a foreign air carrier permit to authorize Skymark to engage in the following services: (i) Charter foreign air transportation of persons, property, and mail between any point or points in Japan and any point or points in the United States, and between any point or points in the United States and any point or points in a third country or countries, provided that such service constitutes part of a continuous operation, with or without a change of aircraft, that includes service to or from Japan for the purpose of carrying local traffic to or from Japan; and (ii) other charters pursuant to the prior approval requirements.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 2011–11343 Filed 5–9–11; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements filed the week ending April 23, 2011

The following Agreements were filed with the Department of Transportation under the Sections 412 and 414 of the Federal Aviation Act, as amended (49 U.S.C. 1382 and 1384) and procedures governing proceedings to enforce these provisions. Answers may be filed within 21 days after the filing of the application.

Docket Number: DOT–OST–2011–0082.

Date Filed: April 20, 2011.

Parties: Members of the International Air Transport Association.

Subject: CSC/33/Meet/008/2011 dated 19 April 2011 Expedited Finally Adopted Resolution 656 and Recommended Practices 1630 and 1677.

Intended effective date: 1 July 2011.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 2011–11344 Filed 5–9–11; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[AC 90–109]

Airmen Transition to Experimental or Unfamiliar Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability.

SUMMARY: The Federal Aviation Administration (FAA) is announcing the availability of Advisory Circular (AC) 90–109, which provides information and guidance to owners and pilots of experimental airplanes and to flight instructors who teach in these airplanes. This information and guidance contains recommendations for training experience for pilots of experimental airplanes in a variety of grouping based on performance and handling characteristics. This AC does not address the testing of newly built experimental airplanes. The current edition of AC 90–89, Amateur-Built and Ultralight Flight Testing Handbook, provides information on such testing. However, if a pilot is planning on participating in a flight-test program in an unfamiliar experimental airplane, this AC should be used to develop the skills and knowledge necessary to safely accomplish the test program using AC 90–89. This AC may also be useful in planning the transition to any unfamiliar fixed-wing airplanes, including type-certificated (TC) airplanes.

DATES: This AC became effective on March 30, 2010.

ADDRESSES: *How to obtain copies:* A copy of this publication may be downloaded from: *http://www.faa.gov/documentLibrary/media/Advisory_Circular/90-109.pdf.*

FOR FURTHER INFORMATION CONTACT: The FAA General Aviation and Commercial Division (202) 267–8212, Flight Standards Service, AFS–800, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

Issued in Washington, DC on May 2, 2011.

John McGraw,

Acting Director, Flight Standards Service.

[FR Doc. 2011–11414 Filed 5–9–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Air Traffic Procedures Advisory Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

SUMMARY: The FAA is issuing this notice to advise the public that a meeting of the Federal Aviation Administration Air Traffic Procedures Advisory Committee (ATPAC) will be held to review present air traffic control procedures and practices for standardization, revision, clarification, and upgrading of terminology and procedures.

DATES: The meeting will be held Tuesday, June 21, and Wednesday, June 22, 2011 from 8:30 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at CGH Headquarters, 600 Maryland Ave., SW., Suite 800 West Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis Roberts, ATPAC Executive Director, 800 Independence Avenue, SW., Washington, DC 20591. Telephone (202) 267–9205.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 2), notice is hereby given of a meeting of the ATPAC to be held Tuesday, June 21, and Wednesday, June 22, 2011 from 8:30 a.m. to 5 p.m. The agenda for this meeting will cover a continuation of the ATPAC's review of present air traffic control procedures and practices for standardization, revision, clarification, and upgrading of terminology and procedures. It will also include:

1. Approval of Minutes;

2. Submission and Discussion of Areas of Concern;

3. Discussion of Potential Safety Items;

4. Report From Executive Director;

5. Items of Interest; and

6. Discussion and Agreement of Location and Dates for Subsequent Meetings.

Attendance is open to the interested public but limited to space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statements should notify Mr. Dennis Roberts no later than June 3, 2011. Any member of the public may present a written statement to the ATPAC at any time at the address given above.

Issued in Washington, DC on May 3, 2011.

Dennis Roberts,

Executive Director, Air Traffic Procedures Advisory Committee.

[FR Doc. 2011–11369 Filed 5–9–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In February 2011, there were four applications approved. Additionally, nine approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: Louisville Regional Airport Authority, Louisville, Kentucky.

Application Number: 11–06–C–00–SDF.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $2,123,882.

Earliest Charge Effective Date: June 1, 2015.

Estimated Charge Expiration Date: November 1, 2016.

Class Of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Louisville International Airport.

Brief Description of Projects Approved for Collection and Use at a $4.50 PFC Level:

Purchase aircraft rescue and firefighting truck, 1,500 gallons.
Construct taxiway E—phase 1.
Jet bridges purchase and rehabilitation.
Snow blowers.
Sound insulation program.

Brief Description of Project Approved for Collection and Use at a $3.00 PFC Level: PFC implementation and administrative costs.

Decision Date: February 2, 2011.

For Further Information Contact: Cynthia Wills, Memphis Airports District Office, (901) 322–8190.

Public Agency: Greenbrier County Airport Authority, Lewisburg, West Virginia.

Application Number: 11–01–C–00–LWB.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $1,104,958.

Earliest Charge Effective Date: April 1, 2011.

Estimated Charge Expiration Date: January 1, 2015.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Improve terminal building.
Improve runway safety area.
Conduct aeronautical survey for wide area augmentation system approach.
Expand apron.
Improve airport drainage.
Security enhancements.
Acquire safety equipment.
Rehabilitate taxiway.
Construct aircraft rescue and firefighting building.
Rehabilitate runway lighting.
Acquire aircraft rescue and firefighting vehicle.
Rehabilitate apron.
Conduct airport master plan study.
Improve airport drainage.
Acquire snow removal equipment.
Improve snow removal equipment building.
Rehabilitate runway.
Acquire equipment.
Acquire security equipment.
Rehabilitate airport beacons.

Decision Date: February 11, 2011.

For Further Information Contact: Matthew DiGiulian, Beckley Airports Field Office, (304) 252–6217.

Public Agency: County of Kenton and Kenton County Airport Board, Covington, Kentucky.

Application Number: 11–13–C–00–CVG.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $32,958,000.

Earliest Charge Effective Date: December 1, 2015.

Estimated Charge Expiration Date: February 1, 2018.

Classes of Air Carriers Not Required To Collect PFC's: (1) Part 121 supplemental operators which operate at the airport without an operating agreement and enplane less than 1,500 passengers per year; (2) Part 135 on-demand air taxis, both fixed wing and rotary.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that each approved class accounts for less than 1 percent of the total annual enplanements at Cincinnati/Northern Kentucky International Airport.

Brief Description of Project Approved for Collection and Use at a $4.50 PFC Level: Runway 18C/36C rehabilitation.

Brief Description of Projects Approved for Collection and Use at a $3.00 PFC Level:

Rehabilitate existing glycol concrete storage tanks.
Equipment purchases—friction tester and snow removal equipment.
Terminal access/service road rehabilitation—phase 1.
Terminal 2 passenger loading bridges and gate electrification—gate 8.
Taxiway N rehabilitation.
Airfield surface markings.
Fire alarm system replacement.

Brief Description of Project Partially Approved for Collection and Use at a $3.00 PFC Level: Master plan update—2011.

Determination: Based on the FAA's experience with this type of project, the FAA has concluded that the requested amount exceeds the amount necessary to accomplish the proposed project. The approved amount was reduced to the amount the FAA believes is sufficient to accomplish the project.

Brief Description of Withdrawn Project: Install lockable manhole covers—phase 2.

Date of Withdrawal: January 17, 2011.

Decision Date: February 14, 2011.

For Further Information Contact: Cynthia Wills, Memphis Airports District Office, (901) 322–8190.

Public Agency: County of Broome, Johnson City, New York.

Application Number: 11–14–C–00–BGM.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $463,000.

Earliest Charge Effective Date: October 1, 2014.

Estimated Charge Expiration Date: December 1, 2015.

Class of Air Carriers Not Required To Collect PFC's: Nonscheduled/on-

demand air carriers filing FAA Form 1800–31.

Determination: Disapproved. The proposed class listed two carriers that do not conform to the proposed class. Therefore, the proposed class could not be approved.

Brief Description of Projects Approved for Collection and Use:

Runway 16/34 safety area improvements design.

Runway 16/34 safety area improvements construction.

Snow removal equipment storage building improvements.

PFC administrative costs.

Decision Date: February 22, 2011.

For Further Information Contact: Andrew Brooks, New York Airports District Office, (516) 227–3816.

AMENDMENTS TO PFC APPROVALS

Amendment No. city, state	Amendment approved date	Original approved Net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated exp. date
08–13–C–01–COS					
Colorado Springs, CO.	2/04/11	$8,307,189	$500,000	03/01/14	05/01/11
07–13–C–01–BNA					
Nashville, TN	2/15/11	5,874,558	2,344,134	08/01/11	04/01/11
08–14–C–02–BNA					
Nashville, TN	2/16/11	27,518,418	20,833,179	01/01/16	06/01/16
03–03–C–01–SAN					
San Diego, CA	2/17/11	83,075,730	65,058,035	03/01/06	03/01/06
09–15–C–01–BNA					
Nashville, TN	2/17/11	11,287,500	6,196,434	06/01/17	09/01/16
06–07–C–06–BUR					
Burbank, CA	2/18/11	41,346,265	42,946,265	04/01/13	06/01/13
09–09–C–01–BUR					
Burbank, CA	2/18/11	20,465,000	21,965,000	01/01/15	05/01/15
09–10–C–01–BUR					
Burbank, CA	2/18/11	951,400	951,400	02/01/16	02/01/16
07–06–C–02–SUN					
Halley, ID	2/22/11	763,226	709,197	03/01/11	01/01/11

Issued in Washington, DC, on May 2, 2011.

Joe Hebert,

Manager, Financial Analysis and Passenger Facility Charge Branch.

[FR Doc. 2011–11154 Filed 5–9–11; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System

[Docket Number FRA–2010–0163]

In accordance with part 235 of title 49 of the Code of Federal Regulations (CFR) and 49 U.S.C. 20502(a), this document provides the public notice that by a document DATED December 13, 2010 and a clarification document DATED April 4, 2011, CSX Transportation, Inc., (CSX) and the Allegheny Valley Railroad (AVRR) have jointly petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of a signal system. FRA assigned the petition Docket Number FRA–2010–0163.

Applicants: Mr. Joseph S. Ivanyo, Chief Engineer, Communications and Signals, CSX Transportation, Inc., 500 Water Street—SC J–350, Jacksonville, Florida 32202.

Mr. James E. Strett, President, Allegheny Valley Railroad, 519 Cedar Way—Bldg. 1, Ste. 100, Oakmont, Pennsylvania 15139.

CSX and AVRR jointly seek approval of the proposed discontinuance of the Laughlin Junction Interlocking, milepost (MP) BF325.1, on CSX's P&W Subdivision, Baltimore Division, Pittsburgh, Pennsylvania. The proposed discontinuance consists of the conversion of the power-operated switch, on the Glenwood Running Track, at MP BF–325.18 to hand-operation; the removal of controlled signals 73L, 73LA, 73R, 75RA and 75LB. CSX's track #2 will become the Glenwood Running Track. Automatic signals 3247and 3248 are to be installed on CSX track #1. The Method of Operation on the running track, currently ABS–261 and CPS–261, will become CSX Rule 96, *Other Than Main Track.*

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *http://www.regulations.gov* and in person at the Department of Transportation's Docket Operations Facility, 1200 New Jersey Ave., SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by June 24, 2011 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the

name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Issued in Washington, DC on May 4, 2011.

Robert C. Lauby,

Deputy Associate Administrator for Regulatory & Legislative Operations.

[FR Doc. 2011–11281 Filed 5–9–11; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Emergency Order No. 21, Notice No. 4]

Northwestern Pacific Railroad Co.; Notice of Partial Relief from Emergency Order No. 21

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of partial relief.

SUMMARY: In response to a November 11, 2010, petition, this notice provides partial relief for the Northwestern Pacific Railroad Co. (NWP Co.) from the limitations of FRA Emergency Order No. 21. The relief allows the NWP Co. to re-open to rail traffic approximately 61.1 miles of trackage owned by Sonoma Marin Area Rail Transit (SMART) [1] extending between (1) a point designated as Brazos Junction, milepost (MP) B49.8 and the Ignacio Wye, MP 5–25.8 and (2) a point designated as MP 62.9 near Windsor, California. Emergency Order No. 21 remains in effect between MP 62.9 near Windsor, California and MP 295.5 at Arcata, California, except for the partial relief from Emergency Order No. 21 that FRA granted in Emergency Order No. 21, Notice 2, for approximately 1.5 miles of track and certain yard track in Willits, California.

Authority

Authority to enforce Federal railroad safety laws has been delegated by the Secretary of Transportation to the Administrator of FRA. *See* 49 U.S.C. 103; 49 CFR 1.49. FRA is authorized to issue emergency orders where an unsafe condition or practice "causes an emergency situation involving a hazard of death, personal injury or significant harm to the environment. * * *" 49 U.S.C. 20104(a). These orders may impose such "restrictions and prohibitions * * * that may be necessary to abate the situation." *Id.* Likewise, FRA is authorized to grant relief from an emergency order when the agency deems that the unsafe condition or practice that gave rise to the emergency order no longer exists.

Background on Emergency Order No. 21

On November 25, 1998, FRA issued Emergency Order No. 21, Notice No. 1 addressed to "the Northwestern Pacific Railroad," requiring it to—

> discontinue operation by anyone of trains on [that railroad's] rail line from mile post 295.5 at Arcata, California to mile post 63.4 between Schellville, California and Napa Junction, California until the [railroad] inspects and properly repairs its track and grade crossing signals, and it trains its employees how to properly maintain the safety of its track and grade crossing signals.

63 FR 67976 (Dec. 9, 1998). The only exception to the prohibition on train operations over that rail line was for "the operation of work trains for the specific and sole purpose of effecting repairs on the railroad." 63 FR 67978.

On May 28, 1999, FRA granted the petition of the Northwestern Pacific Railway Company, LLC (NWPY) [2] for partial relief from Emergency Order No. 21 for approximately 1.5 miles of track owned by the North Coast Railroad Authority (NCRA) [3] near Willits, California, including trackage between the junction of the California Western Railroad and the Willits Depot, as well as Tracks 20, 24, 25, 26, 27, 709, and 711 in Willits Yard. Emergency Order No. 21, Notice No. 2, 64 FR 30557 (June 8, 1999).

On February 1, 2001, FRA granted NWPY's petition for partial relief from Emergency Order No. 21 for approximately 40.8 miles of track, owned by Northwestern Pacific Railroad Authority, a joint powers agency representing the Golden Gate Bridge, Highway and Transportation District, the County of Marin, and NCRA, between MP 49.8S (formerly designated as MP 63.4, near Lombard, California) and MP 43.0, near Petaluma, California. Emergency Order No. 21, Notice No. 3, 66 FR 9625 (Feb. 8, 2001).[4] NWPY ceased operations in September 2001.

Standard for Obtaining Full Relief From Emergency Order No. 21

In order to gain full relief from Emergency Order No. 21, NWP Co. must take the following actions, which were specified in that order:

(1) Properly repair and inspect all grade crossing signals and certify to the FRA Administrator that all necessary repairs and inspections have been performed and that all required tests are up-to-date.

(2) Adopt a set of grade crossing signal standards and instructions acceptable by FRA. * * *

(3) Update, correct and/or redraw circuit plans for each the grade crossing signal system to meet compliance with 49 CFR 234.201 and 234.203. A list of locations of the updated, corrected or redrawn circuit plans shall be submitted to the Regional Administrator for Region 7.

(4) Provide proper and adequate test equipment for signal maintainers.

(5) Repair all track not subject to Emergency Order No. 14 to Class 1 track standards as detailed in 49 CFR part 213. [**Note:** Emergency Order No. 14 already requires the Northwestern Pacific Railroad to repair all track subject to that order to class 1 track standards for the hauling of passengers and all hazardous materials. Otherwise, the railroad may designate the track still subject to that order as excepted.]

(6) Clear all vegetation from drainage facilities and away from signs and signals and track bed so that the track meets the requirements of 49 CFR 213.37.

(7) Furnish FRA with a 12-month track maintenance plan.* * *

(8) Establish a program of employee training on the Federal Track Standards to ensure that employees performing inspection, maintenance, and restoration work are qualified in accordance with 49 CFR 213.7. * * *

(9) Certify in writing that each individual conducting track inspections has sufficient knowledge, skills, and ability to successfully conduct the types of inspections that will be performed by that individual. Records of that certification are to be maintained by the railroad.

(10) Obtain written approval from the FRA Administrator that all of the requirements of this Emergency Order have been met and properly performed. * * *

63 FR 67978–67979.

Emergency Order No. 21, Notice No. 1, allows for partial relief for designated portions of the trackage subject to the Emergency Order. The railroad is first required to meet all of the system-wide requirements, as listed in Items 2, 4, 7, 8, and 9, above. The railroad may then obtain from

[1] On January 1, 2003, SMART was formed as an entity that was formally comprised of the Golden Gate Bridge, Highway and Transportation District, Marin County, and the Northwestern Railroad Authority.

[2] In Emergency Order 21, Notices No. 1–3, Northwestern Pacific Railway Company, LLC was referred to as "Northwestern Pacific Railroad" and "NWP"; however, the correct name of the railroad was "Northwestern Pacific Railway Company, LLC," and was more commonly referred to as "NWPY" in the railroad industry.

[3] The North Coast Railroad Authority is "a California public agency formed pursuant to California Government Code Section 93000 *et seq.,*" that "owns and operates that portion of the NWP between Healdsburg, mile post 68, and Arcata." 64 FR 30557.

[4] The November 11, 2010, request by NWP Co. and the NCRA for partial relief includes the track for which relief was granted on February 1, 2001.

FRA partial relief for any portion of the line for which all of the requirements of the Emergency Order are met. 63 FR 67979.

November 11, 2010, Request for Partial Relief From Emergency Order No. 21

By letter dated November 11, 2010, in accordance with the terms of Emergency Order No. 21, Notice No. 1, NWP Co. and the NCRA [5] formally requested that FRA grant partial relief from the Emergency Order for the SMART-owned rail line between (1) a point designated as Brazos Junction, milepost MP B49.8 and the Ignacio Wye, MP 5–25.8 and (2) a point designated as MP 62.9 near Windsor, California.

In this letter, NWP Co and NCRA, represented to FRA that it has met all of the system-wide requirements of Emergency Order No. 21, namely—

- NWP Co. has adopted a set of grade crossing signal standards and instructions that is acceptable to FRA;
- NWP Co. has entered into a contract with Summit Signal, Inc., a signal maintenance company, for the maintenance of NWP Co. signals. NWP Co. has provided proper and adequate test equipment for all signal maintainers;
- NWP Co. has furnished to FRA a 12-month track maintenance plan that includes all of the necessary information required by Emergency Order No. 21;
- NWP Co. has furnished to FRA a copy of the employee training program on the Federal Track Safety Standards;
- NWP Co. has certified, in writing, that each individual conducting track inspections has sufficient knowledge, skills, and ability to successfully conduct the types of inspections that will be performed by that individual.

FRA has verified these representations and determined that NWP Co. is in compliance at this time with the system-wide requirements; therefore, NWP Co. is eligible to request partial relief for the designated segment between (1) Brazos Junction, milepost MP B49.8 and the Ignacio Wye, MP 5–25.8 and (2) MP 62.9 near Windsor, California. FRA will monitor the railroad to determine whether it continues to comply with these system-wide requirements.

During the week of January 3, 2011, FRA inspected the track for which the NWP Co. has requested relief from Emergency Order No. 21 in its November 11, 2010, letter. The track inspection revealed certain FRA Class 1 defective conditions, which were reviewed and discussed with representatives of NWP Co. the same week. A follow-up inspection was conducted on January 6, 2011, and FRA determined that NWP Co. had corrected the defective track conditions that were identified on the main track and siding.

During the week of January 3, 2011, FRA also inspected the grade crossing signal systems on the track for which NWP Co. requested relief from Emergency Order No. 21 and found that not all necessary repairs, inspections, and tests had been performed. During the week of January 31, 2011, FRA conducted a follow-up inspection and determined that NWP Co. had corrected the defective grade crossing signal systems conditions and that all grade crossing signal systems on the track segment for which NWP Co. is seeking relief are in compliance with FRA regulations.

Grant of Partial Relief

In light of the foregoing, I grant NWP Co. partial relief from Emergency Order No. 21. The segment of track owned by SMART extending between (1) a point designated as Brazos Junction, milepost MP B49.8 and the Ignacio Wye, MP 5–25.8 and (2) a point designated as MP 62.9 near Windsor, California, may open immediately to rail traffic. The issuance of this notice of partial relief does not preclude imposition of another emergency order governing the segment of track should conditions of the track or rail operations deteriorate to the extent that I believe they pose an imminent and unacceptable threat to public safety.

Issued in Washington, DC, on May 4, 2011.

Joseph C. Szabo,

Administrator, Federal Railroad Administration.

[FR Doc. 2011–11272 Filed 5–5–11; 11:15 am]

BILLING CODE 4910–06–P

[5] North Coast Railroad Authority is the owner of a perpetual, exclusive freight easement over the trackage involved in the request. On September 13, 2006, NWP Co. was formed and entered into a lease agreement with the NCRA as the sole operator of all freight trains, work trains, and passenger excursion trains over the line. NWP Co. is also designated as the company that will manage and maintain freight railroad operations over the NCRA and SMART properties.

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration (FTA)

[FTA Docket No. 2011–0029]

Notice of Request for the Reinstatement of an Information Collection

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to approve the following information collection: Bus Testing Program.

DATES: Comments must be submitted before July 11, 2011.

ADDRESSES: To ensure that your comments are not entered more than once into the docket, submit comments identified by the docket number by only one of the following methods:

1. *Web site: http://www.regulations.gov.* Follow the instructions for submitting comments on the U.S. Government electronic docket site. (**Note:** The U.S. Department of Transportation's (DOT's) electronic docket is no longer accepting electronic comments.) All electronic submissions must be made to the U.S. Government electronic docket site at *http://www.regulations.gov.* Commenters should follow the directions below for mailed and hand-delivered comments.
2. *Fax:* 202–366–7951.
3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: You must include the agency name and docket number for this notice at the beginning of your comments. Submit two copies of your comments if you submit them by mail. For confirmation that FTA has received your comments, include a self-addressed stamped postcard. Note that all comments received, including any personal information, will be posted and will be available to Internet users, without change, to *http://www.regulations.gov.* You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000, (65 FR 19477), or you may visit *http://www.regulations.gov.*

Docket: For access to the docket to read background documents and comments received, go to *http://www.regulations.gov* at any time. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Gregory Rymarz, Office of Research, Demonstration and Innovation, (202) 366–6410, or *e-mail: gregory.rymarz@dot.gov.*

SUPPLEMENTARY INFORMATION:

Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) The necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: Bus Testing Program (OMB Number 2132–0550).

Background: 49 U.S.C. Section 5323(c) provides that no Federal funds appropriated or made available after September 30, 1989, may be obligated or expended for the acquisition of a new bus model (including any model using alternative fuels) unless the bus has been tested at the Bus Testing Center (Center) in Altoona, Pennsylvania. 49 U.S.C. Section 5318(a) further specifies that each new bus model is to be tested for maintainability, reliability, safety, performance (including braking performance), structural integrity, fuel economy, emissions, and noise.

The operator of the Bus Testing Center, the Pennsylvania Transportation Institute (PTI), has entered into a cooperative agreement with FTA. PTI operates and maintains the Center, and establishes and collects fees for the testing of the vehicles at the facility. Upon completion of the testing of the vehicle at the Center, a test report is provided to the manufacturer of the new bus model. The bus manufacturer certifies to an FTA grantee that the bus the grantee is purchasing has been tested at the Center. Also, grantees about to purchase a bus use this report to assist them in making their purchasing decisions. PTI maintains a reference file for all the test reports which are made available to the public.

Respondents: Bus manufacturers.

Estimated Annual Burden on Respondents: 30 testing determinations @ 3 hours each; 18 tests @ 3 hours each; and 520 requirements @ 0.5 hours each.

Estimated Total Annual Burden: 404 hours.

Frequency: On occasion.

Issued: May 3, 2011.

Ann M. Linnertz,

Associate Administrator for Administration.

[FR Doc. 2011–11353 Filed 5–9–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 1074X]

Lassen Valley Railway, LLC—Abandonment Exemption—in Washoe County, NV and Lassen County, CA

On April 20, 2011, Lassen Valley Railway, LLC (LVR) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a 21.77-mile line of railroad located between milepost 338.33 near Flanigan, Washoe County, Nev. and milepost 360.10 near Wendel,[1] Lassen County, Cal. (the line).[2] The line traverses United States Postal Service Zip Codes 89405, 96113, 96130, and 96136.

LVR has been advised that segments of the line may contain Federally granted rights-of-way. Any documentation in LVR's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, In Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by August 8, 2011.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,500 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than May 31, 2011. Each trail request must be accompanied by a $250 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to Docket No. AB 1074X, and must be sent to: (1) Surface Transportation Board, 395 E Street, SW, Washington, DC 20423–0001; and (2) Fritz R. Kahn, 1920 N. Street, NW. (8th floor), Washington, DC 20036. Replies to the petition are due on or before May 31, 2011.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs and Compliance at (202) 245–0238 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis (OEA) at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by OEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact OEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA generally will be within 30 days of its service.

Board decisions and notices are available on our Web site at "*WWW.STB.DOT.GOV.*"

Decided: May 4, 2011.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2011–11336 Filed 5–9–11; 8:45 am]

BILLING CODE 4915–01–P

[1] By letter filed May 4, 2011, the milepost near Wendel was corrected. The petition originally identified milepost 359.25 as the end of the line instead of milepost 360.10. The letter also clarified 96136 as a correct zip code.

[2] According to LVR, the line was the subject of a prior abandonment petition in *Union Pacific Railroad—Abandonment Exemption—in Lassen County, Cal., and Washoe County, Nev.,* AB 33 (Sub-No. 230X) (STB served Jan. 26, 2007). The description of the rail line in that proceeding also referenced a .57-mile line in Lassen County, from milepost 358.68 to milepost 359.25 near Wendel, which appears to be included within the mileposts described in the line. LVR states that abandonment of the line was not consummated and LVR acquired the line pursuant to a notice of exemption in *Lassen Valley Railway—Acquisition & Operation Exemption—Union Pacific Railroad,* FD 35306 (STB served Dec. 3, 2009).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35501]

Carolina Coastal Railway, Inc.—Acquisition and Operation Exemption—Rocky Mount & Western Railroad Co., Inc. d/b/a Nash County Railroad

Carolina Coastal Railway, Inc. (CLNA), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire from Rocky Mount & Western Railroad Co., Inc. d/b/a Nash County Railroad (NCR), and to operate, approximately 14.9-miles of rail line currently owned and operated by NCR extending between the connection with CSX Transportation, Inc. at milepost 119.9 at Rocky Mount, N.C. and milepost 134.8 at Momeyer, N.C.

CLNA certifies that its projected annual revenues as a result of this transaction will not result in CLNA's becoming a Class II or Class I rail carrier and will not exceed $5 million.

The proposed transaction is scheduled to be consummated on or after May 25, 2011, the effective date of the exemption (30 days after the exemption was filed).

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. Stay petitions must be filed no later than May 18, 2011 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35501, 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 John D. Heffner, John D. Heffner, PLLC, 1750 K Street, NW., Suite 200, Washington, DC 20006.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: May 4, 2011.

By the Board.

Rachel D. Campbell,

Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2011–11340 Filed 5–9–11; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 4, 2011.

The Department of the Treasury will submit the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. A copy of the submissions may be obtained by contacting the Treasury Departmental Office Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury PRA Clearance Officer, Department of the Treasury, 1750 Pennsylvania Avenue, NW., Suite 11010, Washington, DC 20220.

Dates: Written comments should be received on or before June 9, 2011 to be assured of consideration.

Departmental Offices, International Affairs

OMB Number: 1505–0001.

Type of Review: Revision of a currently approved collection.

Title: Purchases and Sales of Long-term Securities by Foreigners.

Form: Treasury International Capital Form S.

Abstract: Form S is required by law and is designed to collect timely information on international portfolio capital movements, including foreigners' purchases and sales of long-term securities in transactions with U.S. persons. The information will be used in the computation of the U.S. balance of payments accounts and international investment position, as well as in the formulation of U.S. international financial and monetary policies.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 17,488.

OMB Number: 1505–0010.

Type of Review: Extension without change of a currently approved collection.

Title: Monthly Consolidated Foreign Currency Report of Major Market Participants.

Form: FC–2.

Abstract: Collection of information on Form FC–2 is required by law. Form FC–2 is designed to collect timely information on foreign exchange contracts purchased and sold; foreign exchange futures purchased and sold; foreign currency options and net delta equivalent value; foreign currency denominated assets and liabilities; net reported dealing positions.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 950.

OMB Number: 1505–0012.

Type of Review: Extension without change of a currently approved collection.

Title: Weekly Consolidated Foreign Currency Report of Major Market Participants.

Form: FC–1.

Abstract: Collection of information on Form FC–1 is required by law. Form FC–1 is designed to collect timely information on foreign exchange spot, forward and futures purchased and sold; net options position, delta equivalent value long or short; net reported dealing position long or short.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 915.

OMB Number: 1505–0014.

Type of Review: Extension without change of a currently approved collection.

Title: Quarterly Consolidated Foreign Currency Report.

Form: FC–3.

Abstract: Collection of information on Form FC–3 is required by law. Form FC–3 is designed to collect timely information on foreign exchange contracts purchased and sold; foreign exchange futures purchased and sold; foreign currency denominated assets and liabilities; foreign currency options and net delta equivalent value.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 1.216.

OMB Number: 1505–0123.

Type of Review: Revision of a currently approved collection.

Title: Survey of Foreign-Residents' Holdings of U.S. Securities.

Form: SHLA Schedule-1 and -2; SHL Schedule-1 and -2.

Abstract: The survey collects information on foreign resident's holdings of U.S. securities, including selected money market instruments. The data is used in the computation of the U.S. balance of payments accounts and U.S. international investment position, in the formulation of U.S. financial and monetary policies, to satisfy 22 U.S.C. 3101, and for information on foreign portfolio investment patterns. Respondents are primarily the largest banks, securities dealers, and issuers of U.S. securities.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 26,754.

Departmental Office Clearance Officer: Dwight Wolkow, DO/International Affairs, 1500 Pennsylvania Ave., NW., Rm. 5205, Washington, DC 20220; (202) 622–1276.

OMB Reviewer: Shagufta Ahmed, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; (202) 395–7873.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2011–11280 Filed 5–9–11; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Quarterly Publication of Individuals Who Have Chosen To Expatriate, as Required by Section 6039G

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice is provided in accordance with IRC section 6039G, as amended, by the Health Insurance Portability and Accountability Act (HIPPA) of 1996. This listing contains the name of each individual losing their United States citizenship (within the meaning of section 877(a) or 877A) with respect to whom the Secretary received information during the quarter ending March 31, 2011.

Last name	First name	Middle name/initials
ABA	MAUREEN	
ABASI	HAJIYA	
ABRAHAMS	STEPHANIE	JANE
ABRIC	ISABELLE	H
ACKERMANN	HANSPETER	
AELLIG	PETER	ANDREAS
AGARWAL	MUKUL	
AL ROMAITHI	MAJED	MOHAMED DHAHI
ALBERS–SCHOENBERG	BARBARA	ELISABETH
ALGHANIM	SAMAR	L
ALLAN	WILLIAM	A
ALLEN	JUDITH	S
AMON	ALBERT	MAXIMILIAN
APPS	VINCENT	
ATWATER	ROBERT	JAMES G. M.
BABB	JOHN	GREGORY
BAILEY	KEITH	
BARKER	DANIEL	PETER DAVIDGE
BARNES	SUSAN	LOVELL
BARTELT, MD	DETLEF	
BARTER	CHRISTOPHER	MICHAEL
BAUMANN	REGULA	
BAUMER	MARCEL	CHRISTIAN
BEAUMAN	CAROLINE	ANGELA
BEAUMAN JR	CHRISTOPHER	ALFRED
BECK	WILLIAM	ALBERT
BECKWITH	MERIWETHER	ATHEISTAN TAVIS
BEIJERMAN	ANN	FRANCES LOUISE
BENAZZI	HELYEYYE	VIRGINIA
BERG	MARCIA	WRAY
BERNARD	BARBARA	ANN
BERNEGGER	URS	J.
BIRCHER	REGULA	ANNA
BIRCHLER	EUGENE	RICHARD
BLANCPAIN	PHILIPPE	PIERRE
BLUM	MARTHA	
BOEHM	MICHAEL	SCOTT
BOMPAS	GEORGE	G.
BONDOUX	JAMES	ANDRE
BONELLI	KENNETH	SWIGERT
BONGIORNO	LEONARDO	
BORDEN	MARK	ANTHONY
BOSTICK	HOLLY	
BOULANGE	DANIEL	
BOWERS	MICHELLE	CHRISTINE
BRICKLEY JR	LON	CRAWFORD
BRUNNER	URSULA	ELISABETH
BUCHER	MARC	ROBERT
BURLET–BLATTMANN	MAJA	ANDREA
CADARSO	CARLOS	
CALAME	STEVEN	NICOLAS GEORGE
CANOEN	KIRSTEN	TAUCHER
CAREY	PATRICK	GEORGE
CATTAUI	MICHAEL	TAREK
CHAN	CHRISTOPHER	JOSEPH
CHAN	GLADYS	LO
CHAN	JAMIE	S Y
CHAN	SUSAN	OI LIN LEUNG
CHAN	SUSANNE	SU EN
CHAN	VINCE	CHI YAN
CHANG	BRIAN	HONGWEI
CHANG	JOSEPH	CHO YAM
CHANG	LIANG	RU

Last name	First name	Middle name/initials
CHAOUL	RANDA	M
CHAVEZ	NATALIE	S
CHEN	DERRICK	TZE SHIEN
CHEN	MARK	LONG
CHESLUK	BEAU	NER
CHEUNG	RONALD	YAT–SAU
CHIEN	CHIH	CHIANG
CHOI	FRANKY	MING CHIT
CHOI	JONATHAN	GAR CHOY
CHONG	KIL	YON
CHONG	SORA	HAE
CHOU	YU–KUNG	
CHOW	ALEXANDER	YUE NONG
CHU	ROGER	PAK LOK
CHUA	MARY ANNE	SHU–HUI
CHUA	TIMOTHY	DAVID
CHUNG	HYUNG	KWON
CIOFFI	ELAINE	FRANCES
CIOFFI	FRANCESCO	PIETRO
COLEMAN	HYUN	SUN
COLLINS–RECTOR	MARC	JOHN
COSTLETOS	PHILLIPPE	
COWDY	DENA	KAY WADE
COWDY	KATHARINE	JANE
CRAIG	GRENVILLE	VERNON
CRAMER	JOSEPH	CARL
CRISSEY	CHARLES	ANDREW
CUIC	TATJANA	
DAETWYLER	PETER	
DAETWYLER	ROSEMARIE	
DAILLY	MONIRA	BEATRICE
DANIELL	MARK	HAYNES
DANIELS	EDWIN	IAN
DAVID	GUY	
DE BORCHGRAVE	SEMIRA	
DE LIMA	VIVIETTE	E
DE MESTRAL	DARCY	AYMON
DE MICHAEL	RYAN	NICOLA
DE RHAM	CAROLINE	ANNE
DEAVILLE	MATTHEW	
DECKER	RICHARD	EUGENE
DEL	MARC	ANTONIO
DEMAUREX	JACQUES	ANTOINE
DEMORTIER	ALEXANDRA	
DEMUTH	STEPHANIE	BEATRICE
DIAMOND	MATTHEW	JARED
DIAMOND	PATRIZIA	
DIAMOND	WILLIAM	STEVEN
DIAMOND	ZACHARY	ADAM
DINEMI	MANFREDI	UCELLI
DORMANDY	ALEXIS	PAUL MIDDLETON
DREIDING	ERIC	WERNER
DREIDING	KARIN	
DRESSLER	KURT	ALBERT
DRESSLER	SUSANNE	KATHARINA
DUERSTELER	MICHAEL	
EADEH	EDWARD	MICHAEL
EARLE	ELIZABETH	STEVENS
EBNER	MANUEL	
EDWARDS	HEATHER	BENNETT
EDWARDS	STEPHEN	
EGLI	CAROLINE	ANNE
ELKOREK	MAYA	
EMERSON	BARBARA	MARIE
EMERY	JEAN	CHRISTOPHE
FACKELMAYER	JONATHON	ORDWAY
FAERMARK	NICOLE	
FARRAR	LISA	G.
FILIPPI	EDWARD	CHARLES
FISCHER	ANA	MARIA
FOSTER III	ROBERT	PORTER
FOSTER, NEE WIELANDT	DORA	
FRANK	CHRISTOPH	
FUKSMAN	SABRINA	

Last name	First name	Middle name/initials
FUNG	MAGNUS	MAN KIT
GARCIA	PATRICIA	L
GARDNER	KIM	
GEICKE	JOHANNA	RACHEL KATHARINE
GERSBACH	SANDRA	NAOMI
GIESMANN	BENJAMIN	THOMAS
GLAUSER	HONG	LI
GLAUSER	OLIVIER	CHARLES EDOUARD
GOETSCHEL	CORINNE	
GOROKHOFF	PATRICIA	HELENE
GREER	JONATHON	NEWTON
GREGSON	OLIVER	C.
GROENEVELD	SAM	ARIFIEN
GROLLEMUND	MATTHIEU	N.
GRUNDLER	SUSANNE	
GU	BRIAN	HONGDI
GUERLAIN	CLAIRE	ARIANE
GUSTAFSON	MARK	ALEXANDER
HAGERTY	CAROLINE	SOPHIE
HAGGER	MARGRIT	MARIE
HAN	DENNIS	CHIA–YIN
HAN	HELEN	
HATZ	PETER	KARL
HEEREMA	ANNETTE	BEATRIX
HEEREMA	KEVIN	PETER
HEEREMA	SONJA	ELISABETH
HELKE	NICHOLAS	CHRISTOPHER PHILIP
HENRY	BILLY	EDWARD
HIRSCH	COLETTE	ROSANNE
HO	CHAK	KIE
HOFFMANN	HERBERT	
HOLT	MICHAEL	LAWRENCE
HOLTER	KARL	GUNNAR
HOLTERMANN	UTE	CHRISTIANE
HOOLEY	BLAIR	TYRONE
HORIGUCHI	HISAO	
HSU	CHARLES	
HSU	TING	TING
HU	APRIL	SWANDO
HUANG	TAO	
HUBER	EDWINA	VICTORIA
HUERZELER	RITA	
HWANG	ROBIN	
ILBERG	KLAUS	PETER
IN DER SMITTEN	JOACHIM	
INGRAM	JOAN	BAILEY
INGRAM	WILLIAM	THOMAS
ITSCHNER	ROBERT	NILS
JACKSON	CRAIG	PAUL
JEN	JIMMY	
JENSEN	VIRGINIA	ALLEN
JEPSEN	OLAF	NORMAN
JOHNSTON	ANNIE	F
JONES	TIMOTHY	TAYLOR
KAISER	DONALD	LANCE
KAITHAN	ANDREAS	KURT
KANG	MICHAEL	
KATO	KAORU	
KATO	NOBUKO	
KEATS	BARRY	R
KEMELMAN	ARNON	
KERR	MAYA	CHANTAI
KEUNG	PAUL	HINSUM
KEUNG	PAUL	H
KEWAIRAMANI	SONALI	CHANDROO
KIFT	JANE	SWALLOW
KIM	DAVID	DONG–WOOK
KIM	JIN	HOI
KIM	JOHNNY	
KIM	SUNG	A
KING	STEPHEN	CHANG–MIN
KLARMANN	GLORIA	ROSITA

Last name	First name	Middle name/initials
KLEIN	PHILIP	JOHN
KOCH	ROBERT	MICHAEL
KOH	SEAN	JIAN–EN
KOJIMA	HIDEAKI	
KOO	TSE	HAU WELLINGTON
KOTYCZKA	STEPHAN	WILLI
KOZICKI	SHARON	
KRAEUTLER	VINCENT	
KUNKEL	FLORENCE	
KUNZ	KENNETH	EDWARD
KWAN	WING	NAM
KWEE	MELISSA	MEI–WAN
KWIST	JAKOB	J
KWONG	DAVID	SZE MING
KWONG	JUDITH	KAM CHU LEUNG
KWONG	SZE	WHY
LA PLANTE	INGRID	ANNA DORA
LAI	MARTIN	
LAI	STEFANIE	YING
LAIDLAW	MARIE	CHRISTINE
LAM	DOUGLAS	KING TAK
LANDO	CHRISTIAN	
LAU	WAN	HANG DOROTHY
LAWRENCE	MATTHEW	K.
LEBLANC	BRUNO	C
LEE	ALEXANDER	WEI SENG
LEE	AMELIA	QIU–YAN
LEE	HENRY	DA–CHENG
LEE	KYUNG	HEE
LEE	ROCKY	
LEE	SUMIN	
LEE	SUN	IM
LEE	YI–THE	
LEOPOLD–METZGER	PHILIPPE	RENE
LEUENBERGER–MORF	MICHELE	ELISABETH
LEUNG	JASON	CHAK–HAY
LEVIN–BRUCKMANN	SARA	ANDREA
LI	ALLISON	MEGAN SEE HUI
LIECHTI	AUDREY	PAULINE
LIM	CHRISTOPHER	
LIM	SI	HONG
LING	TERESA	CHI WO
LIU	CHARLENE	CHEUK LAM RACHEAL
LIU	K	ANDERS MAURITZON
LIU	KAY	
LIUZZI	MONIQUE	MARGRIT
LIVINGSTON	NEIL	DAVID
LO	ALEXANDER	CHUN HIM
LO	EDDY	WAI YIP
LOFTIN	NORMAN	FRANKLIN
LOUGHRIN	TAMARA	ZIMMERMAN
LOUGHRIN	TIMOTHY	JOSEPH
LOVETT	LINDA	BARNES
LUNDBERG	THOMAS	CARL
LUSH	LOUISIANA	
MAGNONI	GRACIELA	MARIE
MARLAND	JANE	GAIL HENLEY
MARSHALL	CHRIS	N
MASON	JUDITH	C
MASON	REX	T
MATSGARD	PEDER	JAN ERIC
MAWDSLEY	EVAN	
MAYER	CATHERINE	NICOLETTE
MC CANDLESS	KATHARINE	HASTINGS
MELLORS	JOANNA	SUSAN
METZGER NEE DEGEEST	INJA	
MIHIC	NIKOLA	
MIODUSKI	DARIUSZ	
MOE	TIMOTHY	HAMILTON
MOGHAL	ERICA	
MOLET	JENNIFER	ANN
MORAND	LAURENCE	CHRISTIANE

Last name	First name	Middle name/initials
MOSER	MIRJAM	CAROLINE
MOSSERI–MARLIO	ANNE	
MUENTENER	MARCUS	ERWIN
MUKUNOKI	NASAKI	WILLIAM
MULHAUSER	GREGORY	ROBERT
MURRAY	TOVE	LIANA
NAGY	MARKUS	MICHAEL
NARGOLWALA	APARNA	
NEEDHAM	DAVID	FREDERICK
NEEDHAM	DOROTHY	
NEO	MICHELLE	WEN–PING
NEUWEILER	DIETER	JOSEPH
NEUWIRTH	PEGGY	EVELYN
NG	AARON	RYU
NIEDERER	SILVIA	
NIP	AARON	YAU–WAI
NISHIKAWA	TOMOHIRO	
NOLET	AUGSTINUS	M
ODDY	JEAN	RACLIN
ODDY	ROBERT	JOHN
ODOK	HAYDAR	ULVI
OH	OWK	SUN
O'HANA	MORGAN	BLANCHE–JOSABETTE
O'HARA	THOMAS	P.
OHIGASHI	HIROSHI	
OTSUKA	KOJI	
OWENS	BRIAN	BRASHEARS
OWENS	MARK	DAVISON
PALANDRI	EDWARD	M.
PALANDRI	ROSA	
PAN	LINCOLN	LIN FENG
PAPADIMITRIOU	ALEXANDER	DIMITRI
PARSONS	YONG	CHUN
PATEL	PALLAVI	DINKARBHAL
PELHAM	HENRY	CYRIL
PIDERIT	BARBARA	CHUDERSKI
PIDERIT	FRED	WILLIAM
PLASCHKE	KARIN	S
POHNDORFF	JOHN	EDWARD
POLITO	PAUL	JEFFREY
POWELL	SHAUNA	MARGARET
POWER	B	NADINE
PRAKASH	ANAND	
PROTONOTARIOS	EMMANUIL	I
PYTYNIA	JANET	MONICA
QUASHA	WAYNE	GRANT
QUIMBY	ERIC	EDWARD CHADWICK
RAVAT	LAURENCE	
RAVINDRAN	JAYARATNAM	ANTON
RECHNER	PETER	MAX
RECHNER–BRINK	DESIREE	M L
REGAN	MATTHEW	JAMES PATRICK
REIMAN	ANDRE	MARTIN
REINSHAGEN	THOMAS	OLIVER
REUBEN	JAMES	ADAM
RIBI	DOMINIK	
RICE	PETER	ANDREAS
RICHARDSON	FRANCOIS	
RIDDERVOLD	SVEN	JULIUS
RITTER	NICHOLAS	OLIVER
RITTER	NICHOLAS	OLIVER
ROBINSON	HUNG	SUN
ROCKSON	JOSEPH	KWABENA MANBOAH
ROM	KAREN	ORA
ROMELL	CARL	JESPER
ROSE	KATHLEEN	
ROUSSEAU	HUGUES	REAL
RUDD	EMIL	
RUMBOLD	FRANCES	ANN HAWKES
RUPPE	SUSANNE	TANNER
SAILORS	THOMAS	CHARLES

Last name	First name	Middle name/initials
SAI–NGARM	JANTHIMA	
SALVATI	PASCAL	EDUARDO ANDREAS
SALWICZEK	CHRISTINE	ANGELA
SAOUD	MAYA	Z
SARKESIAN	MICHAEL	S
SAXER	MARIANNE	
SAXER	MARKUS	
SCHILD	CAROL	PULFER
SCHLEIMINGER	DORRIT	GABRIELE
SCHMID	ANDREA	MARIA
SCHMID	EVELYN	DENISE
SCHNEIDER	CATHLEEN	MARY
SCHNEIDER	THOMAS	
SCHOEPE	GUNDER	BURKHARD
SCOTT	DAVID	VAUGHAN
SEA	CORY	
SEA	MARYANNE	
SEE	ASHLEY	KUM LUEN
SEILERN	CECILIA	CLARA
SEILERN	MAXIMILIAN	MARKUS
SENG	HENRY	KWAI CHEUNG
SEVERGNINI	MADDALENA	JOHNS
SGOBBO, JR	ROCCO	JOSEPH
SHAW	JAY	MERVIN
SHAW	MARISSA	FUNG
SHIN	KATHERINE	NAEON
SHU	KARIE	HOI LI
SILVERSTEIN	ADAM	J
SIM	MEI	FONG JESSICA
SIN	SUN	HWAN
SINGER	LAVINIA	
SKOCZYLAS	ADINA	MIRIAM
SLIVKA	WILLIAM	ROBERT
SMITH	STEVEN	LAWRENCE
SOKOLOFF	KATE	
SOKOLOFF	KIRIL	
SOLOVYEV	ANDREY	
SONG	WENDY	CHI KAN
SOS	BEATRICE	
SOS	THOMAS	BELA
SOTIROPOULOS	PANAGIOTA	
SOWELL	TIMOTHY	
SPENCER	CAITLIN	SARAH
SPERLING	JOERG	JACQUES
SRINIVASAN	VENKATRAMAN	
ST–CHARLES	CAROLE	
STEPHANS	SIN	YON
STETON	HONEY	C.
STEWART	JAMES	ROBERT
STOESSEL	PATRICK	
STRESEMANN	WALTER	C G
STRIEBEL	ROMAN	FRANZ
STRUYF	FRANK	
SUDBURY	HAROLD	ARCHIBALD
SUEN	SAMANTHA	WAI–KWAN
SUGANO	BUNPEI	
SUNDRALINGAM	KAVITHA	
SUNDSTOEL	SHEA	ALLISON
SUTTER	RHONDA	G.
SUTTER	RICHARD	G.
SUTTER	SABRA	
SUTTON	ALEXANDRA	
SWIATEK	GRZEGORZ	
SZOKOLOCZY–SYLLABA	ADRIENNE	FRANCOISE
TANG	QING	
TANNER	LARISSA	FLURINA
TATEOSSLAN	ROBERT	
THEIL	PAUL	MARIN
THIAN	CHUAN	KAI
THU	ARE	
THU	ROZA	A.
TOM	SCOTT	PHILIP
TOMEK	MARK	CHRISTOPHER

Last name	First name	Middle name/initials
TRANIE	CHARLES–HENRY	
TRAVIS	ANISHA	LEE
TREVES	JACOPO	GIOVANNI DAVID
TROMBLEY	BRIGITTE	
TSAI	CHON	LIANG
TSAO	ROBERT	WEI TZU
TURNBULL	BENET	
TUTTLE	CYNTHIA	BENSON
USHER	JONATHON	DAVID
VAN DE WAL	CAROLINE	F
VAN DE WAL	LAURENCE	G
VAN DE WAL	PAUL	M
VAN DEN BROEK	LAURENS	VERNER
VAN DEN BROEK	SEVENNE	ANNE
VAN DER WESTHUIZEN	AMANDA	
VAN LAAR	HENRI	B
VENKATESWAR	USHA	BALAN
VIREN	ERIKA	S
VOGT	STEFAN	JOSEF
VON SCHULTHESS	ALEXANDRA	I
VON SCHULTHESS	PATRICK	GUSTAV
WAGG	DAVID	C
WAGG	PATRICIA	A
WAGNER–LAGIER	CAROL	ANDRE
WAI	GILBERT	YIP CARL
WALBRUN	WILLIAM	T
WAN	SANDY	SAN–MING
WANG	JACK	P
WANG	MATTHEW	JIHUA
WANG	PENG	
WANG	SHIRLEY	
WANG	XIAOMAN	
WEBER	MONICA	IDA
WEE	KIMBERLY	WEI–LING
WEI	ERIC	
WEISS	DAN	DOV
WELCH	ARWIND	KUMAR
WHITEHEAD	MARGARET	ANN
WHITELAND	MATTHEW	ARTHUR
WILTON	ANTHONY	NORMAN
WOLFE	IVAN	EDWARD
WONG	ANDREW	SING
WONG	JONATHAN	CHEE HYNN
WONG	KEITH	SHING CHEUNG
WONG	KENT	SHING HONG
WONG	STEPHEN	TSI CHUEN
WONG	TONY	C. K.
WONG, JR	WINSTON	
WRIGHT	MARTIN	CLAUDE
WU	HO–MOU	
YANG	HAN	HSIANG
YANG	XUEMING	
YAU	KEI	
YEE	GLENN	SEKKEMN
YEUNG	KILONE	GERALD
YEUNG	KWOK	ON
YIN	SAMUEL	YEN–LIANG
YONG	CHANGLE	JOVIN
YOON	CHI–WON	
YOSHIMORI	SAE	
YOU	CHONG	HWA
YOUNG	DESMOND	W.
YOUNG	GILBERTO	
YOUNGER	MATTHEW	F
YU	XIAO	YANG
YUAN	MARK	FU–CHUN
ZALATIMO	ZADE	
ZEKRYA	MOHAMED	DAOUD
ZHANG	TINGJUN	
ZHANG	WENYUAN	
ZHANG	YANJUN	
ZHAO	JANE	QIAO
ZHENG	LIN	
ZHOU	ZONGHE	

Dated: April 26, 2011.

Ann Gaudelli,

Manager,18eam 103, Examinations Operations—Philadelphia Compliance Services.

[FR Doc. 2011–11299 Filed 5–9–11; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

United States Mint

Pricing for American Eagle and American Buffalo Bullion Presentation Cases

AGENCY: United States Mint, Department of the Treasury.

ACTION: Notice.

SUMMARY: The United States Mint is announcing the price increase of the American Eagle/Buffalo Bullion Presentation Cases.

A lot of 100 presentation cases will be offered for sale at a price of $299.95.

FOR FURTHER INFORMATION CONTACT: B. B. Craig, Associate Director for Sales and Marketing; United States Mint; 801 9th Street NW.; Washington, DC 20220; or call 202–354–7500.

Authority: 31 U.S.C. 5111, 5112 & 9701.

Dated: May 3, 2011.

Richard A. Peterson,

Acting Director, United States Mint.

[FR Doc. 2011–11290 Filed 5–9–11; 8:45 am]

BILLING CODE P

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Vol. 76 Tuesday,
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Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17
Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for *Lepidium papilliferum* (Slickspot Peppergrass); Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R1–ES–2010–0071; MO 92210–0–0009]

RIN 1018–AX16

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Lepidium papilliferum (Slickspot Peppergrass)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service, propose to designate critical habitat for *Lepidium papilliferum* (slickspot peppergrass) under the Endangered Species Act of 1973, as amended. In total, we are proposing to designate 23,374 hectares (57,756 acres) as critical habitat for *Lepidium papilliferum,* in Ada, Elmore, Payette, and Owyhee Counties in Idaho.

DATES: To provide us with adequate time to consider your comments, comments must be received on or before July 11, 2011. Please note that if you are using the Federal eRulemaking Portal (see **ADDRESSES** section, below), the deadline for submitting an electronic comment is 11:59 p.m. Eastern Standard Time on this date. We must receive requests for public hearings, in writing, at the address shown in the **FOR FURTHER INFORMATION CONTACT** section by June 24, 2011.

ADDRESSES: You may submit comments by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* In the box that reads "Enter Keyword or ID," enter the docket number for this proposed rule, which is FWS–R1–ES–2010–0071. Check the box that reads "Open for Comment/Submission," and then click the Search button. You should see an icon that reads "Submit a Comment." Please ensure that you have found the correct rulemaking before submitting your comment.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS–R1–ES–2010–0071; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

FOR FURTHER INFORMATION CONTACT: Brian Kelly, State Supervisor, U.S. Fish and Wildlife Service, Idaho Fish and Wildlife Office, 1387 S. Vinnell Way, Room 368, Boise, ID 83709; telephone 208–378–5243; facsimile 208–378–5262. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Public Comments

We intend that any final action resulting from this proposal will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other concerned government agencies, the scientific community, industry, or other interested parties concerning this proposed rule. We particularly seek comments concerning:

(1) The reasons why we should or should not designate habitat as "critical habitat" under section 4 of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), including whether there are threats to *Lepidium papilliferum* from human activity, the degree to which threats from human activity can be expected to increase due to the designation, and whether that increase in threats outweighs the benefit of designation such that the designation of critical habitat may not be prudent.

(2) Specific information on:

- The amount and distribution of *Lepidium papilliferum* habitat;
- What areas occupied at the time of listing and that contain features essential to the conservation of *Lepidium papilliferum* should be included in the designation and why;
- The habitat components (primary constituent elements) essential to the conservation of the species, such as specific soil characteristics, plant associations, or pollinators, and the quantity and spatial arrangement of these features on the landscape needed to provide for the conservation of the species;
- What areas not occupied at the time of listing are essential for the conservation of the species, if any, and why; and
- Special management considerations or protections that the features essential to the conservation of *Lepidium papilliferum* may require, including managing for the potential effects of climate change.

(3) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat.

(4) Any probable economic, national security, or other relevant impacts of designating any area that may be included in the final designation. We are particularly interested in any impacts on small entities, and the benefits of including or excluding areas that are subject to these impacts.

(5) Whether the benefits of excluding any particular area from critical habitat outweigh the benefits of including that area in critical habitat under section 4(b)(2) of the Act, after considering both the potential impacts and benefits of the proposed critical habitat designation. Under section 4(b)(2) of the Act, we may exclude an area from critical habitat if we determine that the benefits of such exclusion outweigh the benefits of including that particular area as critical habitat, unless failure to designate that specific area as critical habitat will result in the extinction of the species. We are considering the possible exclusion of areas under private ownership, in particular, as we anticipate the benefits of exclusion may outweigh the benefits of inclusion in those areas. We therefore request specific information on:

- The benefits of including any specific areas in the final designation and supporting rationale,
- The benefits of excluding any specific areas from the final designation and supporting rationale, and
- Whether any specific exclusions may result in the extinction of the species and why (see Exclusions section below).

(5) The use of Public Land Survey System quarter-quarter sections to delineate the proposed critical habitat designation; we used quarter-quarter sections in this proposed rule because they are the most-commonly-used minimum size and method for delineating land ownership boundaries within the range of *Lepidium papilliferum*.

(6) Information on the projected and reasonably likely impacts of climate change on *Lepidium papilliferum* and on the critical habitat areas we are proposing.

(7) Whether we could improve or modify our approach to designating critical habitat in any way to provide for greater public participation and understanding, or to better accommodate public concerns and comment.

Our final determination concerning critical habitat for *Lepidium papilliferum* will take into consideration all written comments we receive during the comment period,

including comments from peer reviewers, comments we receive during any public hearing should one be requested, and any additional information we receive during the 60-day comment period. All comments will be included in the public record for this rulemaking. On the basis of peer reviewer and public comments, we may, during the development of our final determination, find that areas within the proposed designation do not meet the definition of critical habitat, that some modifications to the described boundaries are appropriate, or that areas may or may not be appropriate for exclusion under section 4(b)(2) of the Act.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in the **ADDRESSES** section. We will post your entire comment—including any personal identifying information—on *http://www.regulations.gov*. If you provide personal identifying information, such as your name, street address, phone number, or e-mail address, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Idaho Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Background

Lepidium papilliferum was listed as a threatened species under the Act on October 8, 2009 (74 FR 52014). In this proposed rule, we intend to discuss only those topics directly relevant to the designation of critical habitat for this species. For more detailed information on the genetics and biology of *L. papilliferum,* please refer to the final listing rule published in the **Federal Register** on October 8, 2009 (74 FR 52014). Detailed information on *L. papilliferum* directly relevant to designation of critical habitat is discussed under the Primary Constituent Elements section below.

Species Information

Lepidium papilliferum is a small, flowering plant in the mustard family (Brassicaceae). The plant grows in unique microsite habitats known as slickspots (described below, under "Ecology and Habitat"), which are found within the semiarid sagebrush-steppe ecosystem of southwestern Idaho. The species is endemic to this region, known only from the Snake River Plain and its adjacent northern foothills (an area approximately 145 by 40 kilometers (km) (90 by 25 miles (mi)), or 5,800 square kilometers (km^2) (2,250 square miles (mi^2))), with a smaller, disjunct population on the Owyhee Plateau (an area of approximately 18 by 19 km (11 by 12 mi), or 342 km^2 (132 mi^2)). Rangewide, *L. papilliferum* is associated with slickspots that cover a relatively small cumulative area within the larger sagebrush-steppe ecosystem. Additionally, although *L. papilliferum* is found almost exclusively in slickspots, very few existing slickspots are occupied by *L. papilliferum.*

Lepidium papilliferum is herbaceous and relatively low-growing, averaging 5 to 20 centimeters (cm) (2 to 8 inches (in)) high, but occasionally reaching up to 40 cm (16 in) in height. It is an intricately branched, tap-rooted plant, with numerous, small, white, four-petalled flowers. Fruits (siliques) are round in outline, flattened, and two-seeded (Moseley 1994, pp. 3, 4; Holmgren *et al.* 2005, p. 260). The species is monocarpic (it flowers once and then dies) and displays two different life history strategies—an annual form and a biennial form. The annual form reproduces by flowering and setting seed in its first year, and dies within one growing season. The biennial life form initiates growth in the first year as a vegetative rosette, but does not flower and produce seed until the second growing season. The proportion of annuals versus biennials in a population can vary greatly (Meyer *et al.* 2005, p. 15), but in general annuals appear to outnumber biennials (Moseley 1994, p. 12).

Like many short-lived plants growing in arid environments, above-ground numbers of *Lepidium papilliferum* individuals can fluctuate widely from one year to the next, depending on seasonal precipitation patterns (Mancuso and Moseley 1998, p. 1; Meyer *et al.* 2005, pp. 4, 12, 15; Palazzo *et al.* 2005, p. 9; Menke and Kaye 2006a, p. 8; Menke and Kaye 2006b, pp. 10, 11; Sullivan and Nations 2009, p. 44). Mancuso and Moseley (1998, p. 1) note that sites with thousands of above-ground plants one year may have none the next, and vice versa. Above-ground plants represent only a portion of the population; the seed bank (a reserve of dormant seeds, generally found in the soil) contributes the other portion, and in many years constitutes the majority of the population (Mancuso and Moseley 1998, p. 1).

Ecology and Habitat

Lepidium papilliferum gets its common name, slickspot peppergrass, from its almost exclusive association with slickspot microsite habitats. "Slickspots" are visually distinct openings in the sagebrush-steppe community characterized by soils with high sodium content and distinct clay layers; they tend to be highly reflective and light in color, making them easy to detect on the landscape (Fisher *et al.* 1996, p. 3). Within the range of *L. papilliferum,* slickspots cover a relatively small cumulative area within the larger sagebrush-steppe ecosystem. For example, an intense field inventory within the U.S. Air Force Juniper Butte Range in 2002 found that of the 4,480 ha (11,070 ac) surveyed, approximately 1 percent (44.1 ha) (109 ac) consisted of slickspot microsites; of those slickspots, only 4 percent were occupied by individuals of *L. papilliferum.* It is not known how long slickspots take to form, but it is hypothesized to take several thousands of years (Nettleton and Peterson 1983, p. 193; Seronko 2006, *in litt.*). Climate conditions that allowed for the formation of slickspots in southwestern Idaho are thought to have occurred during a wetter Pleistocene period. As slickspots appear to have formed during the Pleistocene and new slickspots are not being formed, the loss of a slickspot is considered a permanent loss. Some slickspots subjected to only light disturbance in the past may apparently be capable of re-forming (Seronko 2006, *in litt.*). Disturbances that alter the physical properties of the soil layers, however, such as deep disturbance and the addition of organic matter, may lead to destruction and permanent loss of slickspots.

Several analyses have shown a positive association between above-ground abundance of *Lepidium papilliferum* and spring precipitation in the same year. More recently, Sullivan and Nations (2009, pp. 30, 41) analyzed 18 years of data and found that both plant density and plant abundance were positively related to mean monthly precipitation in late winter and spring (January through May). This correlation of abundance with spring rainfall is important, as it at least partially explains annual fluctuations in *L. papilliferum* population numbers. In contrast, precipitation in the fall or early winter may have a negative effect on *L. papilliferum* abundance the following spring (Meyer *et al.* 2005, p. 15; Sullivan and Nations 2009, p. 39). It has been suggested this negative relationship may be the result of prolonged flooding of the slickspot microsites, causing

subsequent mortality of overwintering biennial rosettes (Meyer *et al.* 2005, pp. 15–16).

Threats

The primary threat factors that affect the habitat and survival of *Lepidium papilliferum* in southwest Idaho include the invasion of nonnative annual grasses, such as *Bromus tectorum* (cheatgrass), and increased fire frequency. *Bromus tectorum* can impact *L. papilliferum* directly through competition, but it also acts indirectly on the species by providing continuous fine fuels that contribute to the documented increased frequency and extent of wildfires in southwest Idaho. Frequent wildfires ultimately result in the conversion of the sagebrush-steppe habitat to nonnative annual grasslands, with consequent losses of native species diversity and natural ecological function. This creates a positive feedback loop between nonnative annual grasses and fire, which makes it difficult to separate out the effects that each of these threats independently have on *L. papilliferum.*

Development also poses a threat to *Lepidium papilliferum,* both directly through the destruction of populations and loss of slickspot microsites, as well as indirectly through habitat fragmentation. The loss of slickspots is a permanent loss of habitat for *L. papilliferum,* because the species is specifically adapted to occupy these unique microsite habitats that developed in the Pleistocene era, and new slickspots are no longer being formed (Nettleton and Peterson 1983, pp. 166, 191, 206).

In addition to wildfire, nonnative plants, and development, livestock use poses a secondary threat to *Lepidium papilliferum,* primarily through mechanical damage to individual plants and slickspot habitats. Livestock trampling can disrupt the soil layers of slickspots, altering slickspot function (Seronko 2004*, in litt.;* Colket 2005, p. 34; Meyer *et al.* 2005, pp. 21–22). Trampling when slickspots are dry can lead to mechanical damage to the slickspot soil crust, potentially resulting in the invasion of nonnative plants and altering the hydrologic function of slickspots. In water-saturated slickspot soils, trampling by livestock can break through the restrictive clay layer; this is referred to as penetrating trampling (State of Idaho *et al.* 2006, p. 9). Trampling that alters the soil structure and the functionality of slickspots (Rengasamy *et al.* 1984, p. 63; Seronko 2004, *in litt.*) likely impacts the suitability of these microsites for *L. papilliferum.* Trampling can also negatively affect the seed bank by pushing seeds too deeply into the soil for subsequent successful germination and emergence. The current livestock management conditions and associated conservation measures address this threat such that it does not appear to pose a significant risk to the species at this time, but more monitoring information is needed to determine the significance of this threat to *L. papilliferum* rangewide.

Lepidium papilliferum is primarily an outcrossing species, and depends upon a diversity of insect pollinators for more successful fruit production and to maintain genetic variability by genetic exchange with distant populations. Some of the primary threats identified may have indirect effects on *L. papilliferum* by negatively impacting the native insect populations that the species depends on for pollination and genetic exchange. Changes in native habitat caused by residential or agricultural development, or conversion of the native plant community to nonnative species, may impact insect pollinator populations by removing specific food sources or habitats required for breeding or nesting. In addition, habitat isolation and fragmentation resulting from activities such as development or road construction may result in decreased pollination of L. papilliferum from distant sources, possibly resulting in decreased reproductive potential (*e.g.,* lower seed set) and reduced genetic diversity.

The Owyhee harvester ant was recently identified as a potentially-important seed predator of *Lepidium papilliferum.* A native species, the harvester ants appear to favor areas dominated by nonnative annual grasses, such as *Bromus tectorum,* and in the wake of disturbance factors such as wildfire, these ants are beginning to colonize areas that were historically unsuitable for nesting. This expansion is increasingly bringing them into contact with *L. papilliferum,* which experiences high rates of seed predation by the ants with potential negative consequences for the seed bank and recruitment. Our current understanding of how pervasive harvester ant colonies have become within the range of *L. papilliferum,* and their overall significance on the long-term viability of the species, is limited due to the short-term nature of the research so far.

For a detailed analysis of the threats to *Lepidium papilliferum,* please refer to the final listing rule for the species published October 8, 2009 (74 FR 52014).

Previous Federal Actions

On July 15, 2002, we proposed to list *Lepidium papilliferum* as endangered (67 FR 46441). On January 12, 2007, we published a document in the **Federal Register** withdrawing the proposed rule (72 FR 1622), based on a determination at that time that listing was not warranted (for a description of Federal actions concerning *L. papilliferum* between the 2002 proposal to list and the 2007 withdrawal, please refer to the 2007 withdrawal document). On April 6, 2007, Western Watersheds Project filed a lawsuit challenging our decision to withdraw the proposed rule to list *L. papilliferum.* On June 4, 2008, the U.S. District Court for the District of Idaho (Court) reversed the decision to withdraw the proposed rule, with directions that the case be remanded to the Service for further consideration consistent with the Court's opinion (*Western Watersheds Project* v. *Kempthorne,* Case No. CV 07–161–E–MHW (D. Idaho)).

After issuance of the Court's remand order, we published a public notification of the reinstatement of our July 15, 2002, proposed rule to list *Lepidium papilliferum* as endangered and announced the reopening of a public comment period on September 19, 2008 (73 FR 54345). To ensure that our review of the species' status was complete, we announced another reopening of the comment period on March 17, 2009, for a period of 30 days (74 FR 11342). On October 8, 2009, we published a final rule (74 FR 52014) listing *L. papilliferum* as a threatened species throughout its range.

Critical Habitat

Background

Critical habitat is defined in section 3 of the Act as:

(i) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features.

(I) Essential to the conservation of the species, and

(II) Which may require special management considerations or protection; and

(ii) Specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Conservation, as defined under section 3 of the Act, means to use and the use of all methods and procedures that are necessary to bring an

endangered or threatened species to the point at which the measures provided under the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the prohibition against Federal agencies carrying out, funding, or authorizing the destruction or adverse modification of critical habitat. Section 7(a)(2) requires consultation on Federal actions that may affect critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation does not allow the government or public to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Where a landowner seeks or requests Federal agency funding or authorization for an action that may affect a listed species or critical habitat, the consultation requirements of section 7(a)(2) would apply, but even in the event of a destruction or adverse modification finding, the Federal action agency and the applicant's obligation is not to restore or recover the species, but to implement reasonable and prudent alternatives to avoid destruction or adverse modification of critical habitat.

For inclusion in a critical habitat designation, the habitat within the geographical area occupied by the species at the time it was listed must contain the primary constituent elements (PCEs) essential to the conservation of the species, and be included only if those features may require special management considerations or protection. Critical habitat designations identify, to the extent known using the best scientific data available, habitat areas that provide essential life-cycle needs of the species (areas on which are found the PCEs laid out in the appropriate quantity and spatial arrangement for the conservation of the species). Under the Act and regulations at 50 CFR 424.12, we can designate critical habitat in areas outside the geographical area occupied by the species at the time it is listed only when we determine that those areas are essential for the conservation of the species and that a designation limited to those areas occupied at the time of listing would be inadequate to ensure the conservation of the species.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific data available. Further, our Policy on Information Standards under the Endangered Species Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; 114 Stat. 2763A–153–54)), and our associated Information Quality Guidelines (available online at *http://www.fws.gov/informationquality/topics/IQAguidelines-final82307.pdf*), provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be designated as critical habitat, our primary source of information is generally the information developed during the listing process for the species. Additional information sources may include the recovery plan for the species (if available), articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, biological assessments, or other unpublished materials, including expert opinion or personal knowledge.

Habitat is often dynamic, and species may move from one area to another over time. In particular, we recognize that climate change may cause changes in areas of occupied habitat. In the Pacific Northwest, regionally averaged temperatures have risen 0.8 degrees Celsius (C) (1.5 degrees Fahrenheit (F)) over the last century (as much as 2 degrees C (4 degrees F) in some areas), and are projected to increase by another 1.5 to 5.5 degrees C (3 to 10 degrees F) over the next 100 years (Mote *et al.* 2003, p. 54; Karl *et al.* 2009, p. 135). Arid regions such as the Great Basin where *Lepidium papilliferum* occurs are likely to become hotter and drier, fire frequency is expected to accelerate, and fires may become larger and more severe (Brown *et al.* 2004, pp. 382–383; Neilson *et al.* 2005, p. 150; Chambers and Pellant 2008, p. 31; Karl *et al.* 2009, p. 83). Under projected future temperature conditions, the cover of sagebrush in the Great Basin region is anticipated to be dramatically reduced (Neilson *et al.* 2005, p. 154). Warmer temperatures and greater concentrations of atmospheric carbon dioxide create conditions favorable to the invasive annual grass *Bromus tectorum,* and perpetuate the positive feedback cycle between annual grasses and fire frequency that poses a significant threat to the sagebrush matrix habitat of *L. papilliferum* (Chambers and Pellant 2008, p. 32; Karl *et al.* 2009, p. 83).

The direct, long-term impact from climate change to the habitat of *Lepidium papilliferum* is yet to be determined. Under the current climate-change projections discussed above, we anticipate that future climatic conditions will favor further invasion by *Bromus tectorum,* that fire frequency will continue to increase, and that the extent and severity of fires may increase as well, further changing the species composition of southwest Idaho's sagebrush-steppe habitat.

Although the Intergovernmental Panel on Climate Change (IPCC) projects that the changes to the global climate system in the 21st century will likely be greater than those observed in the 20th century (IPCC 2007, p. 45), there are, nonetheless, limitations to our ability to estimate the scope or magnitude of the effects. Therefore, we recognize that critical habitat designated at a particular point in time may not include all of the habitat areas that we may later determine necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be required for recovery of the species.

Areas that are important to the conservation of the species, but are outside the critical habitat designation, will continue to be subject to conservation actions we implement under section 7(a)(1) of the Act. Those areas outside the critical habitat designation that support populations are also subject to the regulatory protections afforded by the section 7(a)(2) jeopardy standard, as determined on the basis of the best available scientific information at the time of the agency action. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans (HCPs), or other species conservation planning efforts if new information available at the time of

these planning efforts calls for a different outcome.

Methods

As required by section 4(b)(2) of the Act, in developing this proposed rule we used the best scientific data available in determining those specific areas within the geographical area occupied at the time of listing that contain the features essential to the conservation of *Lepidium papilliferum* and that may require special management considerations or protection.

We reviewed available information that pertains to the habitat requirements of this species. These sources of information included, but were not limited to, data used to complete the final rule to list the species (74 FR 52014; October 8, 2009); information from biological surveys, peer reviewed articles, various agency reports and databases for or by the Idaho Natural Heritage Program (INHP), U.S. Bureau of Land Management (BLM), Idaho Army National Guard, State of Idaho, U.S. Air Force, and nongovernmental cooperators; discussions with species experts; and data and information presented in academic research theses. Additionally, we utilized regional Geographic Information System (GIS) data (such as species occurrence data, land use, topography, aerial imagery, soil data, and land ownership maps) for area calculations and mapping.

The long-term probability of the survival and recovery of *Lepidium papilliferum* is dependent upon protecting existing population sites of sufficient quality and viability to contribute meaningfully to the conservation of the species; maintaining ecological function within these sites, including preserving the integrity of the slickspot soils and connectivity within and between populations in close geographic proximity to one another (to facilitate pollinator activity); and keeping these areas free of major habitat-disturbing activities, including the establishment of invasive, nonnative plant species and frequent wildfire. Because slickspots cover a relatively small cumulative area within the larger sagebrush-steppe matrix, we did not restrict the designation to individual occupied slickspots, but included some adjacent sagebrush-steppe habitat to provide for ecosystem function. This contiguous habitat provides the requisite PCEs for *L. papilliferum,* including native flowering plants and habitat to support pollinators, and additionally provides the essential feature of habitat free from disturbances, such as invasive species, development, and recreation. The areas we are proposing to designate as critical habitat were all occupied at the time of listing, and provide physical and biological features essential for the conservation of *L. papilliferum* that may require special management considerations or protection. We do not propose to designate areas outside of the geographical area presently occupied by the species.

Our first step in delineating proposed critical habitat units was to identify areas that provide for the conservation of *Lepidium papilliferum* within the three physiographic regions where the species was known to occur at the time of listing (74 FR 52020; October 8, 2009). These areas include the Boise Foothills, the Snake River Plain and its adjacent northern foothills, and a single disjunct population on the Owyhee Plateau. We are proposing to designate critical habitat in all three physiographic regions to conserve the genetic variability represented by *L. papilliferum* across its range and because these areas are representative of the entire known historical geographic distribution of the species (50 CFR 424.12(b)(5)).

We then identified areas within these geographic units that were occupied by *Lepidium papilliferum* at the time of listing utilizing the element occurrence (EO) data provided to us by the Idaho Natural Heritage Program (INHP), and information used in the final rule to list *Lepidium papilliferum* published in the **Federal Register** on October 8, 2009 (74 FR 52014). Element occurrences of *L. papilliferum* are defined by grouping occupied slickspots that occur within 1 km (0.6 mi) of each other; all occupied slickspots within a 1-km (0.6-mi) distance of another occupied slickspot are aggregated into a single EO. The definition of a single EO is based on the distance over which individuals of *L. papilliferum* are believed to be capable of genetic exchange through insect-mediated pollination (Colket and Robertson 2006, pp. 1–2). INHP assigned to each EO an identifying number and a qualitative rank based on measures of population size and habitat quality. Using the EO area ranking system developed by the INHP, we evaluated specific areas to propose for designation as critical habitat (see Criteria Used to Identify Critical Habitat, below). The ranking given to each area takes into account those features that are essential to *L. papilliferum,* including the presence of slickspots, habitat conditions within and surrounding the area, and the conditions of the surrounding landscape features necessary to support pollination and other life-history requirements. Each EO for *L. papilliferum* is given a ranking of A, B, C, D, E, F, H, or X by the INHP; higher rankings (the highest rank would be an "A") indicate sites with greater habitat quality and larger population sizes, which we infer are more likely to persist and sustain the species. As of February 2009, there were no A-ranked EOs of *L. papilliferum.* Rankings of B, C, and D indicate a decreasing continuum of detectable plants, native plant community, habitat condition, and overall landscape context within 1 km (0.6 mi) of occupied slickspots, with a B ranking signifying a greater number of plants and better habitat conditions and a D ranking signifying few plants and poor conditions. Areas ranked E are those records with confirmed *L. papilliferum* presence but for which no additional habitat information is available. Areas ranked H indicate historical occurrences, X rankings connote extirpated occurrences, and F rankings indicate areas where no *L. papilliferum* individuals were found when last visited by a qualified surveyor.

Critical habitat boundaries were initially determined based on the minimum delineation of EO areas. Using GIS, we included an area of approximately 250 meter (m) (820 feet (ft)) around each EO to provide the PCEs for the species, including habitat of sufficient quantity and quality to support pollinators of *Lepidium papilliferum* in occupied slickspots. This areal extent was chosen to provide the minimum area needed to sustain an active pollinator community for *L. papilliferum.* This distance is not meant to capture all habitat that is potentially used by pollinators, but it is meant to capture a sufficient area to allow for pollinators to nest, feed, and reproduce in habitat that is adjacent and connected to *L. papilliferum* EOs. Although the species is served by a variety of pollinators, we delineated this pollinator-use area based on one of *L. papilliferum*'s important pollinators with a relatively limited flight distance, the solitary bee, assuming that potential pollinators with long-range flight capabilities would be capable of using this habitat as well. Research suggests that solitary bees have fairly small foraging distances (Steffan-Dewenter *et al.* 2002, pp. 1427–1429; Gathmann and Tscharntke 2002, p. 762); a study by Gathmann and Tscharntke suggested a maximum foraging range between 150 and 600 m (495 and 1,970 ft). Based on this data, we chose 250 m (820 ft) as a reasonable mid-range estimate of the distance needed to provide sufficient

habitat for the pollinator community. As noted, many other insects also contribute to the pollination of *L. papilliferum,* and some of these insects may travel greater distances than solitary bees; however, these pollinators may also find habitat within 250 m (820 ft) of *L. papilliferum* EOs. We did not delineate a pollinator use area larger than 250 m (820 ft) around *L. papilliferum* EOs, because that could include habitats that may not directly contribute to the survival or recovery of the species. In addition to supporting the pollinator community, this area surrounding EOs of *L. papilliferum* provides the essential feature of habitat free from disturbance, such as development and recreation, for the species.

Using GIS, we intersected the 250-m (820-ft) buffered EOs with a quarter-quarter section shapefile based on the Public Land Survey System. The Public Land Survey System is a rectangular survey system commonly used in the western United States that divides the land into 6-mile square townships (equivalent to 1,554 ha), which are then further subdivided into 1-mile square sections (259 ha). These sections may be surveyed into smaller squares by repeated halving and quartering; a quarter section is 160 ac (65 ha), and the smallest unit normally utilized is a "quarter-quarter section," equal in size to 40 ac (16 ha) (about 1/16 of a square mile, or 400 m across). Quarter-quarter sections that contained delineated EOs and surrounding buffers were initially identified as proposed critical habitat. We chose this strategy because, in our judgment, this scale of analysis is the appropriate scale for defining the critical habitat boundaries of this particular species. We based our determination to use this scale of analysis on the following reasons: (1) Quarter-quarter sections are the most-commonly-used minimum size and method for delineating land ownership boundaries within the range of *Lepidium papilliferum;* (2) the Public Land Survey System is a commonly-used method in Idaho and the sections are easily identified on standard maps, which will assist the public and land management agencies in easily identifying proposed critical habitat areas; (3) quarter-quarter section boundaries are commonly used for partitioning lands for management purposes such as livestock allotment boundaries; and (4) quarter-quarter section descriptions minimize the number of coordinates necessary to define the shapes of the critical habitat units, and avoid a false sense of precision that might be inferred from the use of other mapping tools; we would not consider mapping on a finer scale to represent reliable data with regard to location information.

Primary Constituent Elements (PCEs)

In accordance with subsections 3(5)(A)(i) and 4(b)(1)(A) of the Act and our implementing regulations at 50 CFR 424.12, in determining those areas within the geographical area occupied by the species at the time of listing to propose as critical habitat, we consider the physical or biological features essential to the conservation of the species that may require special management considerations or protection. These may include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, or rearing (or development) of offspring; germination, or seed dispersal; and generally

(5) Habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species.

We derived the specific PCEs essential to the conservation of *Lepidium papilliferum* based on the known biological needs of the species. We consider the physical or biological features essential to the conservation of *L. papilliferum* to be those PCEs laid out in the appropriate quantity and spatial arrangement to provide for the conservation of the species. All areas proposed as critical habitat for *L. papilliferum* are currently occupied, were occupied at the time of listing, and are within the species' historical geographic range.

With rare exception, *Lepidium papilliferum* is known only to occur in slickspot habitat microsites scattered within the greater semiarid sagebrush-steppe ecosystem of southwestern Idaho. The restricted distribution of *L. papilliferum* is likely due to its adaptation to the specific conditions within these slickspot habitats. Slickspots are distinguished from the surrounding sagebrush habitat as having the following characteristics: microsites where water pools when rain falls (Fisher *et al.* 1996, pp. 2, 4); sparse native vegetation; distinct soil layers with a columnar or prismatic structure, higher alkalinity and clay content, and natric (sodic, high sodium) properties (Fisher *et al.* 1996, pp. 15–16; Meyer and Allen 2005, pp. 3–5, 8; Palazzo *et al.* 2008, p. 378); and reduced levels of organic matter and nutrients due to lower biomass production (Meyer and Quinney 1993, pp. 3, 6; Fisher *et al.* 1996, p. 4). Although the low permeability of slickspots appears to help hold moisture (Moseley 1994, p. 8), once the thin crust dries out, the survival of *L. papilliferum* seedlings depends on the ability of the plant to extend the taproot into the argillic horizon (soil layer with high clay content) to extract moisture from the deeper natric zone (Fisher *et al.* 1996, p. 13).

Ecologically functional slickspots have the following three primary layers: the surface silt layer, the middle restrictive layer, and an underlying moist clay layer. Although slickspots can appear homogeneous on the surface, the actual depth of the silt and restrictive layer can vary throughout the slickspot (Meyer and Allen 2005, Tables 9, 10, and 11). The top two layers (surface silt and restrictive) of slickspots are normally very thin; the surface silt layer varies in thickness from a few mm to 3 cm (0.1 to 1.2 in) in slickspots known to support *Lepidium papilliferum,* and the restrictive layer varies in thickness from 1 to 3 cm (0.4 to 1.2 in) (Meyer and Allen 2005, p. 3). Fisher *et al.* (1995, p. 4) describe the smooth surface layer of slickspots as crustlike, with prominent vesicular pores. Below the surface layer, the soil clay content increases abruptly and creates a strongly-structured, finely-textured boundary (horizon) formed by the concentration of silicate clay materials, known as an argillic horizon. Slickspot soil profiles are distinctive and distinguished from the surrounding soil matrix by very thin surface layers that form prominently vesicular crusts, natric-like argillic horizons that occur just below the soil surface, and by increasingly saline and sodic conditions with depth (Fisher *et al.* 1995, pp. 11, 16). Disturbances that alter the physical properties of slickspot soil layers, such as deep disturbance and the addition of organic matter, may lead to destruction and permanent loss of slickspots. Slickspot soils are especially susceptible to mechanical disturbances when wet (Rengasmy *et al.* 1984, p. 63; Seronko 2004, *in litt.*). Such disturbances disrupt the soil layers important to *L. papilliferum* seed germination and seedling growth, and alter hydrological function.

The biological soil crust, also known as a microbiotic crust or cryptogamic crust, is another component of quality habitat for *Lepidium papilliferum.* Such crusts are commonly found in semiarid

and arid ecosystems, and are formed by living organisms, primarily bryophytes, lichens, algae, and cyanobacteria, that bind together surface soil particles (Moseley 1994, p. 9; Johnston 1997, p. 4). Microbiotic crusts play an important role in stabilizing the soil and preventing erosion, increasing the availability of nitrogen and other nutrients in the soil, and regulating water infiltration and evaporation levels (Johnston 1997, pp. 8–10). In addition, an intact crust appears to aid in preventing the establishment of invasive plants (Brooks and Pyke 2001, p. 4, and references therein; see also Serpe *et al.* 2006, pp. 174, 176). These crusts are sensitive to disturbances that disrupt crust integrity, such as compression due to livestock trampling or off-road vehicle (ORV) use, and are also vulnerable to damage by fire. Recovery from disturbance is possible but occurs very slowly (Johnston 1997, pp. 10–11).

The native, semiarid sagebrush-steppe habitat of southwestern Idaho where *Lepidium papilliferum* is found can be divided into two plant associations, each dominated by the shrub *Artemisia tridentata* ssp. *wyomingensis* (Wyoming big sagebrush): (1) *A. tridentata* ssp. *wyomingensis-Achnatherum thurberianum* (formerly *Stipa thurberiana*) (Thurber's needlegrass); and (2) *A. tridentata* ssp. *wyomingensis–Agropyron spicatum* (bluebunch wheatgrass) habitat types. The perennial bunchgrasses *Poa secunda* (Sandberg's bluegrass) and *Sitanion hysrix* (bottlebrush squirreltail) are commonly found in the understory of these habitats, and the species *Artemisia tridentata* ssp. *tridentata* (basin big sagebrush), *Chrysothamnus nauseosus* (grey rabbitbrush), *Chrysothamnus viridiflorus* (green rabbitbrush), *Eriogonum strictum* (strict buckwheat), *Purshia tridentata* (bitterbrush), and *Tetradymium glabrata* (little-leafed horsebrush) form a lesser component of the shrub community. Under relatively undisturbed conditions, the understory is populated by a diversity of perennial bunchgrasses and forbs, including species such as *Achnatherum* (formerly *Oryzopsis*) *hymenoides* (Indian ricegrass), *Achillea millefolium* (common yarrow), *Phacelia heterophylla* (varileaf phacelia), *Astragalus purshii* (Pursh's milkvetch), *Phlox longifolia* (longleaf phlox), and *Aristida purpurea* var. *longiseta* (purple threeawn).

Lepidium papilliferum is primarily an outcrossing species requiring pollen from separate plants for more successful fruit production; it exhibits low seed set in the absence of insect pollinators (Robertson 2003, p. 5; Robertson and Klemash 2003, p. 339; Robertson and Ulappa 2004, p. 1707; Billinge and Robertson 2008, pp. 1005–1006). *Lepidium papilliferum* is capable of self-pollinating, however, with a selfing rate (rate of self-pollination) of 12 to 18 percent (Billinge 2006, p. 40; Robertson *et al.* 2006a, p. 40).

Known *Lepidium papilliferum* insect pollinators include several families of bees (Hymenoptera), including Apidae, Halictidae, Sphecidae, and Vespidae; beetles (Coleoptera), including Dermestidae, Meloidae, and Melyridae; flies (Diptera), including Bombyliidae, Syrphidae, and Tachinidae; and others (Robertson and Klemash 2003, p. 336; Robertson *et al.* 2006b, p. 6). Seed set does not appear to be limited by the abundance of pollinators (Robertson *et al.* 2004, p. 14). However, studies have shown a strong positive correlation between insect diversity and the number of *L. papilliferum* flowering at a site (Robertson and Hannon 2003, p. 8). Measurement of fruit set per visit revealed considerable variability in the effectiveness of pollination by different types of insects. Since *L. papilliferum* has a wide array of pollinators, general pollinator management practices for conservation of pollinators should be practiced at sites designated as critical habitat. These practices include "a diversity of native plants whose blooming times overlap to provide flowers for foraging throughout the seasons; nesting and egg-laying sites, with appropriate nesting materials; sheltered, undisturbed places for hibernation and overwintering; and a landscape free of poisonous chemicals" (Shepherd *et al.* 2003, pp. 49–50). An intact native sagebrush community, as opposed to a monoculture of nonnative annual grasslands such as *Bromus tectorum,* is more likely to support a wider array of pollinators. Many pollinators depend on native plants and may be unable to access resources from introduced species; many bees, for example, not only require large numbers of flowers to provide nectar and pollen, but also need a variety of flowering plants to sustain them throughout the growing season (Kearns and Inouye 1997, p. 298).

To ensure that sufficient habitat and a diversity of native flowering plants are available to support the pollinator community required for the viability of *Lepidium papilliferum* populations, we determined that each EO should be surrounded by a minimum pollinator-use area extending 250 m (820 ft) from the periphery. We chose this extent as a reasonable estimate of the area needed to sustain an active pollinator community for *L. papilliferum* (see Methods, above). The areas proposed as critical habitat will ensure maintenance and continuity of foraging habitats for insect pollinators adjacent to occupied slickspots, which helps to increase seed viability and production and is essential for maintaining genetic diversity in the species over the long term. Additionally, the provision of sufficient native sagebrush-steppe habitat protects *L. papilliferum* from wildfire, nonnative plant invasions, and colonization by harvester ants, and it helps to maintain local ecosystem characteristics within the larger landscape, which are crucial for protecting the species and its seed bank. The seed bank is an essential feature of *L. papilliferum's* biology because it provides the species with resilience in the face of stochastic impacts and variation in environmental conditions.

All areas designated as critical habitat for *Lepidium papilliferum* were occupied at the time of listing, are within the species' historical geographic range, and provide sufficient PCEs to support at least one life-history function. Based on the above needs and our current knowledge of the life history, biology, and ecology of the species and the habitat requirements for sustaining the essential life history functions of the species, we have determined that *Lepidium papilliferum's* PCEs include:

(1) Ecologically-functional microsites or "slickspots" that are characterized by:

(a) A high sodium and clay content, and a three-layer soil horizonation sequence, which allows for successful seed germination, seedling growth, and maintenance of the seed bank. The surface horizon consists of a thin, silty, vesicular, pored (small cavity) layer that forms a physical crust (the silt layer). The subsoil horizon is a restrictive clay layer with an abruptic (referring to an abrupt change in texture) boundary with the surface layer, that is natric or natric-like in properties (a type of argillic (clay-based) horizon with distinct structural and chemical features) (the restrictive layer). The second argillic subsoil layer (that is less distinct than the upper argillic horizon) retains moisture through part of the year (the moist clay layer); and

(b) Sparse vegetation with low to moderate introduced, invasive, nonnative plant species cover.

(2) Relatively-intact, native *Artemisia tridentata* ssp. *wyomingensis* (Wyoming big sagebrush) vegetation assemblages, represented by native bunchgrasses, shrubs, and forbs, within 250 m (820 ft) of *Lepidium papilliferum* element occurrences to protect slickspots and *Lepidium papilliferum* from disturbance

from wildfire, slow the invasion of slickspots by nonnative species and native harvester ants, and provide the habitats needed by *L. papilliferum's* pollinators.

(3) A diversity of native plants whose blooming times overlap to provide pollinator species with sufficient flowers for foraging throughout the seasons and to provide nesting and egg-laying sites; appropriate nesting materials; and sheltered, undisturbed places for hibernation and overwintering of pollinator species. In order for genetic exchange of *Lepidium papilliferum* to occur, pollinators must be able to move freely between slickspots. Alternative pollen and nectar sources (other plant species within the surrounding sagebrush vegetation) are needed to support pollinators during times when *Lepidium papilliferum* is not flowering, when distances between slickspots are large, and in years when *L. papilliferum* is not a prolific flowerer.

(4) Sufficient pollinators for successful fruit and seed production, particularly pollinator species of the sphecid and vespid wasp families, species of the bombyliid and tachnid fly families, honeybees, and halictid bee species, most of which are solitary insects that nest outside of slickspots in the surrounding sagebrush-steppe vegetation, both in the ground and within the vegetation.

The space for individual and population growth is provided by PCEs 1, 2, and 3; the need for food, water, air, light, minerals, or other physiological requirements is provided by PCEs 1 and 2; the need for cover and shelter is met by PCEs 1 and 2; sites for reproduction, germination, and seed dispersal are provided by PCEs 1, 2, 3, and 4; and habitat free from disturbance is met by PCE 2. All of the above described PCEs do not have to occur simultaneously within a unit for the unit to constitute critical habitat for *Lepidium papilliferum.* All units and subunits proposed in this rule as critical habitat contain at least one of the PCEs to provide for one or more of the life-history functions of *L. papilliferum.*

Special Management Considerations or Protection

Within the geographical area occupied by the species at the time it was listed, section 3(5)(A) of the Act defines critical habitat as those specific areas on which are found those physical or biological features essential to the conservation of the species and that may require special management considerations or protection. Accordingly, when designating critical habitat, we assess whether the PCEs within the areas occupied at the time of listing may require special management consideration or protections.

A detailed discussion of the threats affecting the physical and biological features essential to the conservation of *Lepidium papilliferum,* and that may require special management consideration or protection, can be found in the final listing rule published in the **Federal Register** on October 8, 2009 (74 FR 52014). The primary threats to the PCEs for *L. papilliferum* include the following direct and indirect effects: The current wildfire regime (*i.e.,* increasing frequency, size, and duration), invasive, nonnative plant species (*e.g., Bromus tectorum*), and habitat loss and fragmentation due to agricultural and urban development. One of the indirect threats experienced by *L. papilliferum* is the negative impact on insect pollinators caused by conversion and fragmentation of native habitats due to invasive, nonnative plant species and various forms of development. Another indirect threat is the potential increase in seed predation by harvester ants resulting from the conversion of sagebrush-steppe to nonnative annual grasses such as *B. tectorum.* Livestock pose a threat to *L. papilliferum,* primarily through mechanical damage to individual plants and slickspot habitats; however, current livestock management conditions and associated conservation measures address this potential threat such that it does not pose a significant risk to the viability of the species as a whole. Other, less significant factors that have the potential to impact the species include the effects from rangeland revegetation projects, wildfire management practices, recreation, and military use.

Current Wildfire Regime

The current wildfire regime and invasive, nonnative plant species were cited in the final listing rule as the primary cause for the decline of *Lepidium papilliferum.* The invasion of nonnative plant species, particularly annual grasses such as *Bromus tectorum* and *Taeniatherum caput-medusae* (medusahead), has contributed to increasing the amount and continuity of fine fuels across the landscape, and as a result, the wildfire frequency interval has been shortened from between 60 to 110 years historically to less than 5 years in many areas of the sagebrush-steppe ecosystem at present (Wright and Bailey 1982, p. 158; Billings 1990, pp. 307–308; Whisenant 1990, p. 4; USGS 1999, *in litt.,* pp. 1–9; West and Young 2000, p. 262). These wildfires tend to be larger and burn more uniformly than those that occurred historically, resulting in fewer patches of unburned vegetation, which can affect the post-fire recovery of native sagebrush-steppe vegetation (Whisenant 1990, p. 4). The result of this altered wildfire regime has been the conversion of vast areas of the former sagebrush-steppe ecosystem to nonnative annual grasslands (USGS 1999, *in litt.,* pp. 1–9). Frequent wildfires can also promote soil erosion and sedimentation (Bunting *et al.* 2003, p. 82) in arid environments such as the sagebrush-steppe ecosystem. Increased sedimentation can result in a silt layer that is too thick for optimal *L. papilliferum* germination (Meyer and Allen 2005, pp. 6–7).

I. Several researchers have noted signs of increased habitat degradation for *Lepidium papilliferum,* most notably in terms of exotic species cover and wildfire frequency (*e.g.,* Moseley 1994, p. 23; Menke and Kaye 2006b, p. 19; Colket 2008, pp. 33–34), but only recently have analyses demonstrated a statistically significant, negative relationship between the degradation of habitat quality, both within slickspot microsites and in the surrounding sagebrush-steppe matrix, and the abundance of *L. papilliferum.* Sullivan and Nations (2009, pp. 114–118, 137) found a consistent, statistically significant, negative correlation between wildfire and the abundance of *L. papilliferum* across its range. Their analysis of 5 years of Habitat Integrity and Population (HIP) monitoring data indicated that *L. papilliferum* "abundance was lower within those slickspot [sic] that had previously burned" (Sullivan and Nations 2009, p. 137), and the relationship between *L. papilliferum* abundance and fire is reported as "relatively large and statistically significant," regardless of the age of the fire or the number of past fires (Sullivan and Nations 2009, p. 118). The nature of this relationship was not affected by the number of fires that may have occurred in the past; whether only one fire had occurred or several, the association with decreased abundance of *L. papilliferum* was similar (Sullivan and Nations 2009, p. 118).

Special management to protect the proposed critical habitat areas and the features essential to the conservation of *Lepidium papilliferum* from the effects of the current wildfire regime may include preventing or restricting the establishment of invasive, nonnative plant species, post-wildfire restoration with native plant species, and reducing the likelihood of wildfires affecting the nearby plant community components. Local fire agencies can achieve the latter

by providing a rapid response or mutual support agreement for wildfire control.

Invasive, Nonnative Plant Species

The conversion of sagebrush-steppe habitat to nonnative annual grasslands over the past several decades has reduced or degraded suitable habitat for *Lepidium papilliferum,* in addition to fragmenting and isolating extant occupied areas. There are two primary ways for invasive, nonnative plants to become established in *L. papilliferum* habitats, through natural spreading (unseeded) or revegetation projects (seeded). The rates at which nonnative unseeded species are spreading, oftentimes into relatively intact habitats, is of major concern to natural resource managers. Invasive, nonnative plants can alter various attributes of ecosystems including geomorphology, wildfire regime, hydrology, microclimate, nutrient cycle, and productivity (for a summary see Dukes and Mooney 2003, entire). Additionally, these invasive, nonnative plants can negatively affect native plants, including rare plants like *L. papilliferum,* through competitive exclusion, niche displacement, hybridization, and competition for pollinators; examples of these negative effects are widespread among different taxa, locations, and ecosystems (D'Antonio and Vitousek 1992, pp. 63–87; Olson 1999, p. 5; Mooney and Cleland 2001, p. 1). Recent analyses have revealed a significant, negative association between the presence of weedy species and the abundance or density of *L. papilliferum,* to the point that *L. papilliferum* may be excluded from slickspots (Sullivan and Nations 2009, pp. 109–112). Although the specific mechanisms are not well understood, some of these plants, such as *Agropyrum cristatum* (crested wheatgrass) and *Bromus tectorum,* are strong competitors in this arid environment for such limited resources as moisture, which tends to be concentrated in slickspots (Pyke and Archer 1991, p. 4; Moseley 1994, p. 8; Lesica and DeLuca 1998, p. 4), at least in the subsurface soils (Fisher *et al.* 1996, pp. 13–16).

Special management to protect the features essential to the conservation of *Lepidium papilliferum* in the areas proposed as critical habitat from the effects of invasive, nonnative unseeded plant species may include the following: (1) protecting remnant blocks of native vegetation, (2) educating the public about invasive, nonnative species, (3) supporting research and funding for nonnative plant species control, (4) preventing or restricting the establishment of nonnative plant species, (5) washing vehicles prior to any travel into areas containing *L. papilliferum,* (6) quarantining livestock prior to entering allotments containing *L. papilliferum,* and (7) reducing the likelihood of wildfires.

Livestock Use

The most visible effect to *Lepidium papilliferum* and its habitat from livestock use is through trampling impacts. Livestock trampling can affect the fragile soil layers of slickspots (Colket 2005, p. 34; Meyer *et al.* 2005, pp. 21–22; Seronko 2004, *in litt.*). Trampling when slickspots are dry can lead to mechanical damage to the slickspot soil crust, potentially resulting in invasion of nonnative plants into the slickspots and altering the hydrologic function of slickspots, but is hypothesized to be less of an impact to *L. papilliferum* habitats than trampling of wet slickspot soils. Livestock trampling of water-saturated slickspot soils that breaks through the restrictive layer (referred to as "penetrating trampling" (State of Idaho *et al.* 2006, p. 9)) has the potential to alter the soil structure and the functionality of slickspots (Rengasamy *et al.* 1984, p. 63; Seronko 2004, *in litt.*). Penetrating trampling that occurs when slickspots are wet also has the potential to affect the seed bank for *L. papilliferum* by pushing the seeds below a depth where they can germinate (*i.e.,* below 3 cm (1.5 in.)) (Meyer and Allen 2005, pp. 9–10; Meyer *et al.* 2006, pp. 891, 901–902).

There are also indirect effects from livestock use that have impacted the sagebrush-steppe ecosystem. Livestock use has been suggested as a contributing factor to the spread of invasive, nonnative plant species (Frost and Launchbaugh 2003, pp. 43–45). The spread of *Bromus tectorum* on the Snake River Plain in particular has been attributed to several causes, including the past practice of heavy, unmanaged livestock use in the late 1800s (Mack 1981, pp. 145–165). Today, invasive, nonnative annual plants such as *B. tectorum* are so widespread that they have been documented spreading into areas that have not been disturbed (Tisdale *et al.* 1965, pp. 349, 351). Therefore, the absence of livestock use is no longer sufficient, by itself, to protect the landscape from invasive, nonnative species (Frost and Launchbaugh 2003, p. 44).

With careful management, livestock grazing may be used as a tool to select for certain native species, or even to control *B. tectorum* (Frost and Launchbaugh 2003, p. 43). For example, under the revised Juniper Butte Range Integrated Natural Resources Management Plan (INRMP), the U.S. Air Force will continue to use livestock throughout the majority of the Juniper Butte Range to reduce the amount of standing grass biomass to in turn reduce wildfire risk (U.S. Air Force 2004, pp. 6–37 through 6–39). However, this requires intensive management and timing that is not typically feasible over large areas.

Research designed to specifically examine the relationship between livestock use and *Lepidium papilliferum* is currently being conducted by the University of Idaho and the State of Idaho in cooperation with the Service (State of Idaho *et al.* 2006, p. 119).

Special management to protect the features essential to the conservation of *Lepidium papilliferum* from the effects of livestock use in the areas proposed as critical habitat may include conservation measures and actions to minimize the effects of livestock use on these lands. Existing conservation plans contain numerous measures to avoid, mitigate, and monitor the effects of livestock use on *L. papilliferum.* Livestock-grazing conservation measures implemented through the State of Idaho Candidate Conservation Agreement (CCA) and the U.S. Air Force INRMP apply to all Federal and State-managed lands within the occupied range of *L. papilliferum* (approximately 95 percent of the total occupied area). Existing conservation measures include prescribing a minimum distance for the placement of salt and water troughs, identifying livestock use restrictions to reduce trampling of slickspots during wet periods, constructing fences, or potentially modifying current livestock use. We recognize the potential for negative impacts to *L. papilliferum* populations and slickspots that may result from seasonal, localized trampling events. However, under current management conditions, we do not consider livestock use to pose a significant threat to *L. papilliferum.* We encourage the continued implementation of conservation measures and associated monitoring to ensure potential impacts of livestock trampling to *L. papilliferum* are avoided or minimized.

Residential and Agricultural Development

Past residential and agricultural development was responsible for five documented extirpations and four probable extirpations of *Lepidium papilliferum* (Colket *et al.* 2006, p. 4). The long-term viability of *L. papilliferum* on private land on the Snake River Plain and adjacent Boise

foothills is uncertain due to the continuing residential and urban development in and around Boise (Moseley 1994, p. 20). Residential and agricultural development can affect *L. papilliferum* and slickspot habitat through habitat conversion, increased nonnative plant invasions, increased ORV use, increased wildfire, changes to insect populations, and increased fragmentation. Utility lines such as power and gas lines, as well as roads, also fragment *L. papilliferum* occupied areas and act as corridors for nonnative plant invasions.

Special management to protect the features essential to the conservation of *Lepidium papilliferum* from the effects of residential and agricultural development in the areas proposed may include creating managed plant reserves and open spaces; limiting disturbances to and within suitable habitats; increasing compliance inspections with permit holders; requiring project fencing with adjacent construction activities; disallowing new roads; and evaluating the need for and conducting restoration or revegetation of native plants in open spaces, plant preserves, or disturbed areas, such as cuts for powerlines.

The designation of critical habitat does not imply that lands outside of critical habitat do not play an important role in the conservation of *Lepidium papilliferum.* Activities with a Federal nexus that may affect those areas outside of critical habitat, such as development, agricultural, or road construction activities, are still subject to review under section 7 of the Act if they may affect *L. papilliferum.* The prohibitions of section 9 of the Act include the import or export of listed species, and the removal to possession or malicious damage or destruction of a species under Federal jurisdiction (16 U.S.C. 1538(a)(2)).

Criteria Used To Identify Critical Habitat

As required by section 4(b)(2) of the Act, we used the best scientific data available in determining those specific areas within the geographical area occupied at the time of listing that contain the features essential to the conservation of *Lepidium papilliferum* and that may require special management considerations or protection. Our proposed designation of critical habitat for *L. papilliferum* is based on the information and procedures detailed in the Methods section, above. As described, we are proposing to designate critical habitat within the three physiographic regions where the species was known to occur at the time of listing (October 8, 2009), the Boise Foothills, the Snake River Plain, and the Owyhee Plateau. The areas we are proposing to designate as critical habitat were all occupied at the time of listing, and provide physical and biological features essential for the conservation of *L. papilliferum* that may require special management considerations or protection. All proposed areas provide one or more of the PCEs for life history function. We do not propose to designate areas outside the geographical area presently occupied by the species.

We included all *Lepidium papilliferum* EOs with INHP rankings of B, BC, and C in the proposed critical habitat. We conclude that areas with these rankings provide the physical and biological features essential to the conservation of the species, as they are most likely to provide for viable populations of *L. papilliferum* that will contribute to the conservation and recovery of the species, and each provides one or more of the PCEs as defined in this proposed rule. EOs ranked as B have one or more of the following features: More than 399 individuals, low nonnative plant species cover, predominantly unburned, few anthropogenic disturbances, and a surrounding landscape that is only minimally or partially fragmented within a distance of 1 km (0.6 mi). EOs ranked C have one or more of the following features: More than 50 individuals; low to moderate nonnative plant species cover; only partially burned; few to moderate anthropogenic disturbances; and a surrounding landscape within 1 km (0.6 mi) that is not predominantly fragmented by development, nonnative annual grasslands, or nonnative seeding projects. For the purposes of the proposed critical habitat analyses, we categorized areas containing B- or BC-ranked EOs (intermediate between B-rank and C-rank, see Colket *et al.* 2006, p. 5) as having high conservation value for the slickspot peppergrass, while areas containing C-ranked EOs were categorized as having medium conservation value for the species. Because data on condition, landscape context, and size are used to calculate the EO rankings, it is important to keep in mind that while some EOs included as critical habitat have lower habitat quality than others, their higher ranking may reflect their larger size. Based on the ranking definitions detailed above, EOs ranked as B, BC, and C are considered to contain some or all of the PCEs essential to the conservation of *Lepidium papilliferum.* We considered those EOs ranked C or higher to provide the PCEs for *L. papilliferum* in the quantity and spatial arrangement essential to the conservation of the species, and determined that these EOs are collectively sufficient to achieve the conservation and recovery of the species.

We did not include sites ranked D or lower in the proposed designation. D-ranked sites have 50 or fewer individuals of *Lepidium papilliferum,* and the quality of the habitat is poor. Few components of the native plant community remain, introduced plant species cover is high, and the slickspots themselves have high invasive, nonnative plant cover or have been subject to livestock disturbance. Few or several moderately severe anthropogenic disturbances are evident at such sites, and each site has been predominantly to completely burned (Colket *et al.* 2006, p. 4). Portions of these sites may have been drill-seeded (seeded using a specialized attachment on a tractor to mechanically plant seeds), which alters the slickspot soil layers. The landscape around such sites is moderately to completely fragmented by agricultural lands, residential or commercial development, introduced annual grasslands, or drill-seeding projects (Colket *et al.* 2006, p. 4). Due to the poor condition of the habitat around D-ranked sites, the low viability of the small *L. papilliferum* populations remaining at such sites, and the fragmented nature of the surrounding landscape, we determined that EOs ranked D or lower do not provide the PCEs in sufficient quantity or spatial arrangement to be essential to the conservation of the species, and are therefore not expected to make any meaningful contribution to the recovery of the species. Based on our evaluation of EOs ranked C or higher, we did not consider sites ranked D or lower to be necessary to achieve the conservation of the species. Therefore, we did not include EOs ranked D or lower in the proposed designation.

Based on this analysis, we are proposing to designate four units as critical habitat for *Lepidium papilliferum:* The Ada County Unit, the Elmore County Unit, the Owyhee County Unit, and the Payette County Unit. Two of these units are further divided into subunits; the Ada County Unit has four subunits and the Elmore County Unit has three subunits. Subunits are used for ease of mapping. There are 17 EOs within the Ada County Unit, 12 EOs within the Elmore County Unit, 11 EOs within the Owyhee County Unit, and 3 EOs within the Payette County Unit, for a total of 43 EOs, ranked B, BC, or C, included in this

designation. After applying the above criteria, we mapped the critical habitat unit boundaries for each of the four units. We created maps in a GIS using aerial imagery, 7.5 minute topographic maps, contour data, Idaho Natural Heritage Data, and Public Land Survey System data.

When determining proposed critical habitat boundaries within this proposed rule, we made every effort to avoid including developed areas such as lands covered by buildings, pavement, and other structures because such lands lack PCEs for *Lepidium papilliferum.* The scale of the maps we prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such developed lands. Any such lands inadvertently left inside critical habitat boundaries shown on the maps of this proposed rule have been excluded by text in the proposed rule and are not proposed for designation as critical habitat. Therefore, if the critical habitat is finalized as proposed, a Federal action involving these lands would not require section 7 consultation with respect to critical habitat, nor would it trigger the requirement of no adverse modification, unless the specific action would affect the PCEs in the adjacent critical habitat.

Proposed Critical Habitat Designation

We are proposing four units as critical habitat for *Lepidium papilliferum.* The critical habitat areas we describe below constitute our current best assessment of areas that meet the definition of critical habitat for *L. papilliferum.* The four areas we propose as critical habitat are: (1) The Ada County Unit, (2) the Elmore County Unit, (3) the Owyhee County Unit, and (4) the Payette County Unit. All units were occupied at the time of listing and are currently occupied. The approximate areas of each proposed critical habitat unit and associated subunits, if any, are shown in Table 1.

TABLE 1—PROPOSED CRITICAL HABITAT UNITS AND AREA (HECTARES (ACRES)) BY LAND OWNERSHIP FOR *Lepidium Papilliferum*

[Area estimates reflect all land within proposed critical habitat unit boundaries]

Unit or subunit	Federal	State	Municipal (county)	Private	Total
Unit 1—Payette County	257 ha (635 ac)	0 ha (0 ac)	0 ha (0 ac)	16 ha (40 ac)	273 ha (675 ac)
Unit 2—Ada County	4,842 ha (11,964 ac)	1,149 ha (2,840 ac)	340 ha (840 ac)	667 ha (1,648 ac)	6,998 ha (17,292 ac)
2a	644 ha (1,592 ac)	0 ha (0 ac)	340 ha (840 ac)	291 ha (719 ac)	1,275 ha (3,151 ac)
2b	2,676 ha (6,613 ac)	98 ha (241 ac)	0 ha (0 ac)	32 ha (80 ac)	2,806 ha (6,934 ac)
2c	512 ha (1,265 ac)	98 ha (242 ac)	0 ha (0 ac)	311 ha (768 ac)	921 ha (2,275 ac)
2d	1,009 ha (2,494 ac)	954 ha (2,357 ac)	0 ha (0 ac)	33 ha (81 ac)	1,996 ha (4,932 ac)
Unit 3—Elmore County	3,483 ha (8,606 ac)	97 ha (239 ac)	0 ha (0 ac)	418 ha (1,034 ac)	3,998 ha (9,879 ac)
3a	696 ha (1,721 ac)	0 ha (0 ac)	0 ha (0 ac)	241 ha (595 ac)	937 ha (2,316 ac)
3b	656 ha (1,621 ac)	97 ha (239 ac)	0 ha (0 ac)	49 ha (120 ac)	801 ha (1,980 ac)
3c	2,130 ha (5,264 ac)	0 ha (0 ac)	0 ha (0 ac)	129 ha (319 ac)	2,259 ha (5,583 ac)
Unit 4—Owyhee County	11,505 ha (28,428 ac)	600 ha (1,482 ac)	0 ha (0 ac)	0 ha (0 ac)	12,105 ha (29,910 ac)
All Units	20,086 ha (49,633 ac)	1,846 ha (4,561 ac)	340 ha (840 ac)	1,102 ha (2,722 ac)	23,374 ha (57,756 ac)

NOTE: Area sizes may not sum exactly due to rounding.

We present brief descriptions of all units and their constituent subunits below. Each of these units provide one or more PCEs essential to the conservation of the species. As described above under *Criteria Used To Identify Critical Habitat,* EOs included within the units were chosen using the EO area ranking system developed by the INHP, which takes into account those physical and biological features that are essential to *L. papilliferum* (*i.e.,* slickspots, habitat condition within and surrounding the area, and the conditions of the surrounding landscape features necessary to support pollination and other life-history requirements), and that we have determined may require special management considerations or protection. We are not proposing to designate any areas outside the geographical area occupied by the species at the time of listing as critical habitat.

The PCEs in each of these units may require special management considerations or protection to address threats from wildfire, invasive, nonnative plant species, and activities such as livestock trampling or development that may occur in the area. See the *Special Management Considerations or Protection* section of this proposed rule for a discussion of the threats to *L. papilliferum* habitat and potential management considerations. Further details on threats *to L. papilliferum* are provided in the final listing rule for the species, published in the **Federal Register** on October 8, 2009 (74 FR 52014).

Unless otherwise cited, information used to develop these descriptions is based on the 2010 INHP Element Occurrence Records (EOR) (INHP 2010, *in litt.*) and the Element Occurrence review and update for *Lepidium papilliferum,* which describes how each individual EO was ranked (Colket *et al.* 2006).

Unit 1: Payette County

The Payette County unit consists of 273 ha (675 ac). The northern boundary of Unit 1 is approximately 7.6 km (4.8 mi) south of New Plymouth, Idaho.

Lepidium papilliferum was known to occupy this unit at the time of listing; currently 257 ha (635 ac) are Federally managed by the BLM, and 16 ha (40 ac) are privately owned. This unit is composed of three *L. papilliferum* EOs: 66, 68, and 70. This unit contains PCEs and is important to the conservation of *L. papilliferum* because it contains the northernmost occurrences for *L. papilliferum* and potentially has the highest numbers of individual plants.

The plant community of EO 66 is composed of a fragmented *Artemisia tridentata* ssp. *wyomingensis/Vulpia octoflora* (six weeks fescue) community that has had a mosaic burn and was subsequently seeded with *Agropyron cristatum* (crested wheatgrass). This is a large occurrence, with over 6,700 *Lepidium papilliferum* individuals observed along HIP transects in 2008. Invasive, nonnative plants, wildfire, and residential development are threats to this EO. Use of ORVs and livestock are potential threats, although an exclosure protects portions of the EO from livestock and ORV use.

The second EO in Unit 1, EO 68, is primarily composed of a *Sisymbrium altissimum* (tumble mustard)/*Poa secunda* community, at times adjacent to small *Artemisia tridentata* ssp. *wyomingensis* fragments. This EO is adjacent to Interstate 84 and is located less than 500 m (1,640 ft) from commercial development. Historically, this EO has had high *Lepidium papilliferum* abundance; however, the occurrence and surrounding area is very weedy and has burned in the past. Wildfire, invasive, nonnative plants, and livestock use are threats to this occurrence.

The third EO in Unit 1 is EO 70, composed of a contiguous, unburned *Artemisia tridentata* ssp. *wyomingensis*/*Vulpia octoflora* community with low introduced, invasive, nonnative species cover. While a relatively intact landscape surrounds the occurrence, historical wildfire and residential development have occurred within 250 m (820.2 ft) of the EO. The immediate threat to EO 70 is wildfire. In addition, the surrounding area seems to be used as a dumping ground, with trash and garbage evident. Livestock use is also a potential threat.

Unit 2: Ada County

The Ada County unit consists of 6,998 ha (17,292 ac) divided into four subunits: 2a, 2b, 2c, and 2d. *Lepidium papilliferum* was known to occupy this unit at the time of listing. 4,842 ha (11,964 ac) of this unit are Federally managed by the BLM, 1,149 ha (2,840 ac) are managed by the State of Idaho, 340 ha (840 ac) are managed by Ada County, and 667 ha (1,648 ac) are on private lands. This unit is composed of 17 *L. papilliferum* EOs split among the four subunits. This unit contains PCEs important to the conservation of *L. papilliferum;* many of the subunits are large, and contain the most intact areas of sagebrush-steppe habitat that has had little impact from wildfire.

Subunit 2a

Subunit 2a contains the city of Eagle, Idaho, and the southern boundary of the unit is approximately 7.2 km (4.5 mi) northwest of Boise, Idaho. It is composed of six EOs: 38, 52, 65, 76, 107, and 108.

Nonnative, annual weedy species dominate the landscape within EO 38, with scattered *Purshia tridentata, Artemisia tridentata* ssp. *wyomingensis,* and *Ericameria nauseosa* (rubber rabbitbrush). This EO is almost completely contained within the Ada County Landfill Complex (Cole 2008, entire) and is located in close proximity to the Idaho Velodrome and Cycling Park and Eagle Sports Complex. In 2008, survey efforts (Cole 2008) found an additional 5,000 *L. papilliferum* plants, which resulted in a subsequent upgrade to the EO rank. Primary threats to this EO include wildfire (the western portion of this EO burned in 2009 (Ada County 2010, *in litt.*)); human recreation associated with the construction of authorized and unauthorized trails for mountain biking and hiking (some slickspots have already been impacted); and invasive, nonnative weed invasions and expansions (Cole 2008, pp. 10, 13). Livestock use occurred in the past, but ceased in the area approximately 10 years ago (T. Hutchinson, pers. comm. in Cole 2008, p. 12), and we have no evidence to suggest that livestock use is likely to pose a threat to this EO within the foreseeable future.

EO 52 is composed of a varied plant community, including scattered islands of *Purshia tridentata*/*Artemisia tridentata* ssp. *wyomingensis*/*Chrysothamnus viscidiflorus* (yellow rabbitbrush) with an understory primarily composed of *Bromus tectorum* and *Poa secunda*. It is a large EO, with thousands of plants documented. This EO is located near the Eagle/Boise urban area and receives substantial recreational use through hiking, equestrian riding, biking, and ORV use. Residential development occurs within 500 m (1,640 ft) of this subunit. EO 52 is known to be threatened by wildfire, invasive, nonnative plant species, recreation, and development.

EO 65 is composed of an *Artemisia tridentata* ssp. *wyomingensis*/*Purshia tridentata*/*Bromus tectorum*/*Taeniatherum caput-medusae* plant community. The Seaman's Gulch Ridge to Rivers trail system runs through and around a portion of this EO south of Seaman's Gulch road (Cole 2008, p. 9). While there is a high diversity of forbs within the EO, the area is generally weedy overall. Biological soil crust cover in the general area is fairly high. Wildfire, invasive, nonnative plant species, and unauthorized recreation trail travel are threats to EO 65.

The vegetative community of EO 76 is *Artemisia tridentata* ssp. *tridentata*/*Vulpia octoflora* with low cover of both native forbs and invasive, nonnative annuals. The surrounding landscape is completely disturbed from a combination of burned areas, residential development, and agricultural lands. However, this is a large occurrence, with approximately 4,800 *Lepidium papilliferum* individuals observed on the HIP transects in 2008. This EO is threatened by wildfire, invasive, nonnative plant species, livestock use, recreation, and residential and road development.

EO 107 is located on private land. The vegetative community is characterized as degraded *Artemisia tridentata* ssp. *wyomingensis* habitat with an understory of *Bromus tectorum* and *Aristida purpurea* var. *longiseta.* At the time of the survey, there were signs of recent fire in the area. This EO is threatened by wildfire and invasive, nonnative plant species.

EO 108 occurs in an *Artemisia tridentata* ssp. *tridentata*/*Artemisia tridentata* ssp. *wyomingensis*/*Chrysothamnus viscidiflorus-Ericameria nauseosus* community with a mix of native and nonnative understory species. The plant community within this EO is in various states of transition given historical disturbance regimes such as fire and use by livestock (URS 2008, p. 6). However, 2007 and 2008 survey data indicate an estimated 1,117 *Lepidium papilliferum* individuals are located within this EO. Threats to EO 108 include invasive, nonnative plant species, wildfires, livestock use, recreation (including ORV use), and residential and road development.

Subunit 2b

The northern boundary of Subunit 2b is approximately 4.2 km (2.6 mi) south of Kuna, Idaho. Subunit 2b is composed of three EOs: 18, 24, and 25.

EO 18 is a large occurrence composed of *Artemisia tridentata*/*Poa secunda, B. tectorum*/*Sisymbrium altissimum,* and *B. tectorum*/*Bassia prostrata* communities. It is located approximately 14.5 km (9 mi) (14.5 km)

south to southwest of Kuna and near the Kuna/Boise urban areas. *Bromus tectorum* is abundant throughout the area, with *P. secunda* being the most common bunchgrass. Wildfire destroyed the original sagebrush habitat throughout portions of EO 18 in the mid-1990s. Future wildfires, invasive, nonnative plant species, and recreation are the likely long-term threats facing this EO.

EO 24 is a large EO; the following vegetative communities are just a few of those found within this EO: *Artemisia tridentata* ssp. *wyomingensis*/*Bromus tectorum, B. tectorum,* and *B. tectorum*/*Agropyron spicatum.* It is located approximately 6.4 km (4 mi) south to southwest of Kuna and near the Kuna/Boise urban area. The surrounding area has been highly disturbed by wildfires and roads, with much of the land surrounding Kuna Butte being converted for agricultural use. This EO is known to be threatened by wildfire, invasive, nonnative plant species, and recreation.

The vegetative community of EO 25 is characterized as degraded *Artemisia tridentata* ssp. *wyomingensis* habitat. This EO is located near the Kuna/Boise urban area, approximately 6.4 km (4 mi) northeast of Melba. Much of the area has burned and is now predominantly comprised of *Bromus tectorum, Sisymbrium altissimum,* and *Salsola kali* with some *Poa secunda.* EO 25 is threatened by wildfire, invasive, nonnative plant species, and recreation.

Subunit 2c

The northern boundary of Subunit 2c is approximately 8 km (5 mi) south of Boise, Idaho. It is composed of four EOs: 22, 32, 48, and 64.

Information from previous visits describes vegetation within EO 22 as an *Artemisia tridentata* spp. *wyomingensis* community with an understory dominated by *Bromus tectorum.* It is located about 2.4 km (1.5 mi) north of Pleasant Valley. Portions of this EO have burned, with scattered slickspots degraded to varying degrees. Threats to EO 22 include wildfires and their effects on the remaining patches of sagebrush. Other threats include development of surrounding private land for suburban and commercial purposes.

The vegetative community of EO 32 is composed of an *Artemisia tridentata* ssp. *tridentata*/*Bromus tectorum* and *A. tridentata* ssp. *wyomingensis*/*Poa secunda* community with an understory dominated by invasive, nonnative annual species. Records demonstrate a fair to good number of *Lepidium papilliferum* plants over a large area. It is located approximately 5.6 km (3.5 mi) southwest of the Boise Airport. This EO is known to be threatened by wildfire, invasive, nonnative plant species, recreation (ORV use), and development. Development is also a potential threat given the proximity of this EO to private lands.

EO 48 is composed of an *Artemisia tridentata* ssp. *wyomingensis/Bromus tectorum*/*Elymus elymoides* plant community. There is a high cover of litter and biological soil crust in slickspots within this EO. The primary threat to EO 48 is from wildfires. Other threats include invasion and expansion of nonnative invasive plant species, livestock use, and recreational use by hunters and ORVs that utilize the adjacent powerline roadway.

Artemisia tridentata ssp. *wyomingensis* community with *Bromus tectorum* dominates the understory of EO 64. The EO is located from 50 to 500 m (164 to 1,640 ft) south of the Boise airport and associated development. The slickspots in this EO are in fair condition and have high cover of biological soil crust. Population vigor ranges from moderate to excellent. This EO is threatened by wildfire, invasive, nonnative plant species, and potential development associated with airport activities.

Subunit 2d

The northern boundary of subunit 2d is approximately 24.8 km (15.4 mi) southeast of Boise, Idaho. Subunit 2d is composed of four EOs: 27, 72, 77, and 104.

The dominant vegetation of EO 27 consists of *Artemisia tridentata* ssp. *wyomingensis*/*Poa secunda*/*Ceratocephala testiculata* and *A. tridentata* ssp. *wyomingensis*/*Bromus tectorum*/*Lepidium perfoliatum,* predominantly the former. It is located approximately 35 km (21 mi) southeast of Boise. Some parts of this EO have burned in the past, although the entire EO is relatively intact and constitutes one of the largest blocks of unburned sagebrush-steppe habitats left on the western Snake River Plain. A portion of this EO includes the Orchard Training Area (OTA), managed by the Idaho Army National Guard, and we are proposing to exempt this area from the designation of critical habitat under section 4(a)(3) of the Act (see Exemptions, below). This EO is known to be threatened by wildfire, invasive, nonnative plant species, and livestock disturbances.

Vegetative communities of EO 72 include the following: *Artemisia tridentata* ssp. *tridentata*/*Bromus tectorum, Chrysothamnus viscidiflorus*/*A. tridentata* ssp. *wyomingensis*/*Poa secunda, A. tridentata* ssp. *wyomingensis*/*P. secunda*/*B. tectorum*/*A. tridentata* ssp. *tridentata,* and *Agropyron cristatum*/*P. secunda.* This EO is located roughly 23 km (14 mi) south of Boise. Most of the EO has burned at least once in the past couple of decades resulting in a mix of small-to-fairly-large shrub patches intermixed with invasive, nonnative, annual-grassland vegetation. This EO is known to be threatened by wildfire, invasive, nonnative plant species, and livestock trampling.

The plant community of EO 77 is composed of an *Artemisia tridentata* ssp. *wyomingensis*/*Bromus tectorum*/*Poa seconda.* While the EO is unburned, the surrounding area is partially burned. *Bromus tectorum* is growing abundantly throughout the general EO. Wildfires are the primary threat to this EO because of the existing *Bromus tectorum* understory. Livestock trampling of slickspots is also a continued threat.

The primary community type of EO 104 is a *Bromus tectorum*/*Poa secunda* and *Chrysothamnus* spp./*P. secunda*/*B. tectorum.* This EO is located approximately 23 km (14 mi) south of Boise. Most of the EO has burned at least once in the past 20 years resulting in a mix of small to fairly large shrub patches and areas of annual grassland. Invasive, nonnative plants, wildfire, and livestock are threats to this EO.

Unit 3: Elmore County

The Elmore County unit consists of 3,998 ha (9,879 ac) divided into three subunits: 3a, 3b, and 3c. *Lepidium papilliferum* was known to occupy this unit at the time of listing. 3,483 ha (8,606 ac) of this unit are Federally managed, of which 3,418 ha (8,446 ac) are managed by BLM and 65 ha (160 ac) by the Bureau of Reclamation (BOR), 97 ha (239 ac) are managed by the State of Idaho, and 418 ha (1,034 ac) are privately owned. This unit is composed of 12 *L. papilliferum* EOs. This unit contains PCEs and is important to the conservation of *L. papilliferum* because it contains EOs with good habitat, represents a significant portion of the species' range, and contains several EOs with high numbers of *L. papilliferum* individuals.

Subunit 3a

The northern boundary of subunit 3a is approximately 6.8 km (4.2 mi) south of Mayfield, Idaho, while the southern boundary is approximately 19.6 km (12.2 mi) northwest of Mountain Home, Idaho. Subunit 3a is composed of three EOs: 20, 30, and 31.

EO 20 is composed of *Artemisia tridentata*/*Poa secunda*/*Bromus*

tectorum and introduced invasive, nonnative, annual-grassland communities. This EO is located adjacent to Interstate 84 and Old Highway 30. Residential development occurs within 250 m (820 ft) of the EO. Portions of this EO have burned in the past, and *Agropyron cristatum* drill-seeding is evident along the northeast edge of the EO. The primary threats to this EO are wildfires, invasive, nonnative weeds, and development on private lands.

The plant community of EO 30 contains a large stand of intact, mature sagebrush-steppe habitat with various size classes of *Artemisia tridentata* ssp. *wyomingensis* represented, and a grass-dominated understory. This EO is located in close proximity to Old Highway 30 and private lands. Although the EO area is unburned, the adjacent areas and surrounding landscape have been burned and are fragmented. This is a large EO with over 7,000 *Lepidium papilliferum* plants observed in 2000. It is known to be threatened by wildfire, invasive, nonnative plants, urban development, and recreation.

The plant community of EO 31 is composed of *Artemisia tridentata* spp. *wyomingensis*/*Poa secunda, A. tridentata* spp. *wyomingensis*/*B. tectorum,* and introduced grasses. It consists of a mid-size population in good-to-fair habitat condition. Part of the EO has burned, and the surrounding landscape is predominantly burned. This EO is threatened by wildfires, livestock trampling, private land development, and ORV use.

Subunit 3b

The boundaries of subunit 3b contain the city of Mountain Home, Idaho, while the northern boundary is approximately 63.9 km (39.7 mi) southeast of Boise, Idaho. Subunit 3b is composed of seven EOs: 2, 21, 29, 50, 51, 61, and 62.

EO 2 is composed of a large, unburned *Artemisia tridentata* ssp. *wyomingensis*/*Poa secunda* plant community with low-to-moderate cover of *Bromus tectorum, Salsola kali,* and *Lepidium perfoliatum.* It is located approximately 11 km (7 mi) west of Mountain Home. Wildfire and livestock disturbances are the major threats to this relatively intact EO.

EO 21 consists of a largely-intact stand of sagebrush-steppe habitat that consists of a community of native species including *Artemisia tridentata* ssp. *wyomingensis* and *Poa secunda,* and the introduced, nonnative plant *Ceratocephala testiculata.* It is located approximately 6 km (4 mi) west of Mountain Home and 1.6 km (1.0 mi) south of Interstate 84. There is low understory cover, but high biological crust cover. This occurrence has not been burned, although the surrounding landscape is predominantly burned. This EO is threatened by wildfire, invasive, nonnative, annual plant species, and recreation.

Although the overstory in the area of the third EO in this subunit, EO 29, is composed of *Artemisia tridentata* ssp. *wyomingensis,* the understory is now dominated by *Bromus tectorum.* This EO is located about 3 km (2 mi) southeast of Mountain Home, between Interstate 84 (about 65 m (210 ft) away) and burned, nonnative, annual-grassland habitat. There is a fairly high biological soil crust cover of approximately 30 percent in the surrounding landscape, and slickspots also tend to have a relatively high crust cover. This EO is threatened by wildfire and invasive, nonnative plant species.

EO 50 has a largely-native-species overstory, with fairly contiguous *Artemisia tridentata* ssp. *wyomingensis* cover; however, the understory is dominated by *Bromus tectorum.* It is located approximately 5.6 km (3.5 mi) southeast of Mountain Home. The EO itself is unburned, although surrounding BLM and private lands have burned in the past. Slickspots are clumped in several areas within this occurrence. The surrounding landscape is fragmented due to a combination of burned areas, residential development, and agricultural lands. This EO is threatened by invasive, nonnative plant species and wildfire. Urban encroachment is occurring on adjacent, privately-owned lands, which could lead to further fragmentation of the surrounding landscape.

The plant community of EO 51 consists of a mix of native and nonnative plant species, primarily *Artemisia tridentata* ssp. *wyomingensis* in the overstory and *Ceratocephala testiculata* and *Descurainia pinnata* (western tansymustard) in the understory. It is located roughly 5 km (3 mi) east of Mountain Home. There is a low diversity and abundance of native forbs but only trace amounts of *Bromus tectorum.* The EO and adjacent landscape have not burned. Slickspots are widespread, and good biological soil crust cover is represented in some places. Threats to this EO include wildfire and invasive, nonnative, annual plant species.

The landscape in and surrounding EO 61 is predominantly burned, resulting in a highly-fragmented mosaic of remnant *Artemisia tridentata* ssp. *wyomingensis* patches, with an understory dominated by invasive, nonnative plant species and herbaceous openings that support a mix of *Agropyron cristatum,* scattered native bunchgrasses, and *Bromus tectorum.* It is located approximately 3 km (2 mi) southeast of Reverse, Idaho. Weedy forbs are widespread and locally abundant. Much of surrounding landscape has been converted to agricultural lands. Wildfires and nonnative, invasive plant species continue to threaten this EO. Disturbance from livestock is also a threat.

The vegetation in the last EO in this subunit, EO 62, is made up of an *Artemisia tridentata* ssp. *wyomingensis*/*Ceratocephala testiculata*/*Poa secunda* community. It is located approximately 6 km (4 mi) east of Mountain Home. The EO is located on an unburned area. Where *Lepidium papilliferum* is found, slickspots are locally abundant. *Bromus tectorum* is locally common, but sparse in most places. Threats to this EO include invasive, nonnative plant species, wildfire, and livestock use.

Subunit 3c

The southern boundary of subunit 3c is approximately 0.6 km (1.0 mi) northeast of Hammett, Idaho, while the western boundary is 24 km (15 mi) southeast of Mountain Home, Idaho. This subunit is composed of two EOs: 8 and 26.

One of the most extensive populations of *Lepidium papilliferum* known is found in EO 8. The habitat quality ranges from poor to good. Areas mainly east of Bennett Road are represented by intact sagebrush-steppe habitat, primarily *Artemisia tridentata* ssp. *wyomingensis*/*Poa secunda* communities. West of Bennett Road is former habitat that burned; has been reseeded; and is now dominated by nonnative grasses, such as *Agropyron cristatum* and some *Bromus tectorum,* as well as weedy annual forbs. Widely scattered *A. tridentata* ssp. *wyomingensis* occurs throughout the burned area. Many *L. papilliferum* individuals have been observed in both burned and unburned areas some years. This EO is threatened by wildfire, invasive, nonnative plant species, and recreational use.

The other EO in this subunit, EO 26, is located in an area of extensive sagebrush-steppe habitat, primarily *Artemisia tridentata* ssp. *wyomingensis*/*Poa secunda* communities. It is approximately 8 km (5 mi) northwest of Glenns Ferry. This EO is made up of a relatively-large population of *Lepidium papilliferum;* since 2002, estimates have placed the population size at approximately 5,000 individuals. The habitat quality ranges from relatively-

good ecological condition with little disturbance, to disturbed areas with invasive, nonnative plant species cover. Biological soil crust cover is high in places. Residential and commercial development is located within 250 to 500 m (820 to 1,640 ft) of the occurrence. Wildfire, invasive, nonnative plants, livestock trampling, and development are threats to this EO.

Unit 4: Owyhee County

The Owyhee County unit consists of 12,105 ha (29,910 ac). The northern boundary of unit 4 is approximately 86.9 km (54.0 mi) south of Mountain Home, Idaho, while the eastern boundary is 51.8 km (32.2 mi) west of Rogerson, Idaho. *Lepidium papilliferum* was known to occupy this unit at the time of listing. 11,505 ha (28,428 ac) of this unit are Federally managed by the BLM, while 600 ha (1,482 ac) are managed by the State of Idaho. This unit contains PCEs and is important to the conservation of *L. papilliferum* because it contains the largest amount of contiguous habitat with little fragmentation or development. This unit is composed of eleven EOs: 74, 80, 84, 85, 92, 95, 96, 97, 98, 99, and 16.

The plant community of EO 74 is primarily made up of a degraded *Artemisia tridentata* ssp. *wyomingensis*/*Pseudoroegneria spicata* (bluebunch wheatgrass) community. *Poa secunda* is the dominant understory species. Overall habitat quality ranges from good to fair. Invasive, nonnative, annual plant species, wildfire, and livestock pose an ongoing threat to this EO.

Plants within EO 80 consist of *Artemisia tridentata* ssp. *wyomingensis*/*Pseudoroegneria spicata* and *A. tridentata* ssp. *wyomingensis*/*Achnatherum thurberianum* (Thurber's needlegrass) community types. The surrounding landscape has a mosaic burn. Overall habitat is in good-to-fair condition. Invasive, nonnative plants and wildfire are the primary threats, particularly because the landscape is a mix of burned and unburned areas. Livestock grazing is also a potential threat.

The plant community of EO 84 habitat is primarily an *Artemisia tridentata* ssp. *wyomingensis*/*Poa secunda* community. Both the EO and surrounding landscape are unburned. The population is estimated at greater than 400 *Lepidium papilliferum* individuals. While the surrounding landscape will help protect it, wildfire still poses the greatest threat to this unburned EO. Livestock use and invasive, nonnative plant species are additional threats to this EO. A two-track road also runs through the EO, which increases the likelihood of disturbance from recreation and ORV use.

An *Artemisia tridentata* ssp. *wyomingensis*/*Pseudoroegneria spicata* community with low *A. tridentata* ssp. *wyomingensis* cover makes up the plant community of EO 85. Although this EO was initially ranked E (due to a lack of information) a somewhat thorough survey was conducted in 2006. During the survey, six occupied slickspots were found and the rank was changed to a C. Potential threats to this EO include wildfire, invasive, nonnative plant species, and livestock trampling.

The fifth EO in this unit, EO 92 is made up of an *Artemisia tridentata* ssp. *wyomingensis*/*Poa secunda* community that has been seeded with *Agropyron cristatum*. It is located approximately 8 km (5 mi) southwest of Clover Butte. Although this EO is unburned, the surrounding landscape has been predominately to completely burned. This EO is threatened by wildfire, invasive, nonnative plant species, and livestock use.

Plants within EO 95 habitat consist of *Artemisia tridentata* ssp. *wyomingensis*/*Poa secunda* and *Agropyron cristatum*/*P. secunda* communities. Although the occurrence is unburned, some of the surrounding areas have burned, and portions of this area, as well as the surrounding landscape, have been seeded with *A. cristatum* and other species. Threats include wildfire, invasive, nonnative plant species, and livestock use.

EO 96 includes *Artemisia tridentata* ssp. *wyomingensis*/*Poa secunda* and *Agropyron cristatum*/*P. secunda* plant communities. The occurrence and surrounding landscape is unburned to predominately burned, and includes areas that were seeded after fire. Overall site quality has been assessed as fair to good. Threats include invasive, nonnative plant species, wildfire, and livestock trampling.

EO 97 is made up of an *Artemisia tridentata* ssp. *wyomingensis*/*Poa secunda* community. This occurrence is located in the vicinity of Juniper Butte. Overall condition of the occurrence has been assessed as excellent with a fair population size. The EO has not burned, and the surrounding landscape is predominately unburned. Threats to this EO include wildfire, invasive, nonnative plant species, and livestock use.

EO 98 is an *Artemisia tridentata* ssp. *wyomingensis*/*Poa secunda* community. It is located in the vicinity of Burnt Butte. Although the population size is small, the habitat quality of the occurrence and surrounding area has been assessed as good. The occurrence is unburned, and the adjacent areas and surrounding landscape are predominantly unburned as well. Threats to this EO include invasive, nonnative plant species, livestock use, and potentially wildfire.

EO 99 is described as an *Ericameria nauseosa*/*Artemisia tridentata* ssp. *wyomingensis*/*Poa secunda* community. This EO is located southeast of Burnt Butte. Habitat quality has been assessed as good. Both the EO and surrounding landscape are predominately unburned. This EO is threatened by wildfire, invasive, nonnative plant species, and livestock trampling.

EO 16 includes 8 sub-EOs. Because of its large size, site quality varies significantly from one area to another, ranging from healthy and unburned sagebrush-steppe, to degraded annual grasslands or *Agropyron cristatum* seedings. There are estimated to be thousands of *Lepidium papilliferum* plants across this large area. The surrounding landscape includes unburned to completely burned areas. General threats to the population include wildfire, invasive, nonnative plant species, and livestock use.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out are not likely to destroy or adversely modify critical habitat. Decisions by the Fifth and Ninth Circuits Courts of Appeals have invalidated our regulatory definition of "destruction or adverse modification" (50 CFR 402.02) (see *Gifford Pinchot Task Force* v. *U.S. Fish and Wildlife Service,* 378 F. 3d 1059 (9th Cir 2004) and *Sierra Club* v. *U.S. Fish and Wildlife Service et al.,* 245 F.3d 434, 442F (5th Cir 2001)), and we do not rely on this regulatory definition when analyzing whether an action is likely to destroy or adversely modify critical habitat. Under the statutory provisions of the Act, the key factor in determining whether an action will destroy or adversely modify critical habitat is whether, with implementation of the proposed Federal action, the affected critical habitat would remain functional (or retain those PCEs that relate to the ability of the area to support the species) to serve its intended conservation role for the species.

If a species is listed or critical habitat is designated, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or to destroy or adversely modify its critical

habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. As a result of this consultation, we document compliance with the requirement of section 7(a)(2) through our issuance of:

(1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or critical habitat; or

(2) A biological opinion for Federal actions that may affect, and are likely to adversely affect, listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to jeopardize the continued existence of a listed species or destroy or adversely modify critical habitat, we provide reasonable and prudent alternatives to the project, if any are identifiable. We define "Reasonable and prudent alternatives" at 50 CFR 402.02 as alternative actions identified during consultation that:

- Can be implemented in a manner consistent with the intended purpose of the action,
- Can be implemented consistent with the scope of the Federal agency's legal authority and jurisdiction,
- Are economically and technologically feasible, and
- Would, in the Director's opinion, avoid jeopardizing the continued existence of the listed species or destroying or adversely modifying critical habitat.

Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where we have listed a new species or subsequently designated critical habitat that may be affected and the Federal agency has retained discretionary involvement or control over the action (or the agencies discretionary involvement or control is authorized by law). Consequently Federal agencies may need to request reinitiation of consultation with us on actions for which formal consultation has been completed, if those actions with discretionary involvement or control may affect subsequently listed species or designated critical habitat.

Federal activities that may affect *Lepidium papilliferum* or its designated critical habitat require section 7 consultation under the Act. Activities on State, Tribal, local, or private lands requiring a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or a permit from us under section 10 of the Act) or involving some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency) are subject to the section 7 consultation process. Federal actions not affecting listed species or critical habitat, and actions on State, Tribal, local, or private lands that are not Federally funded, authorized, or permitted, do not require section 7 consultations.

Application of the Jeopardy and Adverse Modification Standards

Jeopardy Standard

Currently, the Service applies an analytical framework for *Lepidium papilliferum* jeopardy analyses that relies heavily on the importance of habitat parameters at known population sites essential to the species' survival and recovery. The Service focuses its section 7(a)(2) analysis not only on these populations but also on the habitat conditions necessary to support them.

The jeopardy analysis usually expresses the survival and recovery needs of *Lepidium papilliferum* in a qualitative fashion without making distinctions between what is necessary for survival and what is necessary for recovery. Generally, the jeopardy analysis focuses on the rangewide status of *L. papilliferum,* the factors responsible for that condition, and what is necessary for the species to survive and recover. An emphasis is also placed on characterizing the conditions of *L. papilliferum* and its habitat in the area affected by the proposed Federal action and the role of affected populations in the survival and recovery of *L. papilliferum.* That context is then used to determine the significance of the adverse and beneficial effects of the proposed Federal action and any cumulative effects for purposes of making the jeopardy determination.

Application of the "Adverse Modification" Standard

The key factor related to the adverse modification determination is whether, with implementation of the proposed Federal action, the affected critical habitat would continue to serve its intended conservation role for the species. Generally, the conservation role of *Lepidium papilliferum* critical habitat units is to support the various life-history needs and provide for the conservation of the species. Activities that may destroy or adversely modify critical habitat are those that alter the PCEs to an extent that appreciably reduces the conservation value of the critical habitat as a whole for *L. papilliferum.*

Section 4(b)(8) of the Act requires us to briefly evaluate and describe in any proposed or final regulation that designates critical habitat, activities involving a Federal action that may destroy or adversely modify such habitat, or that may be affected by such designation.

Activities that, when carried out, funded, or authorized by a Federal agency, may affect critical habitat and therefore result in consultation for *Lepidium papilliferum* include, but are not limited to:

(1) Actions that would result in the loss of, or ground disturbance to, slickspot microsites. Such activities could include, but are not limited to: Residential or recreational development and associated infrastructure, ORV activity, dispersed recreation, new road construction or widening, existing road maintenance, new or expansion of existing energy projects, existing energy corridor maintenance, wildfire suppression and post-wildfire rehabilitation activities, military training activities, and incompatible livestock use practices (such as grazing during periods of saturated soil conditions, when slickspots are wet and trampling is most likely to disrupt the underlying clay layer). These activities could cause direct loss of *Lepidium papilliferum*-occupied areas, and affect slickspot microsites by damaging or eliminating habitat, altering soil composition due to increased erosion, and increasing densities of nonnative plant species. Ground disturbance may also result in deep burial of *L. papilliferum* seeds such that germinants can not successfully reach the soil surface to flower and set seed.

In addition, changes in soil composition may lead to changes in the vegetation composition, such as an increase in invasive, nonnative plant cover within and adjacent to slickspot microsites, resulting in decreased density or vigor of individual *Lepidium papilliferum* plants. These activities may also lead to changes in water flows and inundation periods that would degrade, reduce, or eliminate the habitat necessary for the growth and reproduction of *L. papilliferum.*

(2) Actions that would result in the significant alteration of intact, native, sagebrush-steppe habitat within the range of *Lepidium papilliferum.* Such activities could include: Residential or recreational development and

associated infrastructure, ORV activity, dispersed recreation, new road construction or widening, existing road maintenance, new energy projects or expansion of existing energy projects, existing energy corridor maintenance, fuels management projects such as prescribed burning, and post-wildfire rehabilitation activities using plant species that may compete with *L. papilliferum* or not adequately address habitat requirements for insect pollinators. These activities could result in the replacement or fragmentation of sagebrush-steppe habitat through the degradation or loss of native shrubs, grasses, and forbs in a manner that promotes increased wildfire frequency and intensity, and an increase of cover of invasive, nonnative plant species that would compete for soil matrix components and moisture necessary to support the growth and reproduction of *L. papilliferum.*

(3) Actions that would significantly reduce pollination or seed set (reproduction). Such activities could include, but are not limited to: Residential or recreational development and associated infrastructure, use of pesticides, inappropriately-managed livestock use, mowing, fuels-management projects such as prescribed burning, and post-wildfire rehabilitation activities using plant species that may compete with *Lepidium papilliferum.* These activities could prevent reproduction by removal or destruction of reproductive plant parts and could impact the habitat needs of generalist insect pollinators through habitat degradation and fragmentation, reducing the availability of insect pollinators for *L. papilliferum* reproduction.

We consider all of the units proposed as critical habitat to contain the physical and biological features essential to the conservation of *Lepidium papilliferum.* All units are within the historical geographic range of the species and are currently occupied by *L. papilliferum.* To ensure that their actions do not jeopardize the continued existence of *L. papilliferum,* Federal agencies already consult with us on activities in areas currently occupied by the plant species, or in unoccupied areas if the species may be affected by the action.

Exemptions

Application of Section 4(a)(3)(B)(i) of the Act

The Sikes Act Improvement Act of 1997 (Sikes Act) (16 U.S.C. 670a) required each military installation that includes land and water suitable for the conservation and management of natural resources to complete an integrated natural resources management plan (INRMP) by November 17, 2001. An INRMP integrates implementation of the military mission of the installation with stewardship of the natural resources found on the base. Each INRMP includes:

- An assessment of the ecological needs on the installation, including the need to provide for the conservation of listed species;
- A statement of goals and priorities;
- A detailed description of management actions to be implemented to provide for these ecological needs; and
- A monitoring and adaptive management plan.

Among other things, each INRMP must, to the extent appropriate and applicable, provide for fish and wildlife management; fish and wildlife habitat enhancement or modification; wetland protection, enhancement, and restoration where necessary to support fish and wildlife; and enforcement of applicable natural resource laws.

The National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108–136, 117 Stat. 1392) amended the Act to limit areas eligible for designation as critical habitat. Specifically, section 4(a)(3)(B)(i) of the Act (16 U.S.C. 1533(a)(3)(B)(i)) now provides: "The Secretary shall not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense (DOD), or designated for its use, that are subject to an integrated natural resources management plan prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation."

We consult with the military on the development and implementation of INRMPs for installations with listed species. We analyzed INRMPs developed by military installations located within the range of the proposed critical habitat designation for *Lepidium papilliferum* to determine if they are exempt under section 4(a)(3)(B)(i) of the Act.

Approved INRMPs

Military activities within the range of *Lepidium papilliferum* include ordnance-impact areas, training activities, and military development. Military-training activities occur at, or near, four EOs: Three at the OTA on the Snake River Plain, and a portion of one EO at the Juniper Butte Range on the Owyhee Plateau. INRMPs have been developed and implemented for both the Juniper Butte Range and the OTA. The INRMPs provide management direction and conservation measures to address or eliminate the effects from military-training exercises on *L. papilliferum* and its habitat. Both the Idaho Army National Guard (Quinney 2008; ICDC 2008, p. 21) and the U.S. Air Force (CH2MHill 2008a, pp. 1, 17) conduct annual monitoring to ensure impacts to the species due to training activities are either avoided or minimized.

Idaho Army National Guard—Gowen Field/Orchard Training Area

The Idaho Army National Guard's Gowen Field/Orchard Training Area (OTA) on the Snake River Plain has an INRMP in place that provides a conservation benefit for *Lepidium papilliferum.* This INRMP has been in place for this military training facility since 1997. The OTA contains 7,213 ac (2,919 ha) of occupied *L. papilliferum* habitat, 7,163 ac (2,899 ha) of which represents nearly 60 percent of the highest quality occupied *L. papilliferum* habitat in the Snake River Plain region. The continuing high quality of this habitat suggests the conservation measures are effective in maintaining generally–intact, native-plant vegetation and limiting anthropogenic disturbances on the OTA (Sullivan and Nations 2009, p. 91).

The INRMP for the OTA provides a framework for managing natural resources. Conservation measures included in the INRMP avoid or minimize impacts on *Lepidium papilliferum,* slickspot microsites, and sagebrush-steppe habitat while allowing for the continued implementation of the Idaho Army National Guard's mission. These measures include management actions such as restricting off-road motorized vehicle use, intensive wildfire suppression efforts, and the restriction of ground-operated military training to areas where the plants are not found. For example, the INRMP includes objectives for maintaining and improving *L. papilliferum* habitat and restoring areas damaged by wildfire. The plan specifies that the OTA will use native species and broadcast seeding, collecting, and planting small amounts of native seed not commercially available, and will monitor the success of seeding efforts (IDARNG 2004, pp. 72–73). Since 1991, the OTA, using historical records, has restored several areas using native seed and vegetation that was present prior to past wildfires. The Idaho Army National Guard continues to use restoration methods that avoid or minimize impacts to *L.*

papilliferum or its habitat, with an emphasis on maintaining representation of species that were present in presettlement times (IDARNG 2004, p. 73). Since 1987, the Idaho Army National Guard has demonstrated that efforts to suppress wildfire and the use of native species with minimal ground-disturbing activities are effective in reducing the wildfire threat, as well as in reducing rates of spread of nonnative, invasive species associated with wildfire management activities (IDARNG 2004, p. 73). In 2008, the Idaho Army National Guard also initiated maintenance on a series of identified fuel breaks on the OTA. These fuel breaks are designed to act as barriers to prevent fires that might be ignited by military training activities from spreading into adjacent *L. papilliferum* habitat (U.S. BLM 2008a, p. 20).

Based on the above considerations, and in accordance with section 4(a)(3)(B)(i) of the Act, we have determined that the identified lands are subject to the Idaho Army National Guard's OTA INRMP and that conservation efforts identified in the INRMP are being actively implemented, are effective, and will provide a benefit to *Lepidium papilliferum* occurring in habitats within or adjacent to the OTA. Therefore, lands within this installation are exempt from critical habitat designation under section 4(a)(3)(B)(i) of the Act. We are not including approximately 4,664 ha (11,525 ac) of habitat in this proposed critical habitat designation because of this exemption. The acreage exempted appears to be greater than the occupied habitat because the occupied habitat is based purely on EO acreage, and does not include the surrounding sagebrush-steppe habitat that would be included in critical habitat to provide for sufficient pollinator populations and protection of the *L. papilliferum* populations from other impacts, such as fire or recreational use.

Mountain Home Air Force Base—Juniper Butte Range

The U.S. Air Force, Mountain Home Air Force Base, which includes the Juniper Butte Range in the Owyhee Plateau region, has an INRMP that has been in place for this military training facility since 2004. The U.S. Air Force manages 810 ha (2,030 ac) of occupied *Lepidium papilliferum* habitat within the Juniper Butte Range. Conservation measures and implementation actions for *L. papilliferum* include reseeding disturbed areas with native vegetation, eradicating noxious weeds prior to their spreading, cleaning vehicles and equipment to remove nonnative invasive plants, avoiding pesticide use within 8 m (25 ft) of slickspots, and delaying livestock turnout onto the range if slickspot microsites are saturated. The INRMP contains specific measures developed to minimize the impacts from military training at the local level, or general measures designed to improve the ecological condition of native, sagebrush-steppe vegetation at a landscape scale, inclusive of areas supporting *L. papilliferum,* while allowing for the continued implementation of the Air Force mission. For example, the U.S. Air Force has a number of ongoing efforts to address wildfire prevention and suppression on the entire 4,611 ha (11,393 ac) Juniper Butte Range. Prevention measures that are implemented on the Juniper Butte Range include reducing standing fuels and weeds, planting fire-resistant vegetation in areas with a higher potential for ignition sources, such as along roads, and using wildfire indices to determine when to restrict military activities when the wildfire hazard rating is extreme (U.S. Air Force 2004, pp. 6–55). As a result of implementing these measures, the threat from wildfire to *Lepidium papilliferum* associated with U.S. Air Force training activities is expected to be effective in reducing fires within the Juniper Butte Range.

For both specific and general conservation measures, improvements to habitat condition since the implementation of the 2004 INRMP measures 6 years ago have been difficult to detect with available monitoring data. *Lepidium papilliferum* is an annual or biennial plant that responds to spring precipitation and has seeds that remain viable for up to 12 years in the seed bank. Thus, detecting the effectiveness of specific conservation measures using the 7 years of available U.S. Air Force monitoring data is difficult, as this is too limited a time series to be able to detect any changes for a species with such great inter-annual variability and seeds that may still be viable yet lie dormant in the seed bank. We expect that decades will be necessary to determine the effectiveness of general conservation measures designed to improve native, sagebrush-steppe ecological condition, although ongoing research may provide information and techniques to accelerate these types of recovery efforts.

Based on the above considerations, and in accordance with section 4(a)(3)(B)(i) of the Act, we have determined that the identified lands are subject to the U.S. Air Force INRMP for the Juniper Butte Range (Mountain Home Air Force Base) and that conservation efforts identified in the INRMP are being implemented, are likely effective, and will provide a conservation benefit to *Lepidium papilliferum* occurring in habitats within or adjacent to the Juniper Butte Range. Therefore, lands within this installation are exempt from critical habitat designation under section 4(a)(3)(B)(i) of the Act. We are not including 4,611 ha (11,393 ac) of habitat in this proposed critical habitat designation because of this exemption.

Table 2 below provides approximate areas of lands that meet the definition of critical habitat but are exempt from designation under section 4(a)(3)(B)(i) of the Act.

TABLE 2—EXEMPTIONS BY CRITICAL HABITAT UNIT

Unit	Specific area	Basis for exclusion/ exemption	Areas meeting the definition of critical habitat in hectares (acres)	Areas exempted in hectares (acres)
2	IDARNG—OTA	4(a)(3)(B)(i)	4,664 ha (11,525 ac)	4,664 ha (11,525 ac)
4	MHAFB—JBR	4(a)(3)(B)(i)	4,611 ha (11,393 ac)	4,611 ha (11,393 ac)

Exclusions

Application of Section 4(b)(2) of the Act

Section 4(b)(2) of the Act states that the Secretary must designate and revise critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless he determines, based on the best scientific data available, that the failure to

designate such area as critical habitat will result in the extinction of the species. In making that determination, the legislative history is clear that the Secretary has broad discretion regarding which factor(s) to use and how much weight to give to any factor.

Under section 4(b)(2) of the Act, we consider all relevant impacts, including economic impacts. In compliance with section 4(b)(2) of the Act, we are preparing an analysis of the economic impacts of this proposed designation of critical habitat. We will announce the availability of the draft economic analysis as soon as it is completed, at which time we will seek public review and comment. At that time, copies of the draft economic analysis will be available for downloading from the Internet at *http://www.regulations.gov,* or from the Idaho Fish and Wildlife Office directly (see **FOR FURTHER INFORMATION CONTACT**). During the development of the final designation, we will consider economic impacts, public comments, and other new information. Certain areas may be excluded from the final critical habitat designation under section 4(b)(2) of the Act and or implementing regulations at 50 CFR 424.19.

At this time, we are not proposing any specific exclusions of areas from critical habitat under section 4(b)(2) of the Act for *Lepidium papilliferum.* However, we are considering applying section 4(b)(2) to currently occupied private lands, which represent less than 5 percent of the proposed designation. During the comment period for the proposed designation of critical habitat, we will consider any available information about areas covered by conservation or management plans that we should consider for exclusion from the designation under section 4(b)(2) of the Act, including whether the benefits of exclusion would outweigh the benefits of their inclusion and whether exclusion would or would not result in the extinction of the species. We consider whether landowners have developed any conservation plans for the area, as well as any social or other impacts that might occur because of the designation. For example, we consider whether there are conservation partnerships that would be encouraged or discouraged by designation of, or exclusion from, critical habitat in an area. Many non-Federal landowners derive satisfaction in contributing to endangered species recovery. However, private landowners are often wary of the possible consequences of encouraging endangered species conservation on their property, and of regulatory action by the Federal Government under the Act. Social research has demonstrated that for many private landowners, government regulation under the Act is perceived as a loss of individual freedoms, regardless of whether that regulation may in fact result in any actual impact to the landowner (Brook *et al.* 2003, pp. 1644–1648; Conley *et al.* 2007, p. 141). The magnitude of this negative outcome is greatly amplified in situations where active management measures (such as reintroduction, fire management, and the control of invasive species) are necessary for species conservation (Bean 2002, pp. 3–4). Furthermore, in a recent study of private landowners who have experience with regulation under the Act, only 2 percent of respondents believed the Federal Government rewards private landowners for good management of their lands and resources (Conley *et al.* 2007, pp. 141, 144). Therefore, we will carefully weigh the potential benefits of any designation on private lands.

We consider the benefits of including private lands as designated critical habitat in this case to be minimal since monitoring has been limited, data is generally lacking on the overall status of *Lepidium papilliferum* on privately-owned lands, and any activities that would trigger the benefits of consultation on critical habitat under a Federal nexus are highly unlikely. Additionally, most of the current and ongoing interagency conservation efforts are focused on management of State, county, and Federal lands, where approximately 95 percent of the occupied habitat occurs. As discussed previously, Federal activities that may affect *L. papilliferum* or its designated critical habitat require section 7 consultation under the Act; this also includes activities on State, Tribal, local, or private lands requiring a Federal permit. We believe that in some cases designation can negatively affect the potential working relationships and conservation partnerships formed with private landowners to provide conservation benefits. As described above, private landowners are often wary of the possible consequences of encouraging endangered species conservation on their property, and of regulatory action by the Federal Government under the Act. Therefore, we believe it is possible that the benefit of excluding areas on private lands may outweigh the benefits of including those areas in critical habitat. The Secretary can exclude lands when there is no benefit of inclusion or if that benefit is negligible, and if the designation may actually harm the species (*i.e.,* there are benefits to the species from exclusion). We are specifically asking for public comment on the benefits of exclusion versus inclusion of private lands in the designation of critical habitat, and will determine whether any such lands may merit exclusion from the designation under section 4(b)(2) of the Act. Furthermore, we will evaluate all comments provided during the public comment period of this proposed rule on whether the benefits of excluding any particular area from critical habitat outweigh the benefits of including that area in critical habitat under section 4(b)(2) of the Act.

We have determined that there are currently no habitat conservation plans (HCPs) in the proposed critical habitat area, and the proposed designation does not include any Tribal lands or trust resources. We anticipate no impact to Tribal lands, partnerships, or HCPs from this proposed critical habitat designation.

Peer Review

In accordance with our joint policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. The purpose of peer review is to ensure that our critical habitat designation is based on scientifically sound data, assumptions, and analyses. We will send peer reviewers copies of this proposed rule immediately following publication in the **Federal Register**. We will invite these peer reviewers to comment, during the public comment period, on the specific assumptions and conclusions regarding the proposed designation of critical habitat.

We will consider all comments and information received during the 60-day comment period on this proposed rule as we prepare our final rulemaking. Accordingly, the final decision may differ from this proposal.

Public Hearings

The Act provides for one or more public hearings on this proposal, if requested. Requests must be received within 45 days after the date of publication of this proposed rule in the **Federal Register**. Such requests must be made in writing and be addressed to the State Supervisor (see **FOR FURTHER INFORMATION CONTACT** section). We will schedule public hearings on this proposal, if any are requested, and announce the dates, times, and places of those hearings in the **Federal Register** and local newspapers at least 15 days prior to the first hearing.

Required Determinations

Regulatory Planning and Review—Executive Order 12866

The Office of Management and Budget (OMB) has determined that this rule is not significant under Executive Order 12866 (E.O. 12866). OMB bases its determination upon the following four criteria:

(a) Whether the rule will have an annual effect of $100 million or more on the economy or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government.

(b) Whether the rule will create inconsistencies with other Federal agencies' actions.

(c) Whether the rule will materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.

(d) Whether the rule raises novel legal or policy issues.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA); 5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, whenever an agency must publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended RFA to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

At this time, we lack the specific information necessary to provide an adequate factual basis for the required RFA finding. On the basis of the development of our proposal, we have identified certain sectors and activities that may potentially be affected by a designation of critical habitat for *L. papilliferum.* These sectors include ranching, recreation, residential and commercial development, as well as the associated infrastructure such as roads, storm water drainage, bridge and culvert maintenance, transmission lines and right of ways, natural gas transmission lines, and water lines. We recognize not all of these sectors qualify as small business entities. However, recognizing these sectors and activities may be affected by this designation, we are collecting information and initiating an analysis to determine (1) which of these sectors or activities are, or involve, small business entities; and (2) to what extent the effects are related to *L. papilliferum* being listed as threatened under the Act (baseline effects), or whether the effects are attributable to the designation of critical habitat (incremental effects). We believe the potential incremental effects resulting from a designation will be small. We are requesting any specific economic information related to small business entities that may be affected by this designation and how the designation may impact their business. Therefore, we defer the initial RFA finding until completion of a draft economic analysis prepared under section 4(b)(2) of the Act and E.O. 12866.

The draft economic analysis will provide the required factual basis for the RFA finding. Upon completion of the draft economic analysis, we will announce its availability in the **Federal Register** and reopen the public comment period for the proposed designation. We will include with this announcement, as appropriate, an initial regulatory flexibility analysis or a certification that the rule will not have a significant economic impact on a substantial number of small entities accompanied by the factual basis for that determination. We have concluded that deferring the RFA finding until completion of the draft economic analysis is necessary to meet the purposes and requirements of the RFA. Deferring the RFA finding in this manner will ensure that we make a sufficiently-informed determination based on adequate economic information and provide the necessary opportunity for public comment.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), we make the following findings:

(a) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or Tribal governments, or the private sector, and includes both "Federal intergovernmental mandates" and "Federal private sector mandates." These terms are defined in 2 U.S.C. 658(5)–(7). "Federal intergovernmental mandate" includes a regulation that "would impose an enforceable duty upon State, local, or Tribal governments" with two exceptions. It excludes "a condition of Federal assistance." It also excludes "a duty arising from participation in a voluntary Federal program," unless the regulation "relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and Tribal governments under entitlement authority," if the provision would "increase the stringency of conditions of assistance" or "place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding," and the State, local, or Tribal governments "lack authority" to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; Aid to Families with Dependent Children work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. "Federal private sector mandate" includes a regulation that "would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program."

The designation of critical habitat does not impose a legally-binding duty on non-Federal-Government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply, nor would critical habitat shift the costs of the large entitlement programs listed above onto State governments.

(b) We do not believe this rule will significantly or uniquely affect small governments. The lands being proposed for critical habitat for *Lepidium papilliferum* are primarily Federal BLM lands, with a small area of Federal BOR lands and some lesser areas owned by the County or State of Idaho. Therefore, a Small Government Agency Plan is not required. However, we will further evaluate this issue as we conduct our economic analysis, and review and revise this assessment if appropriate.

Takings

In accordance with E.O. 12630 (Government Actions and Interference with Constitutionally Protected Private Property Rights), we have analyzed the potential takings implications of designating critical habitat for *Lepidium papilliferum* in a takings implications assessment. The takings implications assessment concludes this proposed designation of critical habitat for *Lepidium papilliferum* would not pose significant takings implications for lands within or affected by the designation.

Federalism

In accordance with E.O. 13132 (Federalism), this proposed rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with Department of the Interior and Department of Commerce policy, we requested information from, and coordinated development of, this proposed critical habitat designation with appropriate State resource agencies in Idaho. If adopted, the designation may have some benefit to these governments because the areas that contain the features essential to the conservation of the species are more clearly defined, and the physical and biological features of the habitat necessary to the conservation of the species are specifically identified. This information does not alter where and what Federally-sponsored activities may occur. However, it may assist local governments in long-range planning (rather than having them wait for case-by-case section 7 consultations to occur).

Where State and local governments require approval or authorization from a Federal agency for actions that may affect critical habitat, consultation under section 7(a)(2) would be required. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency.

Civil Justice Reform

In accordance with E.O. 12988 (Civil Justice Reform), the Office of the Solicitor has determined this proposed rule does not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order. We have proposed designating critical habitat in accordance with the provisions of the Act. This proposed rule uses standard property descriptions and identifies the physical and biological features within the designated areas to assist the public in understanding the habitat needs of *Lepidium papilliferum.*

Paperwork Reduction Act of 1995

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. 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.

National Environmental Policy Act (NEPA)

It is our position that, outside the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit, we do not need to prepare environmental analyses as defined by NEPA (42 U.S.C. 4321 *et seq.*) in connection with designating critical habitat under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This position was upheld by the U.S. Court of Appeals for the Ninth Circuit (*Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. 1995), *cert. denied,* 516 U.S. 1042 (1996)).

Clarity of the Rule

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

(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 are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, *etc.*

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, Government-to-Government Relations with Native American Tribal Governments (59 FR 22951), E.O. 13175, the Department of the Interior's manual at 512 DM 2, and the Native American Policy of the U.S Fish and Wildlife Service, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 "American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act," we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that Tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes.

We have determined there are no Tribal lands occupied at the time of listing that contain the features essential for the conservation, and no Tribal lands that are essential for the conservation, of *Lepidium papilliferum.* Therefore, we have not proposed designation of critical habitat for *L. papilliferum* on Tribal lands.

Energy Supply, Distribution, or Use

On May 18, 2001, the President issued Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use—governing regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Based on analysis of areas included in this proposal, we have determined that this proposed rule to designate critical habitat for *Lepidium papilliferum* is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action, and a Statement of Energy Effects is not required. However, we will further evaluate this issue as we conduct our economic analysis, and review and revise this assessment as warranted.

References Cited

A complete list of references cited is available on the Internet at *http://www.regulations.gov* and upon request from the Idaho Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this package are the staff members of the Idaho Fish and Wildlife Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. In § 17.12(h), revise the entry for "*Lepidium papilliferum*" under "FLOWERING PLANTS" in the List of Endangered and Threatened Plants to read as follows:

§ 17.12 Endangered and threatened plants

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
Flowering Plants							
*	*	*	*	*	*	*	
Lepidium papilliferum	slickspot peppergrass.	U.S.A. (ID)	Brassicaceae	T	765	17.96(a)	NA
*	*	*	*	*	*	*	

3. In § 17.96, amend paragraph (a) by adding an entry for "*Lepidium papilliferum (slickspot peppergrass*)" in alphabetical order under Family Brassicaceae to read as follows:

§ 17.96 Critical habitat—plants.

(a) *Flowering plants.*

* * * * *

Family Brassicaceae: *Lepidium papilliferum* **(slickspot peppergrass)**

(1) Critical habitat units are depicted for Payette, Ada, Elmore, and Owyhee Counties, Idaho, on the maps below.

(2) The physical and biological features of critical habitat for the *Lepidium papilliferum* are:

(i) Ecologically-functional microsites or "slickspots" that are characterized by:

(A) A high sodium and clay content, and a three-layer soil horizonation sequence, which allows for successful seed germination, seedling growth, and maintenance of the seed bank. The surface horizon consists of a thin, silty vesicular, pored (small cavity) layer that forms a physical crust (the silt layer). The subsoil horizon is a restrictive clay layer with an abruptic (referring to an abrupt change in texture) boundary with the surface layer, that is natric or natric-like in properties (a type of argillic (clay-based) horizon with distinct structural and chemical features) (the restrictive layer). The second argillic subsoil layer (that is less distinct than the upper argillic horizon) retains moisture through part of the year (the moist clay layer); and

(B) Sparse vegetation with low to moderate introduced, invasive, nonnative plant species cover.

(ii) Relatively-intact, native *Artemisia tridentata* ssp. *wyomingensis* (Wyoming big sagebrush) vegetation assemblages, represented by native bunchgrasses, shrubs, and forbs, within 250 m (820 ft) of *Lepidium papilliferum* element occurrences to protect slickspots and *Lepidium papilliferum* from disturbance from wildfire, slow the invasion of slickspots by nonnative species and native harvester ants, and provide the habitats needed by *L. papilliferum's* pollinators.

(iii) A diversity of native plants whose blooming times overlap to provide pollinator species with flowers for foraging throughout the seasons and to provide nesting and egg-laying sites; appropriate nesting materials; and sheltered, undisturbed places for hibernation and overwintering of pollinator species. In order for genetic exchange of *Lepidium papilliferum* to occur, pollinators must be able to move freely between slickspots. Alternative pollen and nectar sources (other plant species within the surrounding sagebrush vegetation) are needed to support pollinators during times when *Lepidium papilliferum* is not flowering, when distances between slickspots are large, and in years when *L. papilliferum* is not a prolific flowerer.

(iv) Sufficient pollinators for successful fruit and seed production, particularly pollinator species of the sphecid and vespid wasp families, species of the bombyliid and tachnid fly families, honeybees, and halictid bee species, most of which are solitary insects that nest outside of slickspots in the surrounding sagebrush-steppe vegetation, both in the ground and within the vegetation.

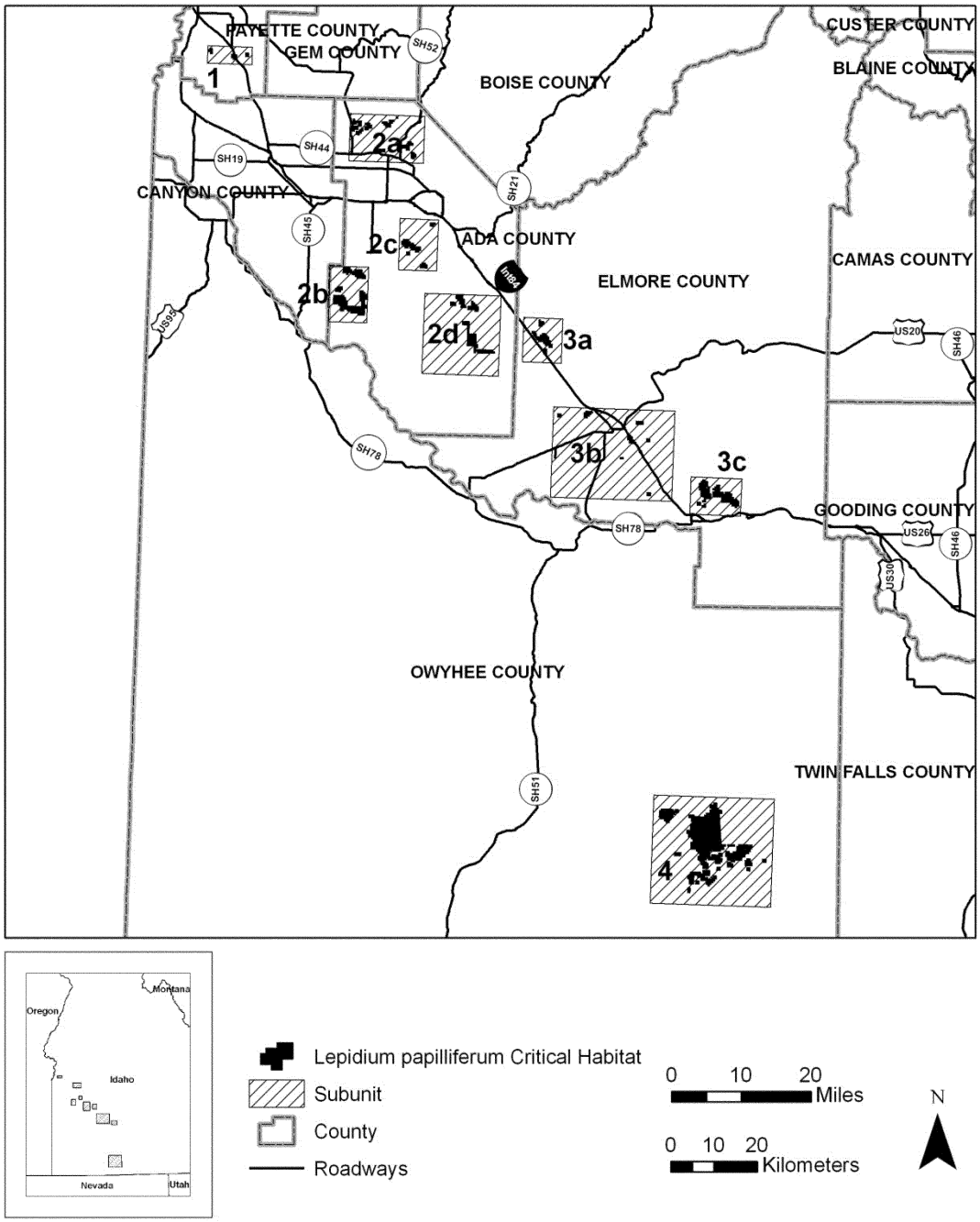
(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, runways, roads, and other paved areas) and the land on which they are located existing within the legal boundaries on the effective date of this rule.

(4) *Critical habitat map units.* Data layers defining map units were created using a quarter-quarter section shapefile, based on the Public Land Survey System, in a Geographic Information System.

(5) Index map of critical habitat units for *Lepidium papilliferum* (slickspot peppergrass) follows:

BILLING CODE 4310–55–P

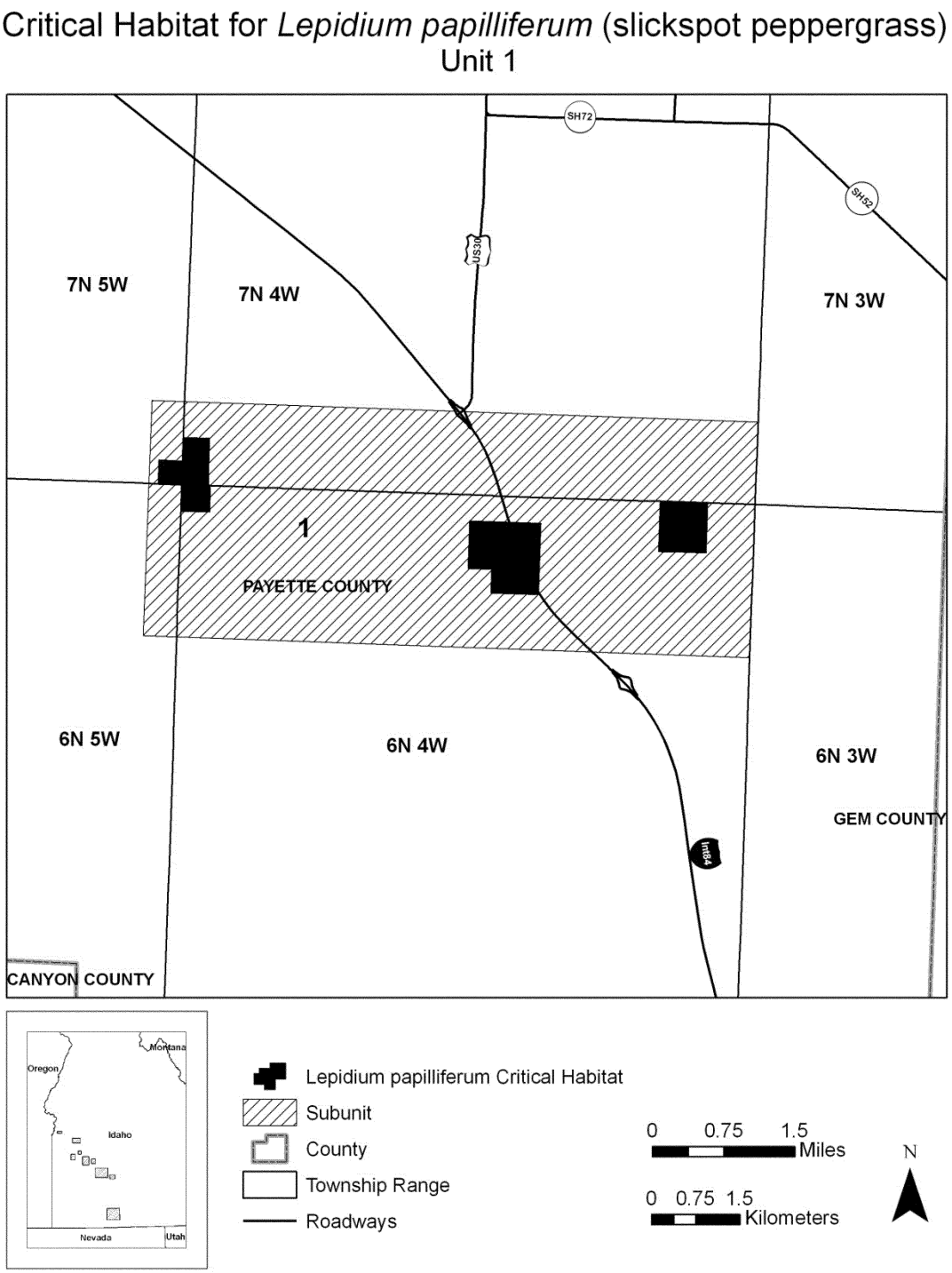
Critical Habitat for *Lepidium papilliferum* (slickspot peppergrass)



(6) Unit 1: Payette County, Idaho.

(i) [Reserved for unit description.]

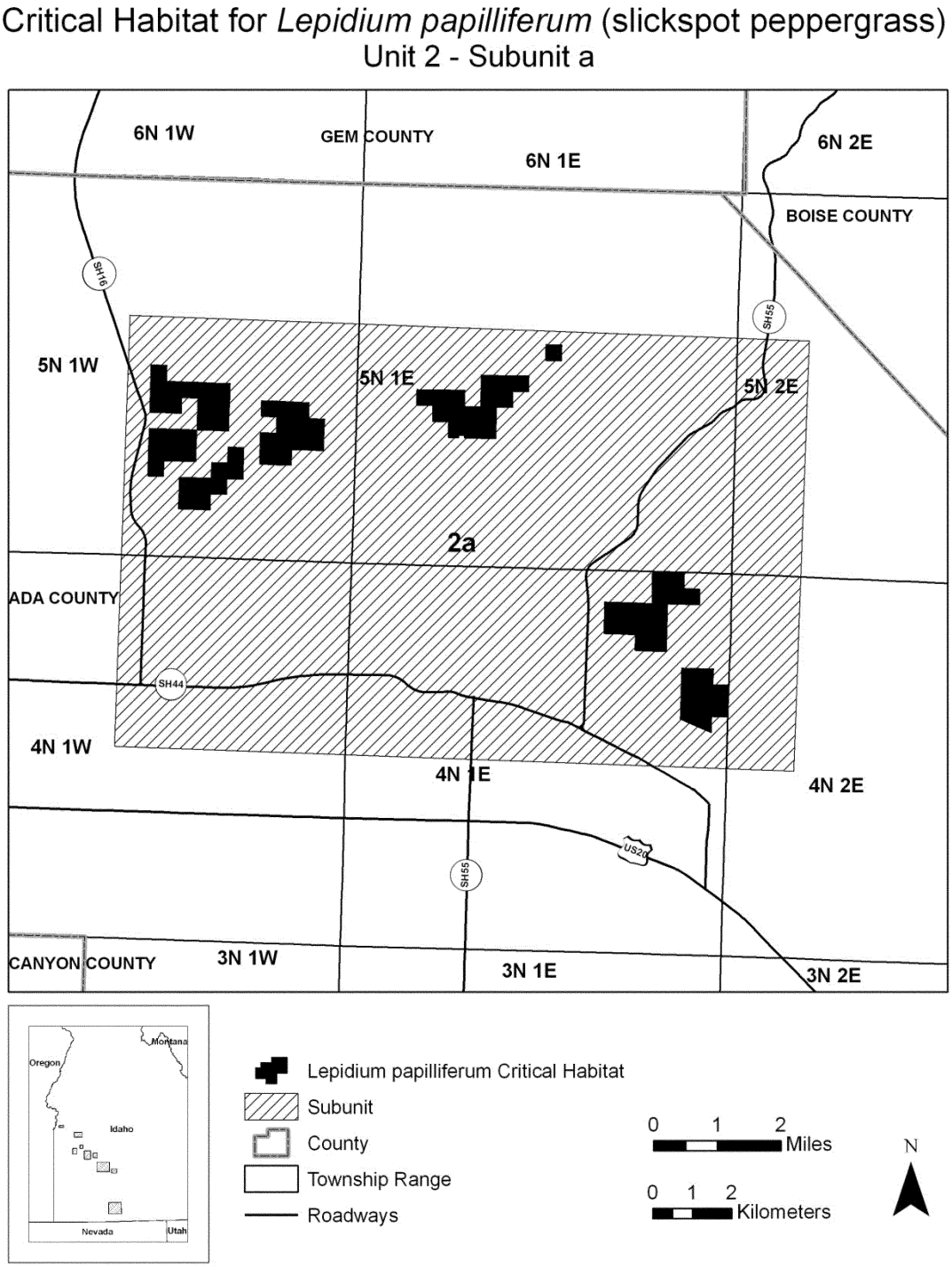
(ii) Map of Unit 1 follows:



(7) Unit 2: Ada County, Idaho.

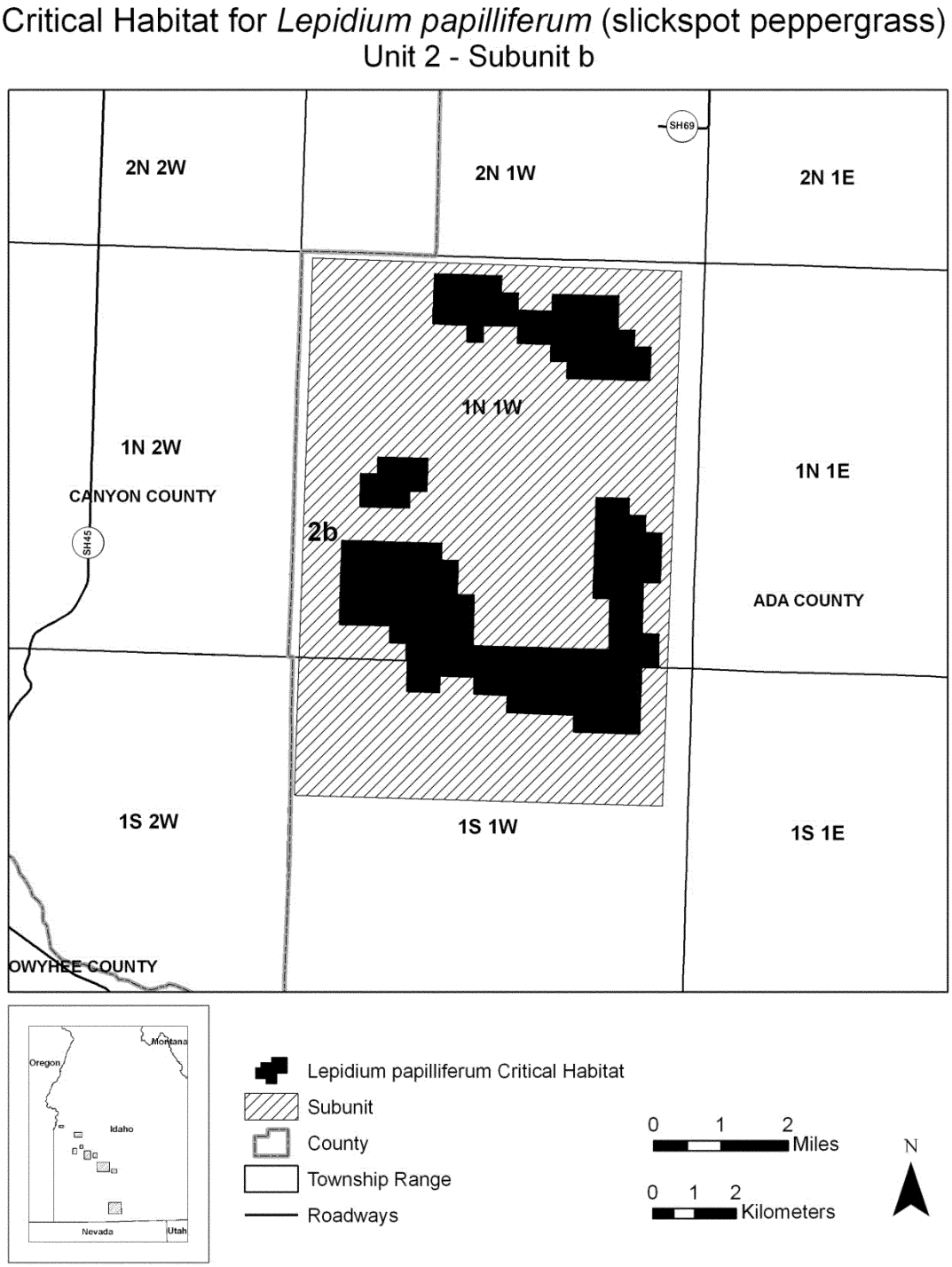
(i) Subunit 2a [Reserved for subunit description.]

(ii) Map of Unit 2, Subunit a, follows:



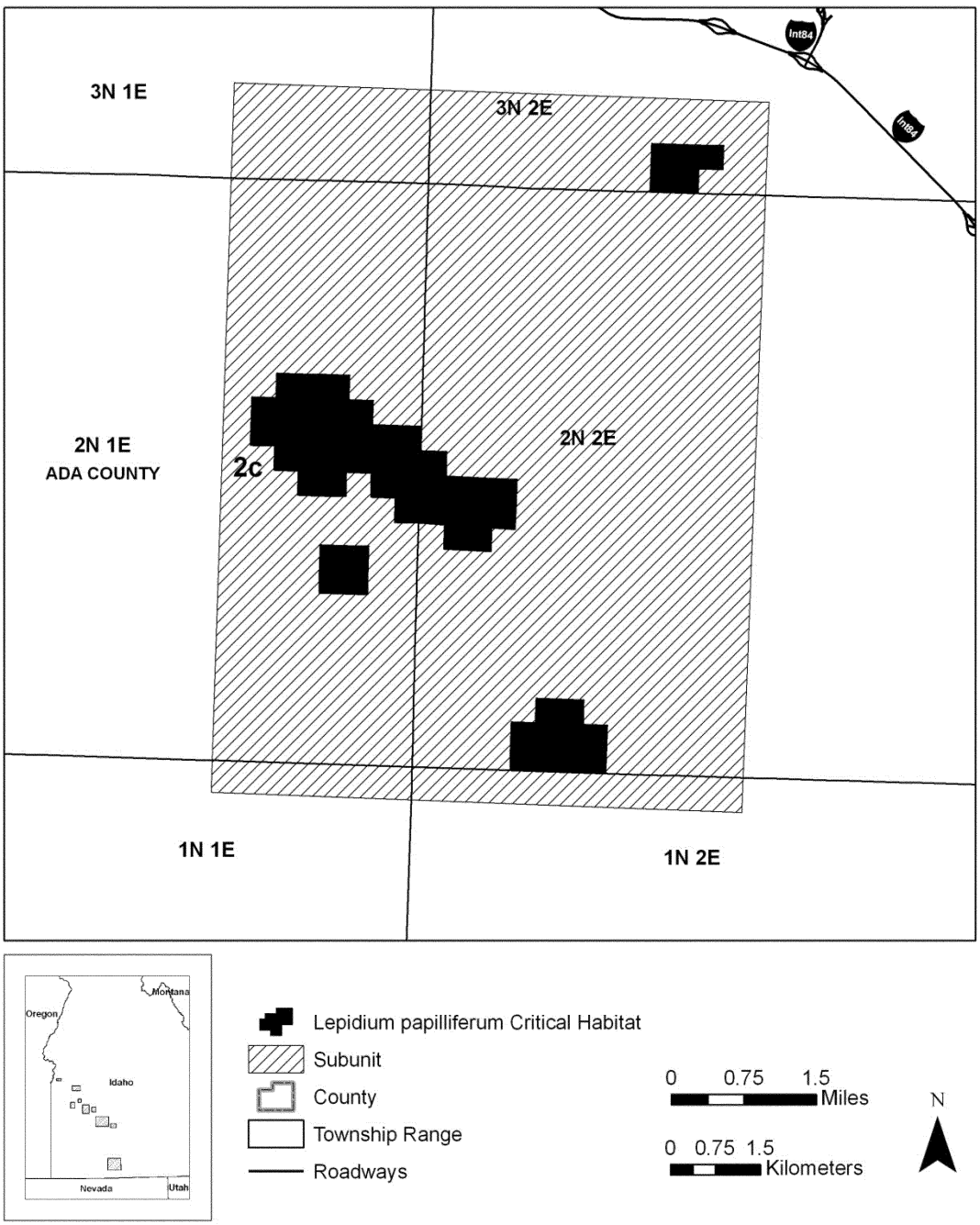
(iii) Subunit 2b. [Reserved for subunit description.]

(iv) Map of Unit 2, Subunit b, follows:



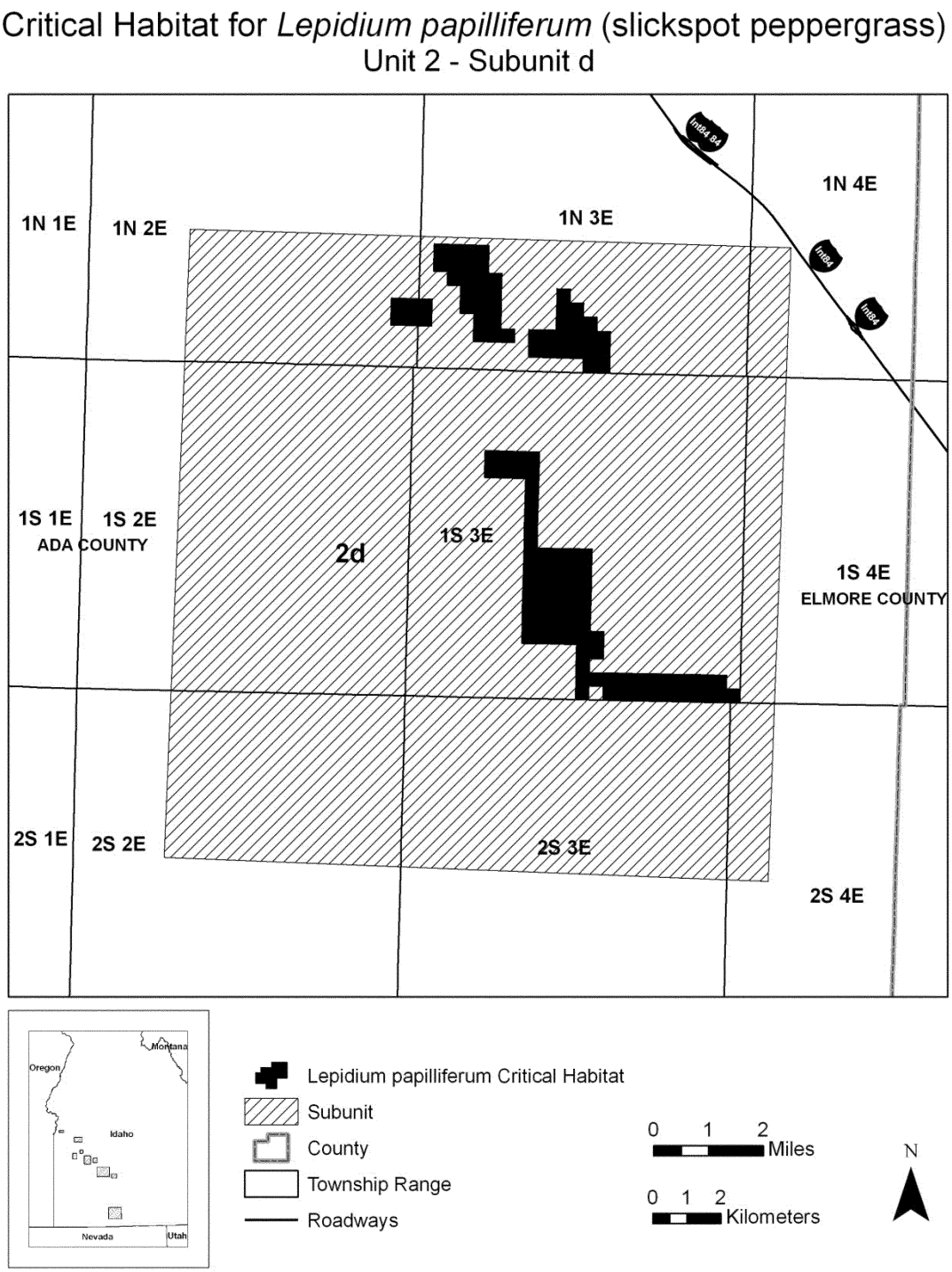
(v) Subunit 2c. [Reserved for subunit description.]

(vi) Map of Unit 2, Subunit c, follows:



(vii) Subunit 2d. [Reserved for subunit description.]

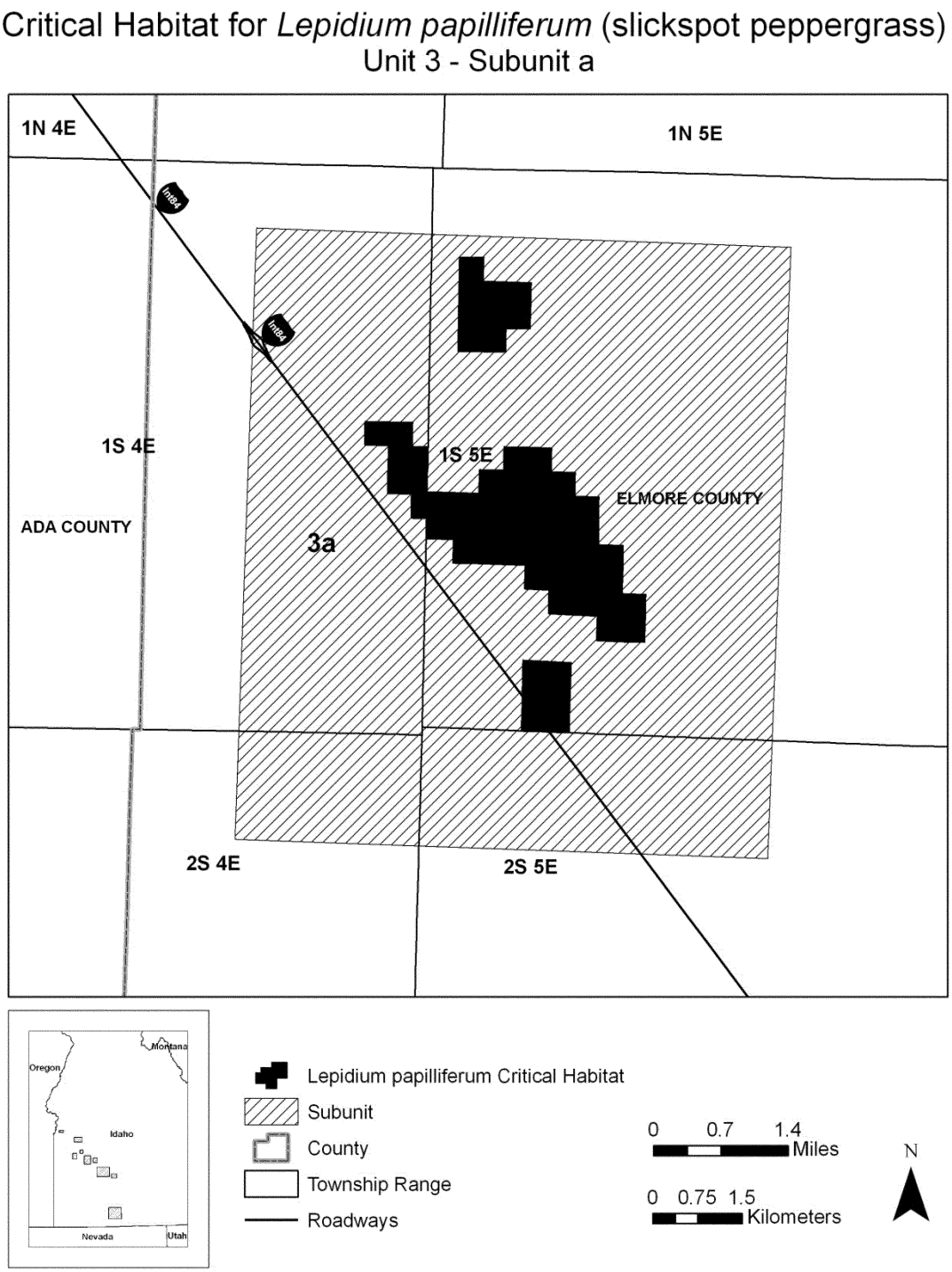
(viii) Map of Unit 2, Subunit d, follows:



(8) Unit 3: Elmore County, Idaho.

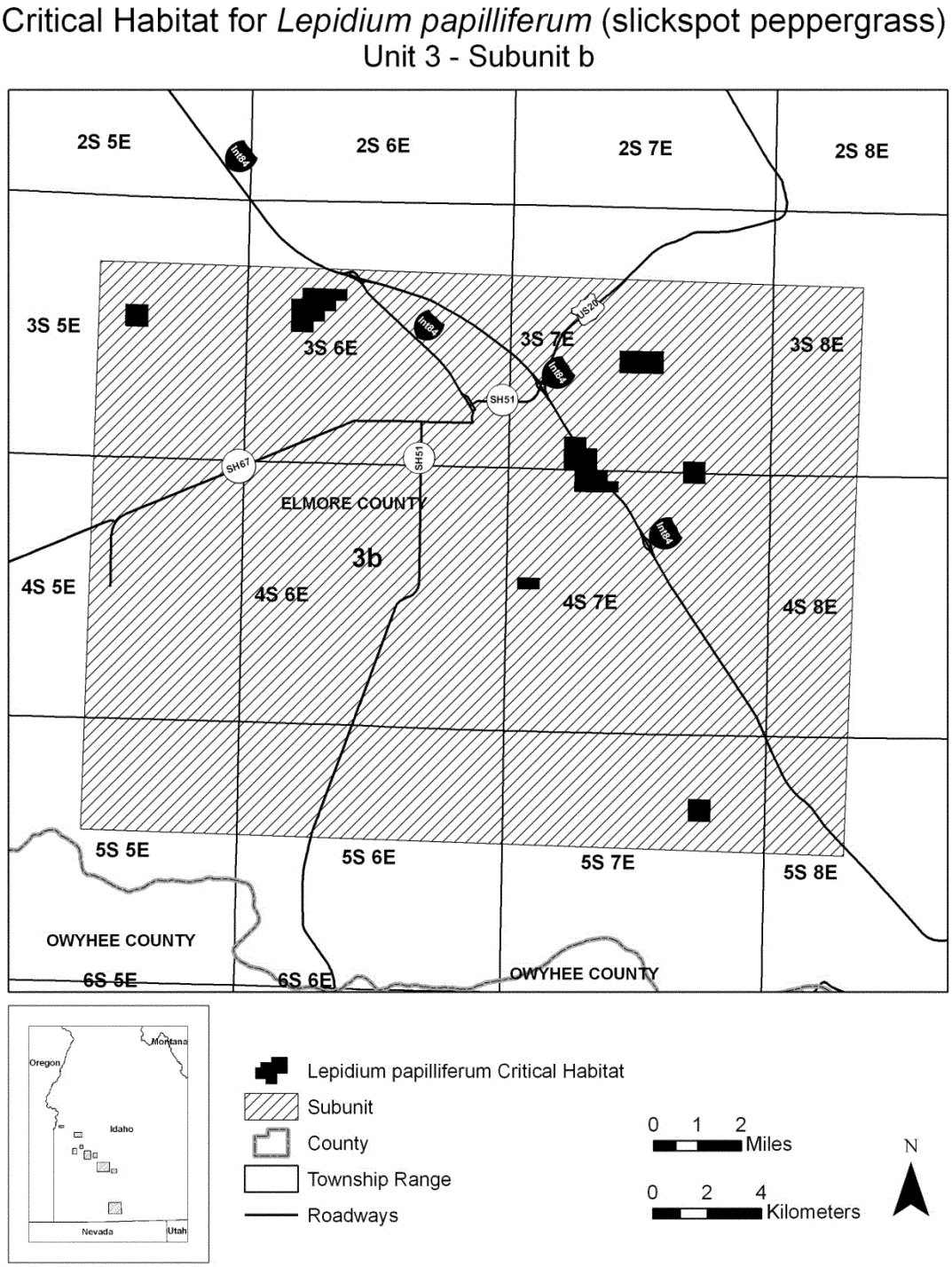
(i) Subunit 3a. [Reserved for subunit description.]

(ii) Map of Unit 3, Subunit a, follows:



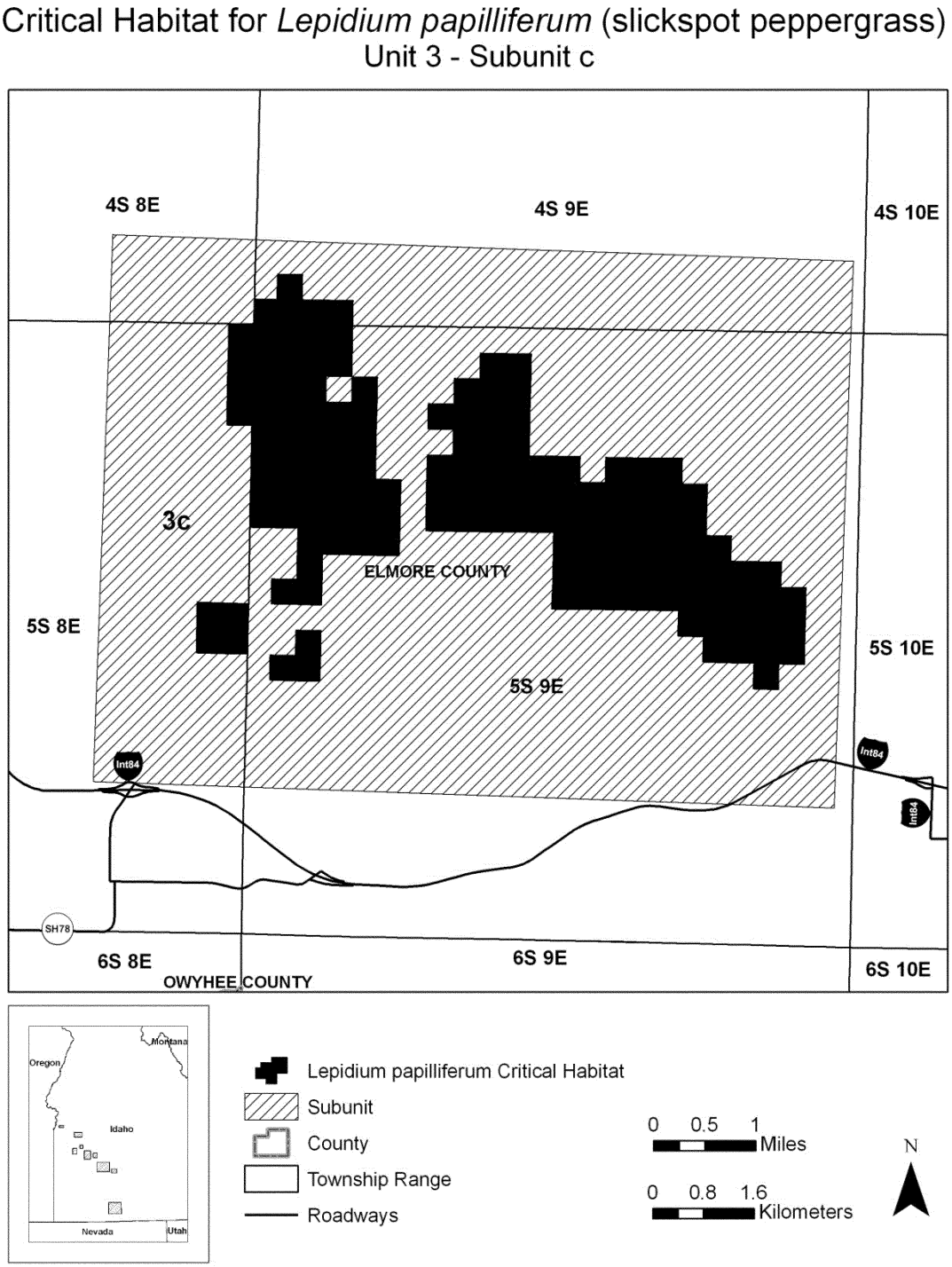
(iii) Subunit 3b. [Reserved for subunit description.]

(iv) Map of Unit 3, Subunit b, follows:



(v) Subunit 3c. [Reserved for subunit description.]

(vi) Map of Unit 3, Subunit c, follows:

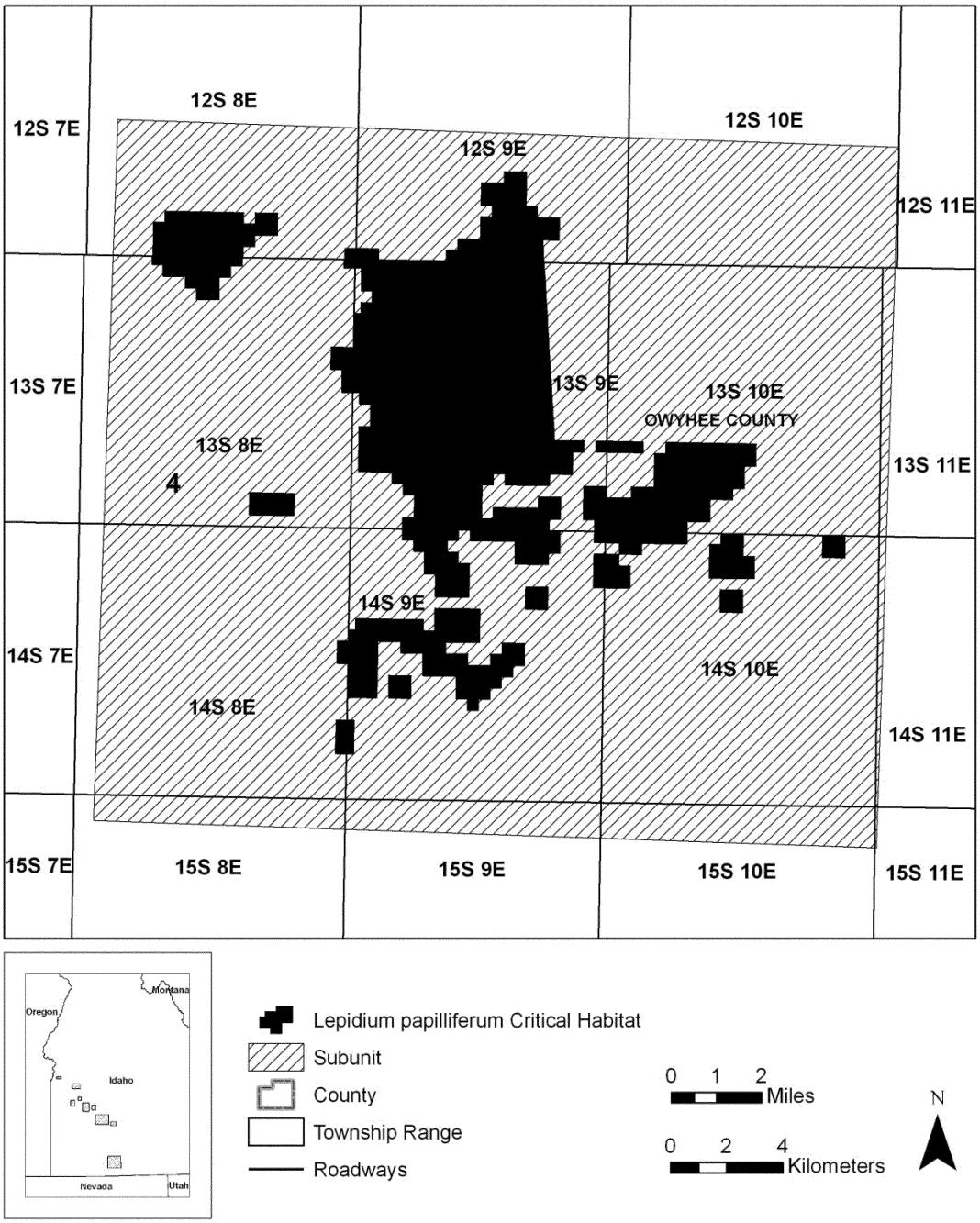


(9) Unit 4: Owyhee County, Idaho.

(i) [Reserved for unit description.]

(ii) Map of Unit 4 follows:

Critical Habitat for *Lepidium papilliferum* (slickspot peppergrass)
Unit 4



* * * * *

Dated: April 19, 2011.

Will Shafroth,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2011–10753 Filed 5–9–11; 8:45 am]

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S. 307/P.L. 112–11
To designate the Federal building and United States courthouse located at 217 West King Street, Martinsburg, West Virginia, as the ''W. Craig Broadwater Federal Building and United States Courthouse''. (Apr. 25, 2011; 125 Stat. 213)

S.J. Res. 8/P.L. 112–12
Providing for the appointment of Stephen M. Case as a citizen regent of the Board of Regents of the Smithsonian Institution. (Apr. 25, 2011; 125 Stat. 214)

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