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# Federal Register

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WHEN: Tuesday, September 14, 2010
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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# Rules and Regulations

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

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

## FEDERAL HOUSING FINANCE AGENCY

### 5 CFR Chapter LXXX

**RIN 2590–AA02, 3209–AA15**

## Supplemental Standards of Ethical Conduct for Employees of the Federal Housing Finance Agency

**AGENCY:** Federal Housing Finance Agency.

**ACTION:** Final rule.

**SUMMARY:** The Federal Housing Finance Agency (FHFA) is publishing a final regulation, with the concurrence of the Office of Government Ethics, which supplements the Standards of Ethical Conduct for Employees of the Executive Branch. To ensure a comprehensive and effective ethics program at FHFA and to address ethical issues unique to FHFA, the final regulation establishes prohibitions on the ownership of certain financial interests and restrictions on outside employment and business activities.

**DATES:** This regulation is effective August 27, 2010.

**FOR FURTHER INFORMATION CONTACT:** Sean Dent, Associate General Counsel, (202) 414–3099 (not a toll-free number), Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. The telephone number for the Telecommunications Device for the Deaf is (800) 877–8339.

**SUPPLEMENTARY INFORMATION:**

### I. Background

The Housing and Economic Recovery Act of 2008 (HERA), Public Law 110–289, 122 Stat. 2654, amended the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 *et seq.*) (Safety and Soundness Act), and the Federal Home Loan Bank Act (12 U.S.C. 1421–1449) to establish FHFA as an independent agency of the Federal Government.[1] FHFA was established to oversee the prudential operations of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation (collectively, enterprises), and the Federal Home Loan Banks (Banks) (collectively, regulated entities) and to ensure that they operate in a safe and sound manner including being capitalized adequately; foster liquid, efficient, competitive and resilient national housing finance markets; comply with the Safety and Soundness Act and rules, regulations, guidelines and orders issued by the Director of FHFA, and the respective authorizing statutes of the regulated entities; and carry out their missions through activities authorized and consistent with the Safety and Soundness Act and their authorizing statutes; and, that the activities and operations of the regulated entities are consistent with the public interest.

### II. Proposed Regulation; Comments Received; Technical Revisions

*Proposed Regulation*

Executive Order 12674, as amended by Executive Order 12731, authorized the United States Office of Government Ethics (OGE) to establish a single, comprehensive and clear set of executive-branch standards of conduct. On August 7, 1992, OGE published the Standards of Ethical Conduct for Employees of the Executive Branch (Standards).[2] Codified at 5 CFR part 2635, the Standards took effect on February 3, 1993, and established uniform standards of ethical conduct for all executive branch employees.

With the concurrence of OGE, 5 CFR 2635.105 authorizes executive branch agencies to publish agency-specific supplemental regulations necessary to implement their respective ethics programs. With such concurrence, FHFA published proposed supplemental rules for comment on April 16, 2010 (75 FR 19909).

[1] *See* Division A, titled the "Federal Housing Finance Regulatory Reform Act of 2008," Title I, § 1101 of HERA.

[2] *See* 57 FR 35006–35067, as corrected at 57 FR 48557 and 57 FR 52583, with additional grace period extensions at 59 FR 4779–4780, 60 FR 6390–6391, 60 FR 66857–66858, and 61 FR 40950–40952.

*Comments Received*

FHFA received and considered two comments from one member of the public. The first comment relates to § 9001.101. That section, as proposed, contains cross-references to other executive branch ethics regulations and a subsequent employment restriction of section 1317D of the Safety and Soundness Act, 12 U.S.C. 4523, applicable to certain highly compensated former FHFA officers and employees. Section 1317D prohibits such highly compensated former FHFA officers and employees from accepting compensation from an enterprise under section 1317D of the Safety and Soundness Act for two years after leaving FHFA. The commenter believes that this statutory restriction is inconsistent with the government-wide post-employment restrictions of 18 U.S.C. 207(a)(1) and (2) and 5 CFR 2635.601. FHFA notes that the section 1317D statutory restriction is in addition to the government-wide post-employment restrictions of 18 U.S.C. 207(a)(1) and (2) and 5 CFR 2635.601. Thus, FHFA has determined that a revision to § 9001.101 is not needed.

The second comment relates to §§ 9001.104 and 9001.106. Section 9001.104(a) prohibits FHFA employees and the employees' spouse and minor children from owning or controlling certain financial interests that are related to or affected by the operations of FHFA, such as securities owned, issued, guaranteed, securitized, or collateralized by the regulated entities. Section 9001.106 prohibits an employee of FHFA from participating in any matter in which a regulated entity is a party if the regulated entity employs, as an employee or consultant, his or her spouse, child, parent, or sibling, or member of his or her household unless the Designated Agency Ethics Official has authorized the employee to participate in the matter using the standard in 5 CFR 2635.502(d).

The commenter noted that the application of the two sections to family members differs. The restriction prohibiting the ownership or control of certain financial interests applies only to the employee's spouse and minor children, while the restriction relating to employment by a regulated entity has a broader application in that it applies to the employee's spouse, child, or sibling, or a member of his or her

household. The commenter believes that FHFA's inclusion of family and household members in § 9001.106 but not in § 9001.104 might lead the public to question the different treatment and increase public uncertainty and confusion and make it more difficult for employees to distinguish between the restrictions that apply.

The different application of the two sections conforms to law and regulation. FHFA notes that the restriction in § 9001.104 prohibiting the ownership or control of certain financial interests conforms to the scope of the government-wide conflicting financial interests law at 18 U.S.C. 208, which applies to the employee and to the employee's spouse and minor children, individuals whose financial interests are by law attributed to the employee. The requirement to receive prior approval before employment by a regulated entity of the employee's spouse, child, sibling, or a member of his or her household in § 9001.106 is intended to determine whether the employment could raise questions about the employee's impartiality in performing his or her duties under the Standards.

*Issuance of Final Regulation With Technical and Clarifying Revisions; Immediate Effective Date*

Section 9001.101 has been revised to add a reference to the regulation concerning the post-employment restriction for senior examiners at 12 CFR part 1212. Clarifying provisions have been added to §§ 9001.104(d) and 9001.105(b), as discussed below under the Section-by-Section Analysis.

FHFA, with the concurrence of OGE, has determined that the following supplemental rules that are contained in the proposed regulation, which adds a new 5 CFR chapter LXXX, consisting of part 9001, are necessary to implement successfully the ethics program of FHFA in light of the unique programs and operations of FHFA. Thus, FHFA is publishing as final the regulation as proposed with the technical revisions noted above. The final regulation has an immediate effective date for good cause. The final regulation, which affects only FHFA employees, is necessary to ensure the public trust in FHFA operations and it provides employees with adequate notice and time to report prohibited holdings and outside employment.

**III. Section-by-Section Analysis**

The following is a section-by-section analysis of the regulation.

*Section 9001.101 General*

Section 9001.101 explains that the regulation applies to all employees of FHFA and supplements the Standards found in 5 CFR part 2635. It also requires that employees of FHFA must comply with the Standards, this part, guidance and procedures established pursuant to this part, the regulation concerning the post-employment restriction for senior examiners at 12 CFR part 1212, and any additional rules of conduct that FHFA is authorized to issue. It also notes that employees should contact the Designated Agency Ethics Official (DAEO) if they have questions about any provision of this regulation or other ethics-related matters.

The section also contains cross-references to other executive branch ethics regulations and a subsequent employment restriction of section 1317D of the Safety and Soundness Act, 12 U.S.C. 4523, applicable to certain highly compensated former FHFA officers and employees, including FHFA Director, along with an annual employee notification requirement as to that statutory restriction. Section 1317D prohibits such highly compensated former FHFA officers and employees, and the Director, from accepting compensation from an enterprise under section 1317D of the Safety and Soundness Act for two years after leaving FHFA.

*Section 9001.102 Definitions*

Section 9001.102 defines the key terms used in the regulation.

*Affiliate* is defined as any entity that controls, is controlled by, or is under common control with another entity.

*Designated Agency Ethics Official,* or *DAEO,* as also used in 5 CFR part 2635, and "alternate DAEO" are defined as the individuals so designated by the Director, FHFA. The DAEO is responsible for designating agency ethics officials and ethics designees, as such terms are used in 5 CFR part 2635. The alternate DAEO acts as the DAEO in the DAEO's absence.

*Director* is defined to mean the Director of FHFA or his or her designee.

*Employee* is defined to mean an officer or employee of FHFA, including a special Government employee. For purposes of this part, it also is defined as an individual on detail from another agency to FHFA for a period of more than 30 days.

*Enterprise* is defined as the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

*Federal Home Loan Bank* or *Bank* is defined to mean a Bank established under the Federal Home Loan Bank Act; the term "Federal Home Loan Banks" means, collectively, all the Federal Home Loan Banks.

*Federal Home Loan Bank System* is defined to mean the Federal Home Loan Banks under the supervision of FHFA.

*Regulated entity* is defined to mean the Federal National Mortgage Association and any affiliate thereof; the Federal Home Loan Mortgage Corporation and any affiliate thereof; or any Federal Home Loan Bank; the term "regulated entities" means, collectively, the Federal National Mortgage Association and any affiliate thereof; the Federal Home Loan Mortgage Corporation and any affiliate thereof; and the Federal Home Loan Banks.

*Safety and Soundness Act* is defined to mean the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 *et seq.*), as amended by the Housing and Economic Recovery Act of 2008 (HERA), Public Law 110–289, 122 Stat. 2654 (2008).

*Security* is defined to mean all interests in debt or equity instruments. The term includes, without limitation, secured and unsecured bonds, debentures, notes, securitized assets and commercial paper including loans securitized by mortgages or deeds of trust and securities backed by such instruments, as well as all types of preferred and common stock. The term encompasses current and contingent ownership interests including any beneficial or legal interest derived from a trust. Such interest includes any right to acquire or dispose of any long or short position in such securities and also includes, without limit, interests convertible into such securities, as well as options, rights, warrants, puts, calls and straddles with respect thereto. The term shall not, however, be construed to include deposit accounts, such as checking, savings, or money market deposit accounts.

*Section 9001.103 Waivers*

Section 9001.103 authorizes the DAEO to grant employees of FHFA written waivers of any provision of the FHFA regulation based upon a determination that the waiver will not result in conduct inconsistent with 5 CFR part 2635 or otherwise prohibited by law, and that application of the provision is not be necessary to ensure public confidence in the impartiality and objectivity with which the programs of FHFA are administered. In granting a waiver under § 9001.103, the DAEO may require the employee to take further action, including executing a written disqualification statement. This provision is intended, in appropriate cases, to ease the burden that these supplemental regulations will impose

on employees of FHFA while ensuring that employees do not engage in actions or hold financial interests that may interfere with the objective and impartial performance of their official duties.

*Section 9001.104 Prohibited Financial Interests*

Section 9001.104(a) prohibits FHFA employees and the employees' spouse and minor children from owning or controlling certain financial interests that are related to or affected by the operations of FHFA, such as securities owned, issued, guaranteed, securitized, or collateralized by the regulated entities. This prohibition does not apply to special Government employees.[3] The prohibition of § 9001.104(a) is based on the view of FHFA that permitting FHFA employees and their spouse and minor children directly or indirectly to own or control securities owned, issued, guaranteed, securitized, or collateralized by the regulated entities would cause a reasonable person to question the impartiality with which FHFA programs are administered. Specifically, FHFA believes that there is a direct and appropriate nexus between the prohibition against owning or controlling such securities as applied both to employees and to the spouses and minor children of employees and the efficiency of the service.

In addition, while Federal conflict of interest statutes and the Standards prohibit an employee of FHFA from participating in matters in which the employee or the employee's spouse or minor children have a conflicting financial interest, FHFA has determined that a broader ban is more effective in ensuring that no reasonable person could question the impartiality and objectivity of the agency's actions. The broader ban of § 9001.104(a) establishes a clear prohibition that will be easily understood by observers of FHFA.

Moreover, the prohibition will substantially reduce the burden on FHFA and FHFA employees to determine the scope of the prohibition for each employee. By promulgating a broad ban that excludes all securities owned, issued, guaranteed, securitized, or collateralized by the regulated entities, § 9001.104(a) will substantially reduce the need for FHFA employees, the DAEO, and other agency ethics officials or counselors to determine the financial interests prohibited by each employee's duties.

Section 9001.104(b) also attributes to an FHFA employee, or to the employee's spouse and minor children, securities he or she is prohibited from holding directly by § 9001.104(a) that are held by certain described third-party entities.

Section § 9001.104(c) permits an FHFA employee and the employee's spouse and minor children to own interests in publicly-traded or publicly-available diversified mutual or other collective diversified investment funds that contain within their portfolios interests that they are prohibited from holding by § 9001.104(c). Under this provision, ownership of such investment funds are permitted as long as the employee or the employee's spouse or minor children do not have the ability to control the fund or its portfolio, and the fund does not have an objective or practice of concentrating its investments in securities of a regulated entity or the regulated entities generally, and less than 25 percent of the total holdings of the fund are comprised of securities owned, issued, guaranteed, securitized, or collateralized by one or more regulated entities.

This exception to § 9001.104(a) reflects the view of FHFA that the prohibition on owning or controlling securities of the regulated entities should not be extended to publicly-traded or publicly-available mutual funds or other collective investment funds that are diversified and over which employees have no control, since it would be unreasonable to require employees to divest themselves of such mutual funds based on investment decisions in which they played no role. FHFA believes that allowing an FHFA employee and the employee's spouse and minor children to own interests in publicly-traded or publicly-available diversified mutual funds and collective investment funds will not endanger the impartiality or objectivity of FHFA, even if these funds held some limited interest in securities owned, issued, securitized, guaranteed, or collateralized by one or more of the regulated entities.

Section 9001.104(d) requires employees of FHFA, within 30 calendar days commencement of employment, to report to the DAEO in writing all financial interests that they acquired prior or the commencement of their employment, and that they are prohibited from holding by § 9001.104(a). Employees are required to divest such interests, within 90 calendar days of the date reported, unless they receive a written waiver from the DAEO in accordance with § 9001.103. The section imposes a similar reporting and divestiture requirement upon employees who acquire, without specific intent, financial interests prohibited by § 9001.104(a). Section 9001.104(d) has been clarified to provide expressly that the reporting and divestiture requirements also apply to prohibited financial interests acquired prior to the effective date of this part.

*Section 9001.105 Outside Employment*

This section is designed to balance several important ethical principles against an employee's right to engage in outside activities. Paragraph (a) of the section prohibits an FHFA employee, except for a special Government employee, from engaging in paid or unpaid employment with (1) a person, other than a State or local government, who is a registered lobbyist engaged in lobbying activities concerning FHFA programs; (2) any regulated entity, or (3) the Office of Finance of the Federal Home Loan Bank System. FHFA is of the view that such a policy against active participation in such businesses is necessary to protect against questions regarding the impartiality and objectivity of employees and the administration of the programs of FHFA. FHFA believes that it will hinder FHFA in meeting its missions if members of the public could question whether employees are using their public positions or connections at FHFA to advance alternate careers.

Furthermore, in accordance with 5 CFR 2635.803, FHFA is of the view that it is necessary or desirable for the purpose of administering its ethics program to require FHFA employees to obtain approval before engaging in outside employment or activities. An approval requirement helps ensure that potential ethical problems are resolved before employees begin outside employment or activities that could involve a violation of applicable statutes and standards of conduct.

Thus, § 9001.105(b)(1) provides that an FHFA employee, other than a special Government employee, must obtain advance written approval from the employee's supervisor and the concurrence of the DAEO before engaging in any outside employment.

FHFA has added clarifying language to § 9001.105(b)(2) addressing outside employment commenced by employees before the effective date of this part. An employee who commenced engaging in any outside employment not prohibited under § 9001.105(a) before the effective date of this part must request written approval from his or her supervisor and

[3] The term "special Government employee" is defined in 5 CFR 2635.102 to mean "those executive branch officers or employees specified in 18 U.S.C. 202(a). A special Government employee is retained, designated, appointed, or employed to perform temporary duties either on a full-time or intermittent basis, with or without compensation, for a period not to exceed 130 days during any consecutive 365-day period."

the concurrence of the DAEO within 30 calendar days of the effective date. The employee may continue engaging in the outside employment while the request is under review.

Section 9001.105(b)(2) also addresses outside employment by new employees. An employee who before being employed by FHFA commenced engaging in any outside employment not prohibited under § 9001.105(a) must request written approval from his or her supervisor and the concurrence of the DAEO within 30 calendar days of commencing employment with FHFA. The new employee may continue engaging in the outside employment while the request is under review.

Paragraph (c) to § 9001.105 broadly defines outside employment to cover any form of non-Federal employment or business relationship involving the provision of personal services, whether or not for compensation, other than in the discharge of official duties. It also includes writing when done under an arrangement with another person or entity for production or publication of the written product. It does not, however, include participation in the activities of nonprofit charitable, religious, professional, social, fraternal, educational, recreational, public service, or civic organizations, unless such activities are for (1) compensation other than reimbursement of expenses, (2) the organization's activities are devoted substantially to matters relating to the employee's official duties as defined in 5 CFR 2635.807(a)(2)(i)(B) through (E) and the employee will serve as officer or director of the organization, or (3) the activities will involve the provision of consultative or professional services. *Consultative services* is defined to mean the provision of personal services by an employee, including the rendering of advice or consultation, which requires advanced knowledge in a field of science or learning customarily acquired by a course of specialized instruction and study in an institution of higher education, hospital, or similar facility. *Professional services* is defined to mean the provision of personal services by an employee, including the rendering of advice or consultation, which involves application of the skills of a profession as defined in 5 CFR 2636.305(b)(1) or involves a fiduciary relationship as defined in 5 CFR 2636.305(b)(2).

A note following paragraph (c) of § 9001.105 pertains to the special approval requirement set out in both 18 U.S.C. 203(d) and 205(e), respectively, for certain representational activities otherwise covered by the conflict of interest restrictions on compensation and activities of employees in claims against and other matters affecting the Government. The note explains that an employee who wishes to act as agent or attorney for, or otherwise represent his or her parents, spouse, children, or any person for whom, or any estate for which, he or she is serving as guardian, executor, administrator, trustee, or other personal fiduciary in such matters must obtain the approval required by law of the Government official responsible for the employee's appointment in addition to the regulatory approval that is required in § 9001.105.

Section 9001.105(d) sets out the procedures for requesting prior approval to engage in outside employment initially, or within seven calendar days of a significant change in the nature or scope of the outside employment or the employee's official position. Paragraph (e) of § 9001.105 provides that the concurrence of the DAEO will be granted only upon a determination that the outside employment is not expected to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635 and this part.

Section 9001.105(f) provides that the DAEO may issue written instructions governing the submission of requests for approval of and concurrence with outside employment. The written instructions may exempt categories of employment from the prior approval and concurrence requirement based on a determination that employment within those categories will generally be approved and will likely not involve conduct prohibited by Federal law or regulation, including 5 CFR part 2635 and this part.

*Section 9001.106 Restrictions Resulting From Employment of Family and Household Members*

Section 9001.106 prohibits an employee of FHFA from participating in any matter in which a regulated entity is a party if the regulated entity employs, as an employee or consultant, his or her spouse, child, parent, or sibling, or member of his or her household unless the DAEO has authorized the employee to participate in the matter using the standard in 5 CFR 2635.502(d). Section 9001.106 requires such an employee to make a written report to the DAEO within 30 calendar days of employment by a regulated entity of the employee's spouse, child, parent, sibling, or member of his or her household. This requirement is intended to eliminate the potential for any appearance of preferential treatment in those instances where employment of a family member or a member of the employee's household would be likely to raise questions regarding the appropriateness of actions taken by the employee or FHFA.

*Section 9001.107 Other Limitations*

Section § 9001.107(a) references the statutory restriction on financial interests applicable to the Director, the Deputy Director of the Division of Enterprise Regulation, the Deputy Director of the Division of Federal Home Loan Bank Regulation, and the Deputy Director for Housing Mission and Goals. These individuals are subject to additional financial interest limitations set forth in section 1312(g) of the Safety and Soundness Act (12 U.S.C. 4512(g)). Section 1312(g) provides that the Director and each Deputy Director may not—

(1) Have any direct or indirect financial interest in any regulated entity or entity-affiliated party; [4]

(2) Hold any office, position, or employment in any regulated entity or entity-affiliated party; or

(3) Have served as an executive officer or director of any regulated entity or entity-affiliated party at any time during the three-year period preceding the date of appointment or designation of such individual as Director or Deputy Director, as applicable.

Paragraph (b) of § 9001.107 provides that if an employee or the spouse or minor children of the employee directly or indirectly owns a financial interest in a member of a Bank or in a financial institution such as a mortgage bank, mortgage broker, bank, thrift, or other financial institution that originates, insures, or services mortgages that are owned, issued, guaranteed, securitized, or collateralized by a regulated entity, the employee is cautioned not to violate the statutory prohibition against financial conflicts of interest set forth in 18 U.S.C. 208. The language notes that the government-wide *de minimis* and other exceptions set forth in 5 CFR 2640.202 are applicable to the ownership or control of interests in such financial institutions. Employees are encouraged to seek a determination from the DAEO as to whether the financial interest in the member of a Bank or in the financial institution creates a financial conflict of interest or an appearance of a conflict of interest and whether the employee should disqualify himself or herself from participating in an official capacity in a particular matter involving the financial institution.

[4] The term "entity-affiliated party" is defined in section 1301(11) of the Safety and Soundness Act (12 U.S.C. 4502(11)).

*Section 9001.108 Prohibited Recommendations*

Section 9001.108 prohibits an employee of FHFA from recommending, suggesting, or giving advice to any person with respect to financial transactions or investment actions involving the acquisition, sale, or divestiture of securities of a regulated entity. The Standards at 5 CFR 2635.703 prohibit an employee from allowing the improper use of nonpublic information to further his or her private interest or that of another, whether through advice or recommendation or by knowing unauthorized disclosure. The section supplements 5 CFR 2635.703 in that it expressly prohibits FHFA employees from using or creating the appearance of using information that is not available to the general public to further a private interest. The prohibition is also intended to eliminate any misunderstanding or harm that could result from such a recommendation. For example, an investor should not be misled into believing, pursuant to the recommendation of an FHFA employee, that the securities of a particular regulated entity regulated by FHFA is a sound buy because the investor believes that the employee may have access to inside information.

*Section 9001.109 Prohibited Purchase of Assets*

Section 9001.109 prohibits employees, the spouses of employees, and the minor children of employees of FHFA from purchasing real or personal property from the regulated entities unless it is sold at public auction or by other means that would ensure that the selling price of the property is the asset's fair market value. This prohibition supplements the general prohibition in 5 CFR 2635.702 against the use of public office for private gain.

**Regulatory Impacts**

*Paperwork Reduction Act*

The regulation does not contain any information collection requirement that requires the approval of OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

*Regulatory Flexibility Act*

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency has certified that the regulation does not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). FHFA has considered the impact of the regulation under the Regulatory Flexibility Act. FHFA certifies that the regulation is not likely to have a significant economic impact on a substantial number of small business entities because the regulation is applicable only to employees of FHFA.

**List of Subjects in 5 CFR Part 9001**

Administration, Conflict of interests, Ethics, Government employees.

■ Accordingly, for the reasons stated in the preamble, FHFA, with the concurrence of OGE, is amending title 5 of the Code of Federal Regulations by adding a new chapter LXXX, consisting of part 9001, to read as follows:

**CHAPTER LXXX—FEDERAL HOUSING FINANCE AGENCY**

## PART 9001—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE FEDERAL HOUSING FINANCE AGENCY

Sec.



**Authority:** 5 U.S.C. 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); 12 U.S.C. 4526; E.O. 12674, 54 FR 15159; 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547; 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.402(c), 2635.403(a), 2635.502(e), 2635.604, 2635.702, 2635.703, 2635.802(a), 2635.803.

### § 9001.101 General.

(a) *Purpose and scope.* In accordance with 5 CFR 2635.105, the purpose of this regulation is to supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635. The regulation applies to employees of the Federal Housing Finance Agency (FHFA). Employees are required to comply with 5 CFR part 2635, this part, guidance and procedures established pursuant to this part, the regulation concerning the post-employment restriction for senior examiners at 12 CFR part 1212, and any additional rules of conduct that FHFA is authorized to issue. Employees should contact the DAEO if they have questions about any provision of this regulation or other ethics-related matters.

(b) *Cross-references*—(1) *Regulations.* FHFA employees are also subject to the regulations concerning executive branch financial disclosure contained in 5 CFR part 2634, the regulations concerning executive branch financial interests contained in 5 CFR part 2640, and the regulations concerning executive branch employee responsibilities and conduct contained in 5 CFR part 735.

(2)(i) *Statutory restriction.* Section 1319D of the Act, 12 U.S.C. 4523, prohibits the Director or any former officer or employee of FHFA who, while employed by FHFA, was compensated at a rate in excess of the lowest rate for a position classified higher than GS–15 of the General Schedule under section 5107 of title 5, United States Code, from accepting compensation from an enterprise during the two-year period beginning on the date of his or her separation from employment by FHFA.

(ii) *Notice to employees.* The DAEO shall notify employees on an annual basis of the rate of compensation that triggers the subsequent employment restriction.

### § 9001.102 Definitions.

For purposes of this part, the term:

*Affiliate* means any entity that controls, is controlled by, or is under common control with another entity.

*Designated Agency Ethics Official,* or *DAEO,* as also used in 5 CFR part 2635, and "alternate DAEO" mean the individuals so designated by the Director, FHFA. The DAEO is responsible for designating agency ethics officials and ethics designees, as such terms are used in 5 CFR part 2635. The alternate DAEO acts as the DAEO in the DAEO's absence.

*Director* means the Director of FHFA or his or her designee.

*Employee* means an officer or employee of FHFA, including a special Government employee. For purposes of this part, it also means an individual on detail from another agency to FHFA for a period of more than 30 calendar days.

*Enterprise* means the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

*Federal Home Loan Bank* or *Bank* means a Bank established under the Federal Home Loan Bank Act; the term "Federal Home Loan Banks" means, collectively, all the Federal Home Loan Banks.

*Federal Home Loan Bank System* means the Federal Home Loan Banks under the supervision of the Federal Housing Finance Agency.

*Regulated entity* means the Federal National Mortgage Association and any

affiliate thereof; the Federal Home Loan Mortgage Corporation and any affiliate thereof; or any Federal Home Loan Bank; the term "regulated entities" means, collectively, the Federal National Mortgage Association and any affiliate thereof; the Federal Home Loan Mortgage Corporation and any affiliate thereof; and the Federal Home Loan Banks.

*Safety and Soundness Act* means the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4501 *et seq.*), as amended by the Housing and Economic Recovery Act of 2008 (HERA), Public Law 110–289, 122 Stat. 2654 (2008).

*Security* means all interests in debt or equity instruments. The term includes, without limitation, secured and unsecured bonds, debentures, notes, securitized assets and commercial paper including loans securitized by mortgages or deeds of trust and securities backed by such instruments, as well as all types of preferred and common stock. The term encompasses current and contingent ownership interests including any beneficial or legal interest derived from a trust. Such interest includes any right to acquire or dispose of any long or short position in such securities and also includes, without limit, interests convertible into such securities, as well as options, rights, warrants, puts, calls and straddles with respect thereto. The term shall not, however, be construed to include deposit accounts, such as checking, savings, or money market deposit accounts.

**§ 9001.103 Waivers.**

(a) *General.* The DAEO may waive any provision of this part upon finding that the waiver will not result in conduct inconsistent with 5 CFR part 2635 or otherwise prohibited by law, and that application of the provision is not necessary to ensure public confidence in the impartiality and objectivity with which the programs of FHFA are administered. Each waiver shall be in writing and supported by a statement of the facts and findings upon which it is based and may impose appropriate conditions, including but not limited to requiring the employee to execute a written disqualification statement or an agreement not to acquire additional securities.

(b) *Waiver of prohibitions relating to ownership or control of securities.* The DAEO may grant a waiver permitting the employee or the employee's spouse or minor children to own or control, directly or indirectly, any security prohibited under § 9001.104, if, in addition to the standards under paragraph (a) of this section:

(1) Extenuating circumstances exist, such as ownership or control of the security was acquired:

(i) Prior to employment with FHFA;

(ii) Through inheritance, gift, merger, acquisition, or other change in corporate structure, or otherwise without specific intent on the part of the employee, or employee's spouse or minor children, to acquire the security; or

(iii) By an employee's spouse or minor children as part of a compensation package in connection with employment or prior to marriage to the employee;

(2) The amount of the prohibited financial interest has a market value of less than the *de minimis* amount set forth in 5 CFR 2640.202(a);

(3) The employee makes a prompt and complete written disclosure of the interest; and

(4) If the employee is required to disqualify himself or herself from certain assignments, the disqualification does not unduly interfere with the full performance of the employee's duties.

**§ 9001.104 Prohibited financial interests.**

(a) *General prohibition.* This section applies to all employees, except special Government employees. Except as permitted in paragraph (c) of this section, an employee or an employee's spouse or minor children, shall not directly or indirectly own or control securities owned, issued, guaranteed, securitized, or collateralized by a regulated entity.

(b) *Restrictions arising from third-party relationships.* If any of the entities listed in paragraphs (b)(1) through (6) of this section owns securities that an employee is prohibited from owning directly by paragraph (a) of this section, the employee is deemed to hold the securities indirectly. The entities are—

(1) A partnership in which the employee or employee's spouse or minor children are general partners;

(2) A partnership in which the employee or employee's spouse or minor children individually or jointly hold more than a 10 percent limited partnership interest;

(3) A closely held corporation in which the employee or employee's spouse or minor children individually or jointly hold more than a 10 percent equity interest;

(4) A trust in which the employee or employee's spouse or minor children have a legal or beneficial interest;

(5) An investment club or similar informal investment arrangement between the employee or employee's spouse or minor children and others; or

(6) Any other entity in which the employee or employee's spouse or minor children individually or jointly hold more than a 10 percent equity interest.

(c) *Exceptions to prohibition for certain interests.* Notwithstanding paragraphs (a) and (b) of this section, an employee or an employee's spouse or minor children may directly or indirectly own or control:

(1) A security for which a waiver has been granted pursuant to § 9001.103; and

(2) An interest in a publicly-traded or publicly-available diversified mutual fund or other collective diversified investment fund, including a widely-held pension or other retirement fund if:

(i) Neither the employee, the employee's spouse, nor the employee's minor children exercise or have the ability to exercise control over the financial interests held by the fund; and

(ii) The fund does not indicate in its prospectus the objective or practice of concentrating its investments in securities of a regulated entity or regulated entities generally, and less than 25 percent of the total holdings of the fund are comprised of securities owned, issued, guaranteed, securitized, or collateralized by one or more regulated entities.

(d) *Reporting and divestiture.* An employee must provide, in writing, to the DAEO any financial interest prohibited under paragraph (a) of this section acquired prior to the effective date of this part or the commencement of employment with FHFA or without specific intent, as through gift, inheritance, or marriage, within 30 calendar days from the effective date of this part, commencement of employment with FHFA, or acquisition of such interest. Such financial interest must be divested within 90 calendar days from the date reported unless a waiver is granted in accordance with § 9001.103.

**§ 9001.105 Outside employment.**

(a) *Prohibited outside employment.* Employees, except special Government employees, shall not engage in:

(1) Employment with a person or entity, other than a State or local government, that is registered as a lobbyist under the Lobbying Disclosure Act of 1995 (2 U.S.C. chapter 26) and engages in lobbying activities concerning FHFA programs; or

(2) Employment with any regulated entity or with the Office of Finance of the Federal Home Loan Bank System.

(b) *Prior approval for and concurrence with other outside employment*—(1) Except as provided in

paragraph (b)(2) of this section, before engaging in any outside employment that is not prohibited under paragraph (a) of this section, with or without compensation, an employee, other than a special Government employee, must obtain written approval from his or her supervisor and the concurrence of the DAEO. Nonetheless, special Government employees remain subject to other statutory and regulatory provisions governing their outside activities, including 18 U.S.C. 203(c) and 205(c), as well as applicable provisions of 5 CFR part 2635.

(2) An employee, other than a special Government employee, who before the effective date of this part or commencement of employment with FHFA commenced engaging in outside employment that is not prohibited under paragraph (a) of this section must request written approval from his or her supervisor and the concurrence of the DAEO within 30 calendar days of the effective date of this part or commencement of employment with FHFA. The employee may continue engaging in the outside employment while the request is under review.

(c) *Definition of outside employment.* For purposes of paragraph (b) of this section, *outside employment* means any form of non-Federal employment or business relationship involving the provision of personal services, whether or not for compensation. It includes, but is not limited to, services as an officer, director, employee, agent, advisor, attorney, consultant, contractor, general partner, trustee, teacher, or speaker. It includes writing when done under an arrangement with another person or entity for production or publication of the written product. The definition does not include positions as trustee for a family trust for which the only beneficiaries are the employee, the employee's spouse, the employee's minor or dependent children, or any combination thereof. The definition also does not include participation in the activities of a nonprofit charitable, religious, professional, social, fraternal, educational, recreational, public service or civic organization, unless:

(1) The employee will receive compensation other than reimbursement of expenses;

(2) The organization's activities are devoted substantially to matters relating to the employee's official duties as defined in 5 CFR 2635.807(a)(2)(i)(B) through (E) and the employee will serve as officer or director of the organization; or

(3) The activities will involve the provision of consultative or professional services. *Consultative services* means the provision of personal services by an employee, including the rendering of advice or consultation, which requires advanced knowledge in a field of science or learning customarily acquired by a course of specialized instruction and study in an institution of higher education, hospital, or similar facility. *Professional services* means the provision of personal services by an employee, including the rendering of advice or consultation, which involves application of the skills of a profession as defined in 5 CFR 2636.305(b)(1) or involves a fiduciary relationship as defined in 5 CFR 2636.305(b)(2).

**Note to § 9001.105(c):** There is a special approval requirement set out in both 18 U.S.C. 203(d) and 205(e), respectively, for certain representational activities otherwise covered by the conflict of interest restrictions on compensation and activities of employees in claims against and other matters affecting the Government. Thus, an employee who wishes to act as agent or attorney for, or otherwise represent his or her parents, spouse, children, or any person for whom, or any estate for which, he or she is serving as guardian, executor, administrator, trustee, or other personal fiduciary in such matters must obtain the approval required by law of the Government official responsible for the employee's appointment in addition to the regulatory approval required in this section.

(d) *Procedure for requesting approval and concurrence*—(1) The approval required by paragraph (b) of this section shall be requested by e-mail or other form of written correspondence in advance of engaging in outside employment as defined in paragraph (c) of this section.

(2) The request for approval to engage in outside employment shall set forth, at a minimum:

(i) The name of the employer or organization;

(ii) The nature of the activity or other work to be performed;

(iii) The title of the position; and

(iv) The estimated duration of the outside employment.

(3) Upon a significant change in the nature or scope of the outside employment or in the employee's official position within FHFA, the employee must, within seven calendar days of the change, submit a revised request for approval and concurrence.

(e) *Standard for concurrence.* The DAEO may concur with the supervisor's approval required by paragraph (b) of this section only upon his or her written determination that the outside employment is not expected to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635 and this part.

(f) *Issuance of instructions.* The DAEO may issue written instructions governing the submission of requests for approval of and concurrence with outside employment under paragraph (d) of this section. The instructions may exempt categories of employment from the prior approval and concurrence requirement of paragraph (b) of this section based on a determination by the DAEO that employment within those categories of employment will generally be approved and is not likely to involve conduct prohibited by Federal law or regulation, including 5 CFR part 2635 and this part.

### § 9001.106 Restrictions resulting from employment of family and household members.

(a) *Disqualification of employee.* An employee may not participate in any particular matter in which a regulated entity is a party if the regulated entity employs as an employee or a consultant his or her spouse, child, parent, or sibling, or member of his or her household unless the DAEO has authorized the employee to participate in the matter using the standard set forth in 5 CFR 2635.502(d).

(b) *Reporting certain relationships.* Within 30 calendar days of the spouse, child, parent, sibling, or member of the employee's household being employed by the regulated entity, the employee shall provide in writing notice of such employment to the DAEO.

### § 9001.107 Other limitations.

(a) *Director and Deputy Directors.* The Director, the Deputy Director of the Division of Enterprise Regulation, the Deputy Director of the Division of Federal Home Loan Bank Regulation, and the Deputy Director for Housing Mission and Goals are subject to additional financial interest limitations as set forth in section 1312(g) of the Safety and Soundness Act, 12 U.S.C. 4512(g).

(b) *Financial interests in Bank members and other financial institutions.* If an employee or the spouse or minor children of the employee directly or indirectly owns a financial interest in a member of a Bank or in a financial institution such as a mortgage bank, mortgage broker, bank, thrift, or other financial institution that originates, insures, or services mortgages that are owned, guaranteed, securitized, or collateralized by a regulated entity, the employee is cautioned not to violate the statutory prohibition against financial conflicts of interest set forth in 18 U.S.C. 208. The government-wide *de minimis* and other exceptions set forth in 5 CFR 2640.202 are applicable to the ownership or control of interests in such financial

institutions. Employees are encouraged to seek a determination from the DAEO as to whether the financial interest in the member of the Bank or in the financial institution creates a financial conflict of interest or an appearance of a conflict of interest and whether the employee should disqualify himself or herself from participating in an official capacity in a particular matter involving the financial institution.

**§ 9001.108 Prohibited recommendations.**

Employees shall not make any recommendation or suggestion, directly or indirectly, concerning the acquisition, sale, or divestiture of securities of a regulated entity.

**§ 9001.109 Prohibited purchase of assets.**

An employee or the employee's spouse or minor children shall not purchase, directly or indirectly, any real or personal property from a regulated entity, unless it is sold at public auction or by other means which would assure that the selling price is the asset's fair market value.

Dated: August 3, 2010.

**Edward J. DeMarco,**

*Acting Director, Federal Housing Finance Agency.*

Approved: August 13, 2010.

**Robert I. Cusick,**

*Director, Office of Government Ethics.*

[FR Doc. 2010–21324 Filed 8–26–10; 8:45 am]

**BILLING CODE 8070–01–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 25

**[Docket No. NM433; Special Conditions No. 25–411–SC]**

## Special Conditions: Embraer Model ERJ 170–100 SU Series Airplanes; Seats With Non-Traditional, Large, Non-Metallic Panels

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final special conditions; request for comments.

**SUMMARY:** These special conditions are issued for the Embraer Model ERJ 170–100 SU series airplanes. These airplanes, as modified by C&D Zodiac, Inc., will have a novel or unusual design feature associated with seats that include non-traditional, large, non-metallic panels that would affect survivability during a post-crash fire event. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

**DATES:** The effective date of these special conditions is August 18, 2010. We must receive your comments by September 27, 2010.

**ADDRESSES:** You must mail two copies of your comments to: Federal Aviation Administration, Transport Airplane Directorate, Attn: Rules Docket (ANM–113), Docket No. NM433, 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. NM433. 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, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 16501 Lind Avenue, SW., Renton, WA 98057–3356; telephone (425) 227–2194; facsimile (425) 227–1232.

**SUPPLEMENTARY INFORMATION:**

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

### Comments Invited

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

If you want us to acknowledge receipt of your comments on these special conditions, 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 June 16, 2010, C&D Zodiac, Inc., 5701 Bolsa Ave,, Huntington Beach, California 92647, applied for a Supplemental Type Certificate (STC) for an interior modification to include seats with large, non-metallic panels in the cabin interior in the Embraer Model ERJ 170–100 SU series airplanes. The Model ERJ 170–100 SU, which is currently approved under Type Certificate No. A56NM, is a 76 passenger, twin-engine regional jet with a maximum takeoff weight of 82,011 pounds.

The applicable airplane regulations, currently approved under Title 14, Code of Federal Regulations (14 CFR) part 25, do not require seats to meet the more-stringent flammability standards required of large, non-metallic panels in the cabin interior. At the time the applicable rules were written, seats were designed with a metal frame covered by fabric, not with large, non-metallic panels. Seats also met the then-recently adopted standards for flammability of seat cushions. With the seat design being mostly fabric and metal, the contribution to a fire in the cabin had been minimized and was not considered a threat. For these reasons, seats did not need to be tested to heat-release and smoke-emission requirements.

Seat designs have now evolved to occasionally include non-traditional, large, non-metallic panels. Taken in total, the surface area of these panels is on the same order as the sidewall and overhead stowage bin interior panels. To provide the level of passenger protection intended by the airworthiness standards, these non-traditional, large, non-metallic panels in the cabin must meet the standards of part 25, Appendix F, parts IV and V, heat-release and smoke-emission requirements.

**Type Certification Basis**

Under the provisions of § 21.101, C&D Zodiac, Inc., must show that the Model ERJ 170–100 SU, as changed, continues to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A56NM. The regulations incorporated by reference in the type certificate are commonly referred to as the original type certification basis. The regulations incorporated by reference in Type Certificate No. A56NM are as follows: 14 CFR part 25, as amended by Amendments 25–1 through 25–101.

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 Model ERJ–170–100 SU, 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 Model ERJ 170–100 SU series airplanes 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.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they 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 applicant apply for an STC to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model.

**Novel or Unusual Design Features**

The Model ERJ 170–100 SU series airplanes will incorporate the following novel or unusual design features:

These models offer interior arrangements that include passenger seats that incorporate non-traditional, large, non-metallic panels in lieu of the traditional metal frame covered by fabric. The flammability properties of these panels have been shown to significantly affect the survivability of occupants of the cabin in the event of fire. These seats are considered a novel design for transport category airplanes that include Amendment 25–61 and Amendment 25–66 in the certification basis, and were not considered when those airworthiness standards were established.

The existing regulations do not provide adequate or appropriate safety standards for seat designs that incorporate non-traditional, large, non-metallic panels. To provide a level of safety equivalent to that provided by the balance of the cabin, additional airworthiness standards, in the form of special conditions, are necessary. These special conditions supplement § 25.853. The requirements contained in these special conditions consist of applying the identical test conditions, required of all other large panels in the cabin, to seats with non-traditional, large, non-metallic panels.

**Definition of "Non-Traditional, Large, Non-Metallic Panel"**

A non-traditional, large, non-metallic panel, in this case, is defined as a panel with exposed-surface areas greater than 1.5 square feet installed per seat place. The panel may consist of either a single component or multiple components in a concentrated area. Examples of parts of the seat where these non-traditional panels are installed include, but are not limited to: seat backs, bottoms and leg/foot rests, kick panels, back shells, and credenzas and associated furniture. Examples of traditional exempted parts of the seat include: arm caps, armrest close-outs such as end bays and armrest-styled center consoles, food trays, and video monitors and shrouds.

**Clarification of "Exposed"**

"Exposed" is considered to include those panels directly exposed to the passenger cabin in the traditional sense, plus those panels enveloped such as by a dress cover. Traditional fabrics or leathers currently used on seats are excluded from these special conditions. These materials must still comply with §§ 25.853(a) and 25.853(c) if used as a covering for a seat cushion, or § 25.853(a) if installed elsewhere on the seat. Non-traditional, large, non-metallic panels covered with traditional fabrics or leathers will be tested without their coverings or covering attachments.

**Discussion**

In the early 1980s, the FAA conducted extensive research on the effects of post-crash flammability in the passenger cabin. As a result of this research and service experience, we adopted new standards for interior surfaces associated with larger surface area parts. Specifically, the rules require measurement of heat release and smoke emission (part 25, Appendix F, parts IV and V) for the affected parts. Heat release has been shown to have a direct correlation with post-crash, fire-survival time. The materials that comply with the standards (*i.e.,* § 25.853, titled "Compartment Interiors," as amended by Amendments 25–61 and 25–66) extended survival time by approximately 2 minutes over materials that do not comply.

At the time Amendment 25–61 was written, the potential application of the requirement to seats was explored. The seat frame itself was not a concern because it was primarily made of aluminum and included only small amounts of non-metallic materials (for example, a food tray table and armrest closeout). It was determined that the overall effect on survivability was negligible, whether or not these panels met the heat-release and smoke-emission requirements. The requirements therefore did not address seats, and the preambles to both Notice of Proposed Rule Making (NPRM) 85–10 and the final rule (Amendment 25–61) specifically noted that they were excluded "because the recently adopted standards for flammability of seat cushions will greatly inhibit involvement of the seats."

In the late 1990s, when it became clear that seat designs were evolving to include large non-metallic panels with surface areas that would impact survivability during a cabin fire event compared to partitions or galleys, the FAA issued Policy Memorandum 97–112–39. This memo noted that large surface area panels must comply with heat-release and smoke-emission requirements, even if they were attached to a seat. If the FAA had not issued such a policy, seat designs would have been viewed as a loophole to the airworthiness standards that would result in an unacceptable decrease in survivability during a cabin fire event.

**Applicability**

As discussed above, these special conditions are applicable to the Model ERJ 170–100 SU series airplanes. Should C&D Zodiac, Inc., apply at a later date for an STC to modify any other model included on Type Certificate No. A56NM to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well.

**Conclusion**

This action affects only certain novel or unusual design features on Embraer Model ERJ 170–100 SU series airplanes. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that

prior public comment would result in a significant change from the substance contained herein. Therefore, because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

**List of Subjects in 14 CFR Part 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 Special Conditions**

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the supplemental type certification basis for Embraer Model ERJ 170–100 SU series airplanes modified by C&D Zodiac, Inc.

1. Except as provided in special condition number 3, below, compliance with heat-release and smoke-emission testing requirements of § 25.853, and Appendix F, parts IV and V, is required for seats that incorporate non-traditional, large, non-metallic panels that may be either a single component or multiple components in a concentrated area in their design.

2. The applicant may designate up to and including 1.5 square feet of non-traditional, non-metallic panel material per seat place that does not have to comply with special condition number 1, above. A triple-seat assembly may have a total of 4.5 square feet excluded on any portion of the assembly (*e.g.,* outboard seat place, 1 square foot; middle, 1 square foot; and inboard, 2.5 square feet).

3. Seats do not have to meet the test requirements of part 25, Appendix F, parts IV and V, when installed in compartments that are not otherwise required to meet these requirements. Examples include:

a. Airplanes with passenger capacities of 19 or less,

b. Airplanes that do not have § 25.853, Amendment 25–61 or later, in their certification basis and do not need to comply with the requirements of § 121.312, and

c. Airplanes exempted from § 25.853, Amendment 25–61 or later.

Issued in Renton, Washington, on August 18, 2010.

**Jeffrey E. Duven,**

*Acting Manager, Transport Airplanes Directorate, Aircraft Certification Service.*

[FR Doc. 2010–21449 Filed 8–26–10; 8:45 am]

**BILLING CODE 4910–13–P**

## CONSUMER PRODUCT SAFETY COMMISSION

**[CPSC Docket No. CPSC–2010–0090]**

**16 CFR Part 1420**

## Third Party Testing for Certain Children's Products; Youth All-Terrain Vehicles: Requirements for Accreditation of Third Party Conformity Assessment Bodies

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice of requirements.

**SUMMARY:** The Consumer Product Safety Commission (CPSC or Commission) is issuing a notice of requirements that provides the criteria and process for Commission acceptance of accreditation of third party conformity assessment bodies for testing of all-terrain vehicles (ATVs) designed or intended primarily for children 12 years of age or younger pursuant to 16 CFR part 1420, the CPSC regulations under the Consumer Product Safety Act (CPSA) relating to ATVs. The Commission is issuing this notice of requirements pursuant to section 14(a)(3)(B)(vi) of the CPSA (15 U.S.C. 2063(a)(3)(B)(vi)).

**DATES:** *Effective Date:* The requirements for accreditation of third party conformity assessment bodies to assess conformity with 16 CFR part 1420 are effective August 27, 2010.[1]

Comments in response to this notice of requirements should be submitted by September 27, 2010. Comments on this notice should be captioned "Third Party Testing for Certain Children's Products; All-Terrain Vehicles: Requirements for Accreditation of Third Party Conformity Assessment Bodies."

**ADDRESSES:** You may submit comments, identified by Docket No. CPSC–2010–00_, by any of the following methods:

*Electronic Submissions:* Submit electronic comments in the following way:

*Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. To ensure timely processing of comments, the Commission is no longer accepting comments submitted by electronic mail (e-mail) except through *http://www.regulations.gov.*

*Written Submissions:* Submit written submissions in the following way:

*Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions) preferably in five copies, to:* Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, Maryland 20814; telephone (301) 504–7923.

*Instructions:* All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change to *http://www.regulations.gov,* including any personal information provided. Do not submit confidential business information, trade secret information, or other sensitive or protected information (such as a Social Security Number) electronically; if furnished at all, such information should be submitted in writing.

*Docket:* For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Richard McCallion, Program Area Team Leader, Office of Hazard Identification and Reduction, U.S. Consumer Product Safety Commission, 10901 Darnestown Road, Gaithersburg, MD 20878; e-mail *rmccallion@cpsc.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Introduction

Section 14(a)(3)(B)(vi) of the CPSA, as added by section 102(a)(2) of the Consumer Product Safety Improvement Act of 2008 (CPSIA), Public Law 110–314, directs the CPSC to establish and publish a notice of requirements for accreditation of third party conformity assessment bodies to assess children's products for conformity with "other children's product safety rules." Section 14(f)(1) of the CPSA defines "children's product safety rule" as "a consumer product safety rule under [the CPSA] or similar rule, regulation, standard, or ban under any other Act enforced by the Commission, including a rule declaring a consumer product to be a banned hazardous product or substance." Under section 14(a)(3)(A) of the CPSA, each manufacturer (including an importer) or private labeler of products subject to those regulations must have products that are manufactured more than 90 days after the establishment and **Federal Register** publication of a notice of the requirements for accreditation tested by

[1] The Commission voted 4–0–1 to publish this notice of requirements. Chairman Inez M. Tenenbaum issued a statement, and the statement can be found at *http://www.cpsc.gov/pr/statements.html.*

a third party conformity assessment body accredited to do so, and must issue a certificate of compliance with the applicable regulations based on that testing. The Commission may extend the 90-day period by not more than 60 days if the Commission determines that an insufficient number of third party conformity assessment bodies have been accredited to permit certification for a children's product safety rule. Any requests for an extension should contain detailed facts showing why an extension is necessary.

Section 14(a)(2) of the CPSA, as added by section 102(a)(2) of the CPSIA, requires that certification be based on testing of sufficient samples of the product, or samples that are identical in all material respects to the product. The Commission also emphasizes that, irrespective of certification, the product in question must comply with applicable CPSC requirements (*see, e.g.,* section 14(h) of the CPSA, as added by section 102(b) of the CPSIA).

The Commission also is recognizing limited circumstances in which it will accept certifications based on product testing conducted before the third party conformity assessment body is accepted as accredited by the CPSC. The details regarding those limited circumstances can be found in part IV of this document below.

This notice provides the criteria and process for Commission acceptance of accreditation of third party conformity assessment bodies for testing pursuant to 16 CFR part 1420, *Requirements for All Terrain Vehicles,* which incorporates by reference the applicable provisions of the *American National Standard for Four Wheel All-Terrain Vehicles, ANSI/SVIA 1–2007.* Section 3(a)(2) of the CPSA defines a children's product as "a consumer product designed or intended primarily for children 12 years of age or younger." Although all-terrain vehicles (ATVs) are often for general use (that is, not produced specifically for use by children), some "youth ATVs" are "designed or intended primarily for children 12 years of age or younger." The ANSI/SVIA 1–2007 standard identifies a usage category of Y (Youth Model) ATVs that consists of three subcategories: (a) Category Y–6+, for youth model ATVs intended for use by children age 6 or older; (b) Category Y–10+, for youth model ATVs intended for use by children age 10 or older; and (c) Category Y–12+, for youth model ATVs intended for use by children age 12 or older. For the purposes of this notice of requirements, the term "youth ATVs" at a minimum refers to categories Y–6+ and Y–10+ in ANSI/SVIA 1–2007. In determining whether a youth ATV is a children's product the Commission will be guided by the statutory factors listed at section 3(a)(2)(A) through (D) of the CPSA. Such a determination will indicate whether a given Category Y–12+ ATV is intended primarily for children age 12 or younger, which would necessitate the third party testing and certification requirements in section 14(a)(2) of the CPSA. (For example, if a manufacturer sells a "Category T" ATV, which is generally intended for use by a 14 year old operator under adu1t supervision or by an operator age 16 or older, it might impact the age range of the intended primary users of the Category Y–12+ ATV.) Accordingly, in determining whether a particular ATV is a children's product subject to the third party testing and certification requirements of section 14(a)(2) of the CPSA, the Commission will follow the factors set forth in section 3(a)(2) of the CPSA and will not rely solely on a statement by the manufacturer about the ATV's intended use.

The CPSC also recognizes that section 14(a)(3)(B)(vi) of the CPSA is captioned "All Other Children's Product Safety Rules," but the body of the statutory requirement refers only to "other children's product safety rules." Nevertheless, section 14(a)(3)(B)(vi) of the CPSA could be construed as requiring a notice of requirements for "all" other children's product safety rules, rather than a notice of requirements for "some" or "certain" children's product safety rules. However, whether a particular rule represents a "children's product safety rule" may be subject to interpretation, and the Commission staff is continuing to evaluate which rules, regulations, standards, or bans are "children's product safety rules." The CPSC intends to issue additional notices of requirements for other rules which the Commission determines to be "children's product safety rules."

This notice of requirements applies to all third party conformity assessment bodies as described in section 14(f)(2) of the CPSA that desire to test all-terrain vehicles to the requirements of 16 CFR part 1420 where the test results will be used as the basis for a certification that ATVs comply with CPSC's requirements at 16 CFR 1420. Such third party conformity assessment bodies can be grouped into three general categories: (1) Third party conformity assessment bodies that are not owned, managed, or controlled by a manufacturer or private labeler of a children's product to be tested by the third party conformity assessment body for certification purposes; (2) "firewalled" conformity assessment bodies (those that are owned, managed, or controlled by a manufacturer or private labeler of a children's product to be tested by the third party conformity assessment body for certification purposes and that seek accreditation under the additional statutory criteria for "firewalled" conformity assessment bodies); and (3) third party conformity assessment bodies owned or controlled, in whole or in part, by a government.

The Commission requires baseline accreditation of each category of third party conformity assessment body to the International Organization for Standardization (ISO)/International Electrotechnical Commission (IEC) Standard 17025:2005, "General Requirements for the Competence of Testing and Calibration Laboratories." The accreditation must be by an accrediting body that is a signatory to the International Laboratory Accreditation Cooperation-Mutual Recognition Arrangement (ILAC–MRA), and the scope of the accreditation must include testing in accordance with the regulations identified earlier in part I of this document for which the third party conformity assessment body seeks to be accredited by the CPSC.

(A description of the history and content of the ILAC–MRA approach and of the requirements of the ISO/IEC 17025:2005 laboratory accreditation standard is provided in the CPSC staff briefing memorandum "Third Party Conformity Assessment Body Accreditation Requirements for Testing Compliance with 16 CFR Part 1501 (Small Parts Regulations)," dated November 2008 and available on the CPSC's Web site at *http://www.cpsc.gov/library/foia/foia09/brief/smallparts.pdf.)*

The Commission has established an electronic accreditation registration and listing system that can be accessed via its Web site at *http://www.cpsc.gov/ABOUT/Cpsia/labaccred.html.*

The Commission stayed the enforcement of certain provisions of section 14(a) of the CPSA in a notice published in the **Federal Register** on February 9, 2009 (74 FR 6396). The stay applied to testing and certification of various products, including ATVs.[2] On December 28, 2009, the Commission published a notice in the **Federal Register** (74 FR 68588) revising the terms of the stay. Section II.G of the December 28, 2009, notice stated "[t]he Commission has not yet issued a notice of accreditation requirements for * * * ATVs so no third-party certificates will

[2] Two mandatory certification requirements relating to ATVs were not stayed. *See* 74 FR at 68592.

be required until 90 days after the Commission issues such [a] notice[ ] of requirements." As the factor preventing the stay from being lifted in the December 28, 2009 notice with regard to testing and certifications of ATVs was the absence of a notice of requirements, publication of this notice has the effect of lifting the stay with regard to 16 CFR part 1420.

This notice of requirements is effective on August 27, 2010. Further, as the publication of this notice of requirements effectively lifts the stay of enforcement with regard to testing and certifications related to 16 CFR part 1420, each manufacturer of a youth ATV subject to 16 CFR part 1420 must have samples of any such product, or samples that are identical in all material respects to such product, tested by a third party conformity assessment body accredited to do so. Further, for youth ATVs manufactured after November 26, 2010, the manufacturer must issue a certificate of compliance with 16 CFR part 1420 based on that testing. (Under the CPSA, the term "manufacturer" includes anyone who manufactures or imports a product.)

This notice of requirements is exempt from the notice and comment rulemaking requirements of the Administrative Procedure Act, 5 U.S.C. 553 (*see* section 14(a)(3)(G) of the CPSA, added by section 102(a)(2) of the CPSIA (15 U.S.C. 2063(a)(3)(G)).

## II. Accreditation Requirements

### *A. Baseline Third Party Conformity Assessment Body Accreditation Requirements*

For a third party conformity assessment body to be accredited to test children's products for conformity with the test methods in the regulations identified earlier in part I of this document, it must be accredited by an ILAC–MRA signatory accrediting body, and the accreditation must be registered with, and accepted by, the Commission. A listing of ILAC–MRA signatory accrediting bodies is available on the Internet at *http://ilac.org/membersby category.html.* The accreditation must be to ISO Standard ISO/IEC 17025:2005, *General Requirements for the Competence of Testing and Calibration Laboratories,* and the scope of the accreditation must expressly include testing to the regulations in 16 CFR part 1420, *Requirements for All Terrain Vehicles.* A true copy, in English, of the accreditation and scope documents demonstrating compliance with the requirements of this notice must be registered with the Commission electronically. The additional requirements for accreditation of firewalled and governmental conformity assessment bodies are described in parts II.B and II.C of this document below.

The Commission will maintain on its Web site an up-to-date listing of the third party conformity assessment bodies whose accreditations it has accepted and the scope of each accreditation. Subject to the limited provisions for acceptance of "retrospective" testing noted in part IV below, once the Commission adds a third party conformity assessment body to that list, the third party conformity assessment body may commence testing of children's products to support the manufacturer's certification that the product complies with the regulations identified earlier in part I of this document.

### *B. Additional Accreditation Requirements for Firewalled Conformity Assessment Bodies*

In addition to the baseline accreditation requirements in part II.A of this document above, firewalled conformity assessment bodies seeking accredited status must submit to the Commission copies, in English, of their training documents showing how employees are trained to notify the Commission immediately and confidentially of any attempt by the manufacturer, private labeler, or other interested party to hide or exert undue influence over the third party conformity assessment body's test results. This additional requirement applies to any third party conformity assessment body in which a manufacturer or private labeler of a children's product to be tested by the third party conformity assessment body owns an interest of 10 percent or more. While the Commission is not addressing common parentage of a third party conformity assessment body and a children's product manufacturer at this time, it will be vigilant to see if this issue needs to be addressed in the future.

As required by section 14(f)(2)(D) of the CPSA, the Commission must formally accept, by order, the accreditation application of a third party conformity assessment body before the third party conformity assessment body can become an accredited firewalled conformity assessment body.

### *C. Additional Accreditation Requirements for Governmental Conformity Assessment Bodies*

In addition to the baseline accreditation requirements of part II.A of this document above, the CPSIA permits accreditation of a third party conformity assessment body owned or controlled, in whole or in part, by a government if:

- To the extent practicable, manufacturers or private labelers located in any nation are permitted to choose conformity assessment bodies that are not owned or controlled by the government of that nation;
- The third party conformity assessment body's testing results are not subject to undue influence by any other person, including another governmental entity;
- The third party conformity assessment body is not accorded more favorable treatment than other third party conformity assessment bodies which have been accredited in the same nation;
- The third party conformity assessment body's testing results are accorded no greater weight by other governmental authorities than those of other accredited third party conformity assessment bodies; and
- The third party conformity assessment body does not exercise undue influence over other governmental authorities on matters affecting its operations or on decisions by other governmental authorities controlling distribution of products based on outcomes of the third party conformity assessment body's conformity assessments.

The Commission will accept the accreditation of a governmental third party conformity assessment body if it meets the baseline accreditation requirements of part II.A of this document above and meets the additional conditions stated here. To obtain this assurance, CPSC staff will engage the governmental entities relevant to the accreditation request.

## III. How does a third party conformity assessment body apply for acceptance of its accreditation?

The Commission has established an electronic accreditation acceptance and registration system accessed via the Commission's Internet site at *http://www.cpsc.gov/about/cpsia/labaccred.html.* The applicant provides, in English, basic identifying information concerning its location, the type of accreditation it is seeking, and electronic copies of its ILAC–MRA accreditation certificate and scope statement, and firewalled third party conformity assessment body training document(s), if applicable.

Commission staff will review the submission for accuracy and completeness. In the case of baseline third party conformity assessment bodies and government-owned or

government-controlled conformity assessment bodies, when that review and any necessary discussions with the applicant are satisfactorily completed, the third party conformity assessment body in question is added to the CPSC's list of accredited third party conformity assessment bodies at *http://www.cpsc.gov/about/cpsia/labaccred.html.* In the case of a firewalled conformity assessment body seeking accredited status, when the staff's review is complete, the staff transmits its recommendation on accreditation to the Commission for consideration. (A third party conformity assessment body that may ultimately seek acceptance as a firewalled third party conformity assessment body also can initially request acceptance as a third party conformity assessment body accredited for testing of children's products other than those of its owners.) If the Commission accepts a staff recommendation to accredit a firewalled conformity assessment body, the Commission will issue an order making the required statutory findings and the firewalled conformity assessment body will then be added to the CPSC's list of accredited third party conformity assessment bodies. In each case, the Commission will notify the third party conformity assessment body electronically of acceptance of its accreditation. All information to support an accreditation acceptance request must be provided in the English language.

Subject to the limited provisions for acceptance of "retrospective" testing noted in part IV of this document below, once the Commission adds a third party conformity assessment body to the list, the third party conformity assessment body may begin testing of children's products to support certification of compliance with the regulations identified earlier in part I of this document for which it has been accredited.

### IV. Limited Acceptance of Children's Product Certifications Based on Third Party Conformity Assessment Body Testing Prior to the Commission's Acceptance of Accreditation

The Commission will accept a certificate of compliance with 16 CFR part 1420, *Requirements for All Terrain Vehicles,* based on testing performed by an accredited third party conformity assessment body (including a government-owned or government-controlled conformity assessment body, or a firewalled conformity assessment body) prior to the Commission's acceptance of its accreditation if all the following conditions are met:

- When the product was tested, the testing was done by a third party conformity assessment body that at that time was ISO/IEC 17025 accredited by an ILAC–MRA signatory. For firewalled conformity assessment bodies, the Commission will not accept a certificate of compliance based on testing performed by the third party conformity assessment body unless the firewalled conformity assessment body was accredited by order as a firewalled conformity assessment body before the product was tested, even though the order will not have included the test methods in the regulations specified in this notice.
- The third party conformity assessment body's application for testing using the test methods in the regulations identified in this notice is accepted by the CPSC on or before October 26, 2010.
- The product was tested on or after November 4, 2008 (the date that 16 CFR part 1420 was published), with respect to the regulations identified in this notice;
- The accreditation scope in effect for the third party conformity assessment body at the time of testing expressly included testing to the regulations identified earlier in part I of this document.
- The test results show compliance with the applicable current standards and/or regulations; and
- The third party conformity assessment body's accreditation, including inclusion in its scope the standards described in part I of this notice, remains in effect through the effective date for mandatory third party testing and manufacturer certification for conformity with 16 CFR part 1611.

Dated: August 20, 2010.

**Todd A. Stevenson,**

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 2010–21199 Filed 8–26–10; 8:45 am]

**BILLING CODE 6355–01–P**

## SOCIAL SECURITY ADMINISTRATION

### 20 CFR Part 404

**[Docket No. SSA–2006–0154]**

**RIN 0960–AF78**

## Entitlement and Termination Requirements for Stepchildren

**AGENCY:** Social Security Administration.

**ACTION:** Final rule.

**SUMMARY:** We are revising our regulations to reflect changes made in the Contract with America Advancement Act of 1996 (CAAA) to the entitlement and termination requirements for Social Security child's benefits to stepchildren. Under the CAAA, we consider a stepchild as dependent on a stepparent to receive child's benefits based on the stepparent's earnings only if the stepchild receives at least one-half support from the stepparent. Also, we terminate a stepchild's benefits that are based on the stepparent's earnings if the stepchild's parent or adoptive parent and the stepparent divorce, unless the stepparent adopted the stepchild and the stepchild can qualify for benefits as the stepparent's adopted child.

**DATES:** This final rule will be effective September 27, 2010.

**FOR FURTHER INFORMATION CONTACT:** Peter White, Office of Income Security Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 594–2041. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov.*

**SUPPLEMENTARY INFORMATION:**

### Electronic Version

The electronic file of this document is available on the date of publication in the **Federal Register** at *http://www.gpoaccess.gov/fr/index.html.*

### Determining Stepchild Dependency

A stepchild may be entitled to receive Social Security child's benefits based on a stepparent's Social Security earnings record if the stepchild is dependent on a stepparent and the stepparent is entitled to Social Security benefits because he or she is disabled, retires, or dies.[1] In those situations, the stepchild's benefits help replace the lost support from the stepparent. Prior to the CAAA,[2] we considered a stepchild to be dependent on a stepparent if the stepchild was either "living with" or receiving at least one-half support from the stepparent. The CAAA revised the Social Security Act (Act) so that a stepchild's living with a stepparent is not a basis for determining that a stepchild is dependent on the stepparent.[3] Now, we consider a stepchild to be dependent on a stepparent only if the stepchild is receiving at least one-half support from the stepparent.[4]

[1] 42 U.S.C. 402(d)(1)(C).

[2] Public Law 104–121.

[3] Section 104(a) of the CAAA.

[4] 42 U.S.C. 402(d)(4).

The House Committee on Ways and Means explained that the change "would result in the payment of benefits only to stepchildren who are truly dependent on the stepparent for their support, and only as long as the natural parent and stepparent are married. As a result, other children entitled on the worker's record will not be unnecessarily disadvantaged by entitlement of stepchildren who have other means of support."[5]

Consequently, we published a notice of proposed rulemaking (NPRM) in the **Federal Register** on August 12, 2003, 68 FR 47877, and proposed to eliminate the reference to the "living with" dependency standard for child's benefits to stepchildren. We are adopting our proposed language, with minor changes for clarity, in final section 404.363.

**Termination of Child's Benefits When the Stepparent Divorces the Parent or Adoptive Parent**

Although the CAAA requires us to terminate child's benefits to a stepchild if the stepparent and the stepchild's "natural" parent divorce,[6] it did not explicitly state that we should terminate a stepchild's benefits if the stepparent and the stepchild's adoptive parent divorce. Nevertheless, we are revising our rules in final section 404.352(b)(7) to clarify that we will terminate child's benefits to a stepchild if the stepparent and the stepchild's parent or adoptive parent divorce. We believe that there is clear support for this approach.

First, the CAAA's context supports treating parents and adoptive parents equally in this situation. The CAAA states that when a stepchild's parents divorce, "each stepparent shall notify the Commissioner of Social Security of any divorce upon such divorce becoming final * * *"[7] We interpret the use of the terms "each stepparent" and "any divorce" to include divorces between a stepchild beneficiary's insured stepparent and the stepchild's parent or adoptive parent.

Second, the legislative history shows a preference for equal treatment of children and adopted children under the stepchild benefit rules. A report by the House Committee on Ways and Means suggests that Congress did not intend to treat children and adopted children differently.[8] The report discusses the new stepchild dependency rules, which are applicable to all stepchildren, and states that "[in] cases of a subsequent divorce * * * benefits to stepchildren terminate * * *"[9] Although the legislative history also refers to a divorce between a child's "natural parent" and stepparent, we interpret the use of the term "natural parent" in the report in the same way we do in our rules—to distinguish the stepparent from the other parent in a divorce.[10] We do not believe that the report suggests any basis for excluding adopted children of stepparents' spouses from our stepchild rules.

Finally, several other benefit eligibility sections treat child-parent and adoptive child-parent relationships equally.[11] For example, a child can become entitled to child's benefits if the child's parent or adoptive parent marries an insured person who subsequently dies or if the stepparent becomes entitled to benefits.[12] Also, the change to the dependency test discussed earlier applies the test to both children and adoptive children of the stepparent's spouse.[13] This inclusion of a child whose parent or adoptive parent married the insured stepparent is consistent with the definition in our existing regulations.[14]

For these reasons, we are adding new final section 404.352(b)(7) to allow us to terminate child's benefits to a stepchild if the stepparent and the stepchild's parent or adoptive parent divorce. However, the stepchild may still be entitled to child's benefits if the stepparent adopted the stepchild.

**Termination of Child's Benefits by Prospective or Ab Initio Marriage Annulments**

In the NPRM, we proposed to revise 20 CFR 404.352 to add a rule about prospective and ab initio marriage annulments. Specifically, we proposed that a prospective marriage annulment would terminate child's benefits to a stepchild in the month in which a court issues the final annulment decree. We also proposed that an ab initio marriage annulment would terminate child's benefits to a stepchild in the month before the month in which a court issues a final annulment decree. However, we are not adopting these proposals in final at this time because we now believe that we should change policy about annulments in the context of marriage policy, not in regulations regarding stepchildren.

**Other Revisions**

In the NPRM, we proposed to correct a cross-reference in section 404.339 and to clarify the section headings in 404.339, 404.363, and 404.364. We are adopting our proposed revision to the section heading in final section 404.363. We adopted the other proposed revisions in the final rule we published at 73 FR 40965 (July 17, 2008). We also are adding references to "an adoptive parent" and "insured stepparent" in section 404.352(b)(7) to clarify that we treat child-parent and adoptive child-parent relationships equally.

**Public Comments**

We gave the public 60 days to comment on the NPRM. We received three comment letters. We have carefully read and considered each of them. They are available for public viewing at *http://www.regulations.gov.* Because some of the comments we received were detailed, we have condensed, summarized, and paraphrased them in the discussion below. We address below the issues raised by the commenters that are within the scope of the NPRM.

*Comment:* One commenter expressed general disagreement with the proposed changes to stepchild entitlement and termination requirements and stated that stepchildren will "now have to prove something totally irrelevant to get and keep benefits."

*Response:* Although the comment is unclear, to the extent that the commenter is discussing the stepchild dependency test, we must apply the CAAA's stepchild benefit entitlement and termination provisions. The CAAA specifically provided that living with a stepparent would no longer be a basis for finding a stepchild dependent on a stepparent. Now, we consider a stepchild to be dependent on a stepparent only if the stepchild is receiving at least one-half support from the stepparent. The one-half support requirement existed prior to the CAAA and is not a new requirement.

*Comment:* Two commenters expressed concern that we will apply our proposed child's benefit termination rules for annulments retroactively and collect overpayments from stepchildren affected by this rule. They commented that we should not penalize families who relied on the regulations in effect at the time of the stepparent's disability or death and that we should waive any

[5] H.R. Rep. No. 104–379 at 14 (1995), as reprinted in 1995 WL 717402.

[6] Section 104(b) of the CAAA, amending section 202(d)(1) of the Act (42 U.S.C. 402(d)(1)).

[7] Section 104(b)(2) of the CAAA, adding section 202(d)(10) to the Act (42 U.S.C. 402(d)(10)).

[8] H.R. Rep. 104–872 at 36 (1996), as reprinted in 1996 WL 760037.

[9] *Id.*

[10] *See,* for example, 20 CFR 404.355.

[11] *See,* for example, sections 202(d)(1), 202(d)(3), 202(d)(8), and 216(e) of the Act (42 U.S.C. 402(d)(1), 402(d)(3), 402(d)(8), and 416(e)).

[12] *See* section 202(d)(1) of the Act; see also 20 CFR 404.357.

[13] Section 202(d)(4) of the Act (42 U.S.C. 402(d)(4)).

[14] 20 CFR 404.363, referencing 20 CFR 404.357.

resulting overpayments. One commenter recommended that we clarify that an annulment ab initio will not affect the eligibility for child's benefits to stepchildren prior to annulments. One of these commenters asked us to notify families affected by this final rule.

*Response:* As we stated above, we are not adopting our proposed rules about ab initio or prospective marriage annulments at this time.

**Regulatory Procedures**

*Executive Order 12866*

We have consulted with the Office of Management and Budget (OMB) and determined that this final rule meets the criteria for a significant regulatory action under Executive Order 12866. Thus, OMB reviewed it.

*Regulatory Flexibility Act*

We certify that this final rule will not have a significant economic impact on a substantial number of small entities because it affects only individual persons. Therefore, the Regulatory Flexibility Act, as amended, does not require us to develop a regulatory flexibility analysis.

*Paperwork Reduction Act*

This final rule does not impose reporting or recordkeeping requirements subject to OMB clearance.

(Catalog of Federal Domestic Assistance Program Nos. 96.001 Social Security-Disability Insurance; 96.002 Social Security-Retirement Insurance; 96.004 Social Security-Survivors Insurance)

**List of Subjects in 20 CFR Part 404**

Administrative practice and procedure; Blind; Disability benefits; Old-Age, Survivors and Disability Insurance; Reporting and recordkeeping requirements; Social Security.

Dated: June 7, 2010.

**Michael J. Astrue,**

*Commissioner of Social Security.*

■ For the reasons stated in the preamble, we are amending 20 CFR part 404 subpart D as set forth below:

## PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950– )

### Subpart D—[Amended]

■ 1. The authority citation for subpart D of part 404 continues to read as follows:

**Authority:** Secs. 202, 203(a) and (b), 205(a), 216, 223, 225, 228(a)–(e), and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 403(a) and (b), 405(a), 416, 423, 425, 428(a)–(e), and 902(a)(5)).

■ 2. Amend § 404.352 by adding paragraph (b)(7) to read as follows:

**§ 404.352 When does my entitlement to child's benefits begin and end?**

* * * * *

(b) * * *

(7) With the month in which the divorce between your parent (including an adoptive parent) and the insured stepparent becomes final if you are entitled to benefits as a stepchild and the marriage between your parent (including an adoptive parent) and the insured stepparent ends in divorce.

* * * * *

■ 3. Amend § 404.363 by revising the section heading and introductory text to read as follows:

**§ 404.363 When is a stepchild dependent?**

If you are the insured's stepchild, as defined in § 404.357, we consider you dependent on him or her if you were receiving at least one-half of your support from him or her at one of these times—

* * * * *

[FR Doc. 2010–21341 Filed 8–26–10; 8:45 am]

BILLING CODE 4191–02–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Parts 510, 520, and 522

**[Docket No. FDA–2010–N–0002]**

## New Animal Drugs; Change of Sponsor; Withdrawal of Approval of New Animal Drug Applications; Deslorelin Acetate; Dichlorophene and Toluene Capsules; Pyrantel Pamoate Suspension

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for a new animal drug application (NADA) from Peptech Animal Health Pty, Ltd. to Dechra, Ltd. and for an abbreviated new animal drug application (ANADA) from Church & Dwight Co., Inc., to Pegasus Laboratories, Inc. In addition, FDA is removing those portions of the regulations that reflect approval of two other NADAs transferred from Church & Dwight Co., Inc., to Pegasus Laboratories, Inc., for which voluntary withdrawal of approval was requested after the change of sponsorship. In a notice published elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of these two NADAs.

**DATES:** This rule is effective:

1. August 27, 2010 for 21 CFR 510.600(c), 520.2043, and 522.533.

2. September 7, 2010 for 21 CFR 520.580.

**FOR FURTHER INFORMATION CONTACT:** David R. Newkirk, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8307, e-mail: *david.newkirk@fda.hhs.gov*.

**SUPPLEMENTARY INFORMATION:** Church & Dwight Co., Inc., 469 North Harrison St., Princeton, NJ 08543–5297, has informed FDA that it has transferred ownership of, and all rights and interest in, NADA 101–497 and NADA 101–498 for oral capsules containing dichlorophene and toluene, and ANADA 200–028 for an oral suspension of pyrantel pamoate to Pegasus Laboratories, Inc., 8809 Ely Rd., Pensacola, FL 32514. Accordingly, the agency is amending the regulations in 21 CFR 520.2043 to reflect the transfer of ownership.

Peptech Animal Health Pty, Ltd., 19–25 Khartoum Rd., Macquarie Park, New South Wales 2113, Australia, has informed FDA that it has transferred ownership of, and all rights and interest in, NADA 141–044 for subcutaneous implants containing deslorelin acetate to Dechra, Ltd., Dechra House, Jamage Industrial Estate, Talke Pits, Stoke-on-Trent, Staffordshire, ST7 1XW, United Kingdom. Accordingly, the agency is amending the regulations in 21 CFR 522.533 to reflect the transfer of ownership and a current format.

Following these changes of sponsorship, Pegasus Laboratories, Inc., has requested that FDA withdraw approval of the two NADAs for dichlorophene and toluene capsules because they are no longer manufactured or marketed. In a notice published elsewhere in this issue of the **Federal Register**, FDA gave notice that approval of NADA 101–497 and 101–498, and all supplements and amendments thereto, is withdrawn, effective September 7, 2010. As provided in the regulatory text of this document, the agency is amending the regulations in 21 CFR 520.580 to reflect these withdrawals of approval.

Also, following these changes of sponsorship, Church & Dwight Co., Inc., and Peptech Animal Health Pty, Ltd., are no longer sponsors of an approved application. Accordingly, 21 CFR 510.600(c) is being amended to remove the entries for these firms.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the

congressional review requirements in 5 U.S.C. 801–808.

**List of Subjects**

*21 CFR Part 510*

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

*21 CFR Parts 520 and 522*

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510, 520, and 522 are amended as follows:

## PART 510—NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 510 continues to read as follows:

**Authority:** 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

**§ 510.600 [Amended]**

■ 2. In § 510.600, in the table in paragraph (c)(1), remove the entries for "Church & Dwight Co., Inc." and "Peptech Animal Health Pty, Ltd."; and in the table in paragraph (c)(2), remove the entries for "010237" and "064288".

## PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 3. The authority citation for 21 CFR part 520 continues to read as follows:

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

**§ 520.580 [Amended].**

■ 4. In paragraph (b)(1) of § 520.580, remove "010237,".

**§ 520.2043 [Amended]**

■ 5. In paragraph (b)(2) of § 520.2043, remove "010237" and in its place add "055246".

## PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

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

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

■ 7. In § 522.533, revise the section heading and paragraph (b), add paragraph (c), and remove paragraph (d) to read as follows:

**§ 522.533 Deslorelin.**

* * * * *

(b) *Sponsor.* See No. 043264 in § 510.600(c) of this chapter.

(c) *Conditions of use in horses and ponies*—(1) *Amount.* One implant per mare subcutaneously in the neck.

(2) *Indications for use.* For inducing ovulation within 48 hours in estrous mares with an ovarian follicle greater than 30 millimeters in diameter.

(3) *Limitations.* Do not use in horses or ponies intended for human consumption. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: August 23, 2010.

**Bernadette Dunham,**

*Director, Center for Veterinary Medicine.*

[FR Doc. 2010–21296 Filed 8–26–10; 8:45 am]

**BILLING CODE 4160–01–S**

## DEPARTMENT OF STATE

### 22 CFR Parts 124, 125, 126, and 129

**[Public Notice: 7134]**

**RIN 1400–AC62**

## Amendment to the International Traffic in Arms Regulations: Removing Requirement for Prior Approval for Certain Proposals to Foreign Persons Relating to Significant Military Equipment

**AGENCY:** Department of State.

**ACTION:** Final rule.

**SUMMARY:** The Department of State is amending the International Traffic in Arms Regulations (ITAR) to remove the requirements for prior approval or prior notification for certain proposals to foreign persons relating to significant military equipment.

**DATES:** *Effective Date:* This rule is effective August 27, 2010.

**FOR FURTHER INFORMATION CONTACT:** Director Charles Shotwell, Office of Defense Trade Controls Policy, Department of State, Telephone (202) 663–2792 or Fax (202) 261–8199; E-mail *DDTCResponseTeam@state.gov.* ATTN: Regulatory Change, Section 126.8.

**SUPPLEMENTARY INFORMATION:** In accordance with the President's Export Control Reform effort, on March 29, 2010, the Department published a Notice of Proposed Rulemaking (NPRM) to eliminate the requirements for prior approval or prior notification for certain proposals to foreign persons relating to significant military equipment at § 126.8 of the ITAR. Effective September 1, 1977, the Department of State amended § 123.16 to require Department of State approval before a proposal or presentation is made that is designed to constitute the basis for a decision to purchase significant combat equipment, involving the export of an item on the U.S. Munitions List, valued at $7,000,000 or more for use by the armed forces of a foreign country (42 FR 41631, dated August 18, 1977). Also, § 124.06, entitled, "Approval of proposals for technical assistance and manufacturing license agreements," was amended to require similar prior approval with respect to proposals and presentations for technical assistance and manufacturing license agreements involving the production or assembly of significant combat equipment.

"Proposals to foreign persons relating to significant military equipment" became § 126.8 in a final rule effective January 1, 1985 (49 FR 47682, dated December 6, 1984). Section 126.8 did not require prior approval of the Department of State when the proposed sale was to the armed forces of a member of the North Atlantic Treaty Organization (NATO), Australia, Japan, or New Zealand, except with respect to manufacturing license agreements or technical assistance agreements.

A prior notification requirement, instead of prior approval, was added to § 126.8 in a final rule effective March 31, 1985 (50 FR 12787, dated April 1, 1985). Prior notification to the Department of State was required 30 days in advance of a proposal or presentation to any foreign person where such proposals or presentations concerned equipment previously approved for export.

The current § 126.8 requires prior approval or prior notification for certain proposals and presentations to make a determination whether to purchase significant military equipment valued at $14,000,000 or more (other than a member of NATO, Australia, New Zealand, Japan, or South Korea), or whether to enter into a manufacturing license agreement or technical assistance agreement for the production or assembly of significant military equipment, regardless of dollar value.

These types of proposals and presentations usually involve large dollar amounts. Before the defense industry undertakes the effort involved in formulating its proposals and presentations, if there is any doubt that the corresponding license application or proposed agreement would be authorized by the Department of State, the industry may request an advisory opinion (*see* § 126.9). The written advisory opinion, though not binding on the Department, helps inform the defense industry whether the Department would likely grant a license application or proposed agreement. Currently, the time between submitting a license application or proposed

agreement and obtaining a decision from the Department of State whether to authorize such transactions has been decreased sufficiently that requiring prior approval or prior notification for proposals is unnecessary and imposes an administrative burden on industry.

References to § 126.8 have been removed at §§ 124.1(a), 125.4(a), 126.13, 129.7(e), and 129.8(c).

The Proposed Rule had a comment period ending May 28, 2010. Three parties filed comments by May 28 recommending changes. Having thoroughly reviewed and evaluated the comments and the recommended changes, the Department has determined that it will, and hereby does, adopt the Proposed Rule, with minor edits, and promulgates it as a Final Rule. The Department's evaluation of the written comments and recommendations follows.

**Comment Analysis**

One commenting party commended the proposed change as removing an unnecessary and redundant licensing burden, without suggesting any changes.

One commenting party supported the proposed change, but recommended certain "clerical" changes to other parts of the ITAR for purposes of consistency. Specifically, § 126.1(e) requires the Directorate of Defense Trade Controls' (DDTC) written approval or a license prior to a proposal to sell defense articles or services to any country covered in that section (*i.e.,* restricted destinations). The commenting party suggested the definition of "proposal" in § 126.8(b) be incorporated into § 126.1(e). We believe the incorporation of the § 126.8(b) definition of "proposal" could confuse exporters, potentially encouraging "preliminary discussions" with prohibited destinations. Therefore, we do not support that change. We do, however, concur with this commenting party's recommendation that we delete the references to § 126.8 in §§ 124.1(a), 125.4(a), and 129.7(e). This has been accomplished in our proposed change to § 124.1(a). Appropriate changes to § 125.4(a) and § 129.7(e) have been added to this notice.

One commenting party expressed concern that the elimination of the prior notification requirement would contravene "the fundamental goals of the ITAR" through arms deals furthering the persecution of individuals, denial of human rights, terrorism, and genocide, with special concern about foreign military sales. We note at the outset that foreign military sales are not controlled by the ITAR, as opposed to direct commercial sales. We also note that we are not lessening control over the export of any defense article, technology, or service. Nor are we lessening scrutiny over prohibited/restricted destinations (§ 126.1(e) remains in place). Rather, we are eliminating the requirement for reviewing an export transaction twice, which we consider to be a redundant burden on industry and government.

One commenting party stated that the change would "limit or eliminate the President's ability to remain informed of 'negotiations' * * *" in contravention of the spirit of § 2778(a)(3) of the Arms Export Control Act (AECA). Our experience from a practical day-to-day review of exports gives us a different perspective. We note that advance notice of pending export transactions was a meaningful concept in the days when the average license processing time was over 60 days. But when the average processing time is approximately 15 days, it is easier and faster to review the export transaction (*e.g.,* manufacturing licensing agreement) as a whole rather than piecemeal. With the challenge of over 84,000 licenses per year, a requirement to review export transactions (in effect) twice is an unnecessary burden that provides the executive branch with effectively no advance notice. Most importantly, the requirement to obtain a license or other authorization before passing ITAR controlled technical data remains in place, placing a significant limitation on the content of negotiations. Furthermore, we will maintain the § 126.1(e) requirement of notice for proposed transactions with restricted destinations, where in most cases there would be a presumption against the export.

The same commenting party also advised that an unintended consequence of the change is the "elimination of any recordkeeping requirements" for proposals. We do not agree, since the § 126.8 requirement to report certain proposals is an obligation separate and independent from recordkeeping requirements. It will continue to be good practice to maintain records of such transactions for an appropriate duration in compliance with § 122.5, particularly to rebut any post hoc allegations that ITAR controlled technical data were transferred without a license or authorization.

The same commenting party recommended alternatively that § 126.8 be retained, but the definition of "proposal" in § 126.8(b) be expanded to better define what constitutes "sufficient detail." For the reasons already mentioned above, we believe that elimination of § 126.8 altogether is simpler and less confusing than whittling away at the definition of proposal. Another alternative recommended was elimination of § 126.8, but replacement with an exemption. We note that exemptions are used to exempt transactions from licensing requirements when they would otherwise apply. If we eliminate § 126.8, there would be no requirement from which the exporter would require exemption. Therefore, the recommendation is rejected.

Finally, we disagree with the commenting party's allegation that by this action DDTC would "abandon its authority to implement § 2778(a)(3) of the AECA." Since the operative language was that the "President *may* require that persons engaged in the negotiation of defense articles and services keep the President fully and currently informed of the progress and future prospects of such negotiations," this is a discretionary authority. Practical experience has demonstrated that the prior notification/approval requirement is an unnecessary burden on industry without adding any information of value to DDTC's review of exports.

**Regulatory Analysis and Notices**

*Administrative Procedure Act*

This amendment involves a foreign affairs function of the United States and, therefore, is not subject to the procedures contained in 5 U.S.C. 553 and 554.

*Regulatory Flexibility Act*

Since this amendment is not subject to 5 U.S.C. 553, it does not require analysis under the Regulatory Flexibility Act.

*Unfunded Mandates Reform Act of 1995*

This amendment does not involve a mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

*Small Business Regulatory Enforcement Fairness Act of 1996*

This amendment has been found not to be a major rule within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996.

*Executive Orders 12372 and 13132*

This amendment will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the

distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this amendment does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this amendment.

*Executive Order 12866*

This amendment is exempt from review under Executive Order 12866, but has been reviewed internally by the Department of State to ensure consistency with the purposes thereof.

*Executive Order 12988*

The Department of State has reviewed the proposed amendments in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

*Executive Order 13175*

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

*Paperwork Reduction Act*

This rule does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

**List of Subjects**

*22 CFR Parts 124 and 129*

Arms and munitions, Exports, Technical assistance.

*22 CFR Part 125*

Arms and munitions, Exports.

*22 CFR Part 126*

Arms and munitions, Exports.

■ Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, parts 124, 125, 126, and 129 are amended as follows:

## PART 124—AGREEMENTS, OFF-SHORE PROCUREMENT AND OTHER DEFENSE SERVICES

■ 1. The authority citation for part 124 is revised to read as follows:

**Authority:** Secs. 2, 38, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp., p. 79; 22 U.S.C. 2651a; 22 U.S.C. 2776; Pub. L. 105–261.

■ 2. Section 124.1 is amended by revising paragraph (a) to read as follows:

### § 124.1 Manufacturing license agreements and technical assistance agreements.

(a) *Approval.* The approval of the Directorate of Defense Trade Controls must be obtained before the defense services described in § 120.9(a) of this subchapter may be furnished. In order to obtain such approval, the U.S. person must submit a proposed agreement to the Directorate of Defense Trade Controls. Such agreements are generally characterized as manufacturing license agreements, technical assistance agreements, distribution agreements, or off-shore procurement agreements, and may not enter into force without the prior written approval of the Directorate of Defense Trade Controls. Once approved, the defense services described in the agreements may generally be provided without further licensing in accordance with §§ 124.3 and 125.4(b)(2) of this subchapter. The requirements of this section apply whether or not technical data is to be disclosed or used in the performance of the defense services described in § 120.9(a) of this subchapter (*e.g.,* all the information relied upon by the U.S. person in performing the defense service is in the public domain or is otherwise exempt from licensing requirements of this subchapter pursuant to § 125.4 of this subchapter). This requirement also applies to the training of any foreign military forces, regular and irregular, in the use of defense articles. Technical assistance agreements must be submitted in such cases. In exceptional cases, the Directorate of Defense Trade Controls, upon written request, will consider approving the provision of defense services described in § 120.9(a) of this subchapter by granting a license under part 125 of this subchapter.

* * * * *

## PART 125—LICENSES FOR THE EXPORT OF TECHNICAL DATA AND CLASSIFIED DEFENSE ARTICLES

■ 3. The authority citation for part 125 is revised to read as follows:

**Authority:** Secs. 2 and 38, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778); E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp. p.79; 22 U.S.C. 2651a.

■ 4. Section 125.4 is amended by revising paragraph (a) to read as follows:

### § 125.4 Exemptions of general applicability.

(a) The following exemptions apply to exports of technical data for which approval is not needed from the Directorate of Defense Trade Controls. The exemptions, except for paragraph (b)(13) of this section, do not apply to exports to proscribed destinations under § 126.1 of this subchapter or for persons considered generally ineligible under § 120.1(c) of this subchapter. The exemptions are also not applicable for purposes of establishing offshore procurement arrangements or producing defense articles offshore (*see* § 124.13), except as authorized under § 125.4(c). Transmission of classified information must comply with the requirements of the Department of Defense National Industrial Security Program Operating Manual (unless such requirements are in direct conflict with guidance provided by the Directorate of Defense Trade controls, in which case the latter guidance must be followed) and the exporter must certify to the transmittal authority that the technical data does not exceed the technical limitation of the authorized export.

* * * * *

## PART 126—GENERAL POLICIES AND PROVISIONS

■ 5. The authority citation for part 126 continues to read as follows:

**Authority:** Secs. 2, 38, 40, 42 and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2780, 2791 and 2797); E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp., p. 79; 22 U.S.C. 2651a; 22 U.S.C. 287c; E.O. 12918, 59 FR 28205; 3 CFR, 1994 Comp., p. 899; Sec. 1225, Pub. L. 108–375.

### § 126.8 [Removed and Reserved]

■ 6. Section 126.8 is removed and reserved.

■ 7. Section 126.13 is amended by revising paragraph (a) introductory text to read as follows:

### § 126.13 Required information.

(a) All applications for licenses (DSP–5, DSP–61, DSP–73, and DSP–85), all requests for approval of agreements and amendments thereto under part 124 of this subchapter, and all requests for written authorizations must include a letter signed by a responsible official empowered by the applicant and addressed to the Directorate of Defense Trade Controls, stating whether:

* * * * *

## PART 129—REGISTRATION AND LICENSING OF BROKERS

■ 8. The authority citation for part 129 is revised to read as follows:

**Authority:** Sec. 38, Pub. L. 104–164, 110 Stat. 1437, (22 U.S.C. 2778).

**§ 129.7 [Amended]**

■ 9. Section 129.7 is amended by removing paragraph (e).

**§ 129.8 [Amended]**

■ 10. Section 129.8 is amended by removing paragraph (c).

Dated: August 18, 2010.

**Ellen O. Tauscher,**

*Under Secretary, Arms Control and International Security, Department of State.*

[FR Doc. 2010–21451 Filed 8–26–10; 8:45 am]

**BILLING CODE 4710–25–P**

## DEPARTMENT OF STATE

### 22 CFR Part 125

**[Public Notice: 7135]**

**RIN 1400–AC59**

### Amendment to the International Traffic in Arms Regulations: Export Exemption for Technical Data

**AGENCY:** Department of State.

**ACTION:** Final rule.

**SUMMARY:** The Department of State is amending the International Traffic in Arms Regulations (ITAR) to clarify an exemption for technical data. The clarification is that the exemption covers technical data, regardless of media or format, sent or taken by a U.S. person who is an employee of a U.S. corporation or a U.S. Government agency to a U.S. person employed by that U.S. corporation or to a U.S. Government agency outside the United States.

**DATES:** *Effective Date:* This rule is effective August 27, 2010.

**FOR FURTHER INFORMATION CONTACT:** Director Charles Shotwell, Office of Defense Trade Controls Policy, Department of State, Telephone (202) 663–2792 or Fax (202) 261–8199; E-mail *DDTCResponseTeam@state.gov.* ATTN: Regulatory Change, Section 125.4.

**SUPPLEMENTARY INFORMATION:** On November 24, 2009, the Department published a Notice of Proposed Rulemaking (NPRM) to add language clarifying 22 CFR 125.4(b)(9) to allow technical data, including classified information, and regardless of media or format, sent or taken by a U.S. person who is an employee of a U.S. corporation or a U.S. Government agency, to a U.S. person employed by that U.S. corporation or to a U.S. Government agency outside the United States under certain specified circumstances reflected in 22 CFR 125.4(b)(9)(i) through (iii) (74 FR 61292). This amendment will add after the word "information" the words "and regardless of media or format." Also, the words "sent by a U.S. corporation to a U.S. person employed by that corporation overseas or to a U.S. Government agency" has been replaced by "sent or taken by a U.S. person who is an employee of a U.S. corporation or a U.S. Government agency to a U.S. person employed by that corporation or to a U.S. Government agency outside the United States." Thus, the exemption will explicitly allow hand carrying technical data by a U.S. person employed by a U.S. corporation or a U.S. Government agency to a U.S. person employed by that U.S. corporation or to a U.S. Government agency outside the United States, as long as certain criteria in §§ 125.4(b)(9) and 125.4(b)(9)(i)–(iii) are met. The word "overseas" will be replaced by "outside the United States" at §§ 125.4(b)(9), 125.4(b)(9)(i), 125.4(b)(9)(ii), and 125.4(b)(9)(iii). Also, § 125.4(b)(9)(iii) will be amended to add the words "or taken" after the word "sent." As stated in 22 CFR 125.4(a), this exemption does not apply to exports to proscribed destinations under 22 CFR 126.1.

The Proposed Rule had a comment period ending January 25, 2010. Nine parties filed comments by January 25 recommending changes. Having thoroughly reviewed and evaluated the comments and the recommended changes, the Department has determined that it will, and hereby does, adopt the Proposed Rule, with minor edits, and promulgates it as a Final Rule. The Department's evaluation of the written comments and recommendations follows:

**Comment Analysis**

One commenting party recommended that "sent or taken" be changed to "sent, taken or accessed." This recommendation was deemed not necessary since it is implied the U.S. person who is an employee of a U.S. corporation or the U.S. person who is an employee of a U.S. Government agency taking the technical data outside of the United States may access the technical data.

One commenting party inquired whether a U.S. corporation (manufacturer) could use the exemption to send (orally or via e-mail) technical data to an employee of a U.S. Government agency outside the United States, as well as what steps the U.S. manufacturer would take to ensure that 22 CFR 125.4(b)(9)(i)–(ii) are met. The U.S. corporation (in compliance with 22 CFR part 122) is able to use the exemption to send (orally or via e-mail) technical data to a U.S. person employed by a U.S. Government agency outside the United States, so long as the U.S. company takes reasonable precautions to ensure that conditions in 22 CFR 125.4(b)(9)(i) through (ii) are met:

1. The technical data will be used outside of the United States solely by U.S. persons; and

2. The U.S. person outside of the United States is employed by a U.S. Government agency.

Two commenting parties recommended that it be explicit that the technical data could be for "personal use" by the U.S. person claiming the exemption. That recommendation was not adopted since it introduced uncertainty about uses beyond those related to employment.

One commenting party pointed out that when technical data is exported from a U.S. port using an exemption, the ITAR does not require the report of such an export using the Automated Export System (AES); instead, the exporter is to provide electronic notification directly to the Directorate of Defense Trade Controls (DDTC) (*see* 22 CFR 123.22(b)(3)(iii)). The commenting party recommended that if the system to electronically file directly to DDTC is not going to be implemented, then DDTC should arrange for AES to be the reporting mechanism. The commenting party also recommended that if classified technical data is being exported under the provisions of the Department of Defense National Industrial Security Program Operating Manual, an Electronic Export Information should be filed within AES. For exports of technical data using exemptions, there is no system to electronically file directly to DDTC. DDTC is reviewing carefully the possibility of having all exports of technical data using an exemption be reported using an Electronic Export Information within Census Bureau's Automated Export System.

Two commenting parties recommended the exemption at § 125.4(b)(9) be expanded so the exporter would be a U.S. person who is an employee of any entity, organization, or group incorporated or organized to do business in the United States. Also, the recipient would be a U.S. person employed by that entity, organization,

or group. Consequently, another recommendation is to revise § 125.4(b)(9)(ii) to state "the U.S. person outside the United States is an employee of the U.S. Government or is directly employed by the same U.S. entity, organization, or group and not by a foreign subsidiary; and * * *." The commenting party recommended that the exemption include accredited institutions of higher learning in the United States in order to facilitate research. This recommendation was not adopted because the Department prefers narrowing this exemption to an exporter that is a U.S. person who is an employee of a U.S. corporation or a U.S. Government agency, and a recipient outside the United States that is a U.S. person employed by that U.S. corporation or U.S. Government agency. The narrowing of this exemption affords more control of the technical data.

One commenting party recommended the exemption be expanded at § 125.4(b)(9) to include recipients that are a U.S. prime contractor or U.S. subcontractor of that U.S. corporation. Consequently, another recommendation is to revise § 125.4(b)(9)(ii) to state, "If the U.S. person outside the United States is an employee of the U.S. Government or is directly employed by the U.S. corporation and not by a foreign subsidiary, or is directly employed by the U.S. corporation's U.S. prime contractor or U.S. subcontractor, and not a foreign subsidiary, provided the U.S. prime contractor's or U.S. subcontractor's employee is a U.S. person." Expanding the recipients to a U.S. person employed by the U.S. corporation's U.S. prime contractor or U.S. subcontractor allows the exemption to become unwieldy as to the recipient responsible for the technical data.

One commenting party recommended the proposed amendment without any changes because it explicitly addressed technical data that is hand carried outside of the United States.

**Regulatory Analysis and Notices**

*Administrative Procedure Act*

This amendment involves a foreign affairs function of the United States and, therefore, is not subject to the procedures contained in 5 U.S.C. 553 and 554.

*Regulatory Flexibility Act*

Since this amendment is not subject to 5 U.S.C. 553, it does not require analysis under the Regulatory Flexibility Act.

*Unfunded Mandates Reform Act of 1995*

This amendment does not involve a mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

*Small Business Regulatory Enforcement Fairness Act of 1996*

This proposed amendment has been found not to be a major rule within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996.

*Executive Orders 12372 and 13132*

This proposed amendment will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this amendment does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this amendment.

*Executive Order 12866*

This proposed amendment is exempt from review under Executive Order 12866, but has been reviewed internally by the Department of State to ensure consistency with the purposes thereof.

*Executive Order 12988*

The Department of State has reviewed the proposed amendments in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

*Executive Order 13175*

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

*Paperwork Reduction Act*

This proposed rule does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

**List of Subjects in 22 CFR Part 125**

Arms and munitions, Classified information, Exports.

■ Accordingly, for the reasons set forth above, Title 22, Chapter I, Subchapter M, part 125 is amended as follows:

## PART 125—LICENSES FOR THE EXPORT OF TECHNICAL DATA AND CLASSIFIED DEFENSE ARTICLES

■ 1. The authority citation for part 125 is revised to read as follows:

**Authority:** Secs. 2 and 38, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778); E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp. p.79; 22 U.S.C. 2651a.

■ 2. Section 125.4 is amended by revising paragraphs (b)(9) to read as follows:

**§ 125.4 Exemptions of general applicability.**

* * * * *

(b) * * *

(9) Technical data, including classified information, and regardless of media or format, sent or taken by a U.S. person who is an employee of a U.S. corporation or a U.S. Government agency to a U.S. person employed by that U.S. corporation or to a U.S. Government agency outside the United States. This exemption is subject to the limitations of § 125.1(b) of this subchapter and may be used only if:

(i) The technical data is to be used outside the United States solely by a U.S. person;

(ii) The U.S. person outside the United States is an employee of the U.S. Government or is directly employed by the U.S. corporation and not by a foreign subsidiary; and

(iii) The classified information is sent or taken outside the United States in accordance with the requirements of the Department of Defense National Industrial Security Program Operating Manual (unless such requirements are in direct conflict with guidance provided by the Directorate of Defense Trade Controls, in which case the latter guidance must be followed).

* * * * *

Dated: August 18, 2010.

**Ellen O. Tauscher,**

*Under Secretary, Arms Control and International Security, Department of State.*

[FR Doc. 2010–21450 Filed 8–26–10; 8:45 am]

**BILLING CODE 4710–25–P**

**DEPARTMENT OF AGRICULTURE**

**Forest Service**

**36 CFR Part 242**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 100**

**[Docket No. FWS–R7–SM–2009–0001; 70101–1261–0000L6]**

**RIN 1018–AW30**

## Subsistence Management Regulations for Public Lands in Alaska—2010–11 and 2011–12 Subsistence Taking of Wildlife Regulations; Subsistence Taking of Fish on the Yukon River Regulations; Correction

**AGENCIES:** Forest Service, Agriculture; Fish and Wildlife Service, Interior.

**ACTION:** Final rule; correction.

**SUMMARY:** On June 30, 2010, we published a final rule that, among other things, established regulations related to the taking of wildlife for subsistence uses in Alaska during the period 2010–12. We inadvertently made effective date errors, which we correct with this document.

**DATES:** This correction is effective August 27, 2010.

**FOR FURTHER INFORMATION CONTACT:** Sara Prigan, Federal Register Liaison, U.S. Fish and Wildlife Service, 703–358–2508.

**SUPPLEMENTARY INFORMATION:** On June 30, 2010, the Departments of Agriculture and the Interior published a final rule establishing regulations for seasons, harvest limits, methods, and means related to taking of wildlife for subsistence uses in Alaska during the 2010–11 and 2011–12 regulatory years (75 FR 37918). This rule also revised customary and traditional use determinations and the regulations defining size limitations for gillnet mesh used for harvesting salmon in the Yukon River drainage. We inadvertently made errors in the **DATES** section, which we correct with this document.

Because of a typographical error, the second sentence of the **DATES** caption of the final rule became nonsensical: It stated that a paragraph would be effective April 1, 2011, through March 31, 2011. The sentence should have read as follows: Section ____.27(i)(3)(xiii)(A) and (B) is effective March 1, 2011, through March 31, 2011.

### Administrative Procedure Act

We find good cause to waive notice and comment on this correction, under 5 U.S.C. 533(b)(3)(B), and also the 30-day delay in effective date, under 5 U.S.C. 553(d). Notice and comment are unnecessary because this correction does not alter the substance of the rule. Instead it corrects a nonsensical error. Therefore, we publish this correction as a final rule and make it effective upon publication.

### Correction

■ In FR Doc. 10–15195, appearing on page 37918 in the **Federal Register** of Wednesday, June 30, 2010, the following correction is made:

■ On page 37918, in the first column, the **DATES** section of the final rule is corrected to read as follows:

**DATES:** Sections ____.24(a)(1), ____.25, and ____.26 are effective July 1, 2010. Section ____.27(i)(3)(xiii)(A) and (B) is effective March 1, 2011, through March 31, 2011.

**Authority:** 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

Dated: August 20, 2010.

**Sara Prigan,**

*Federal Register Liaison, U.S. Fish and Wildlife Service.*

Dated: August 20, 2010.

**Steve Kessler,**

*Subsistence Program Leader, USDA—Forest Service.*

[FR Doc. 2010–21405 Filed 8–26–10; 8:45 am]

**BILLING CODE 3410–11–P; 4310–55–P**

**DEPARTMENT OF VETERANS AFFAIRS**

**38 CFR Part 17**

**RIN 2900–AN76**

## Disenrollment Procedures

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document makes technical amendments to the Department of Veterans Affairs (VA) regulation concerning enrollment and disenrollment from the VA medical care system. It removes the "automatic enrollment" provision relevant to a 1998 trial enrollment program that has been discontinued. It also amends the regulation to reflect current VA practice and to update the address for documents mailed to the VA Health Eligibility Center. Finally, it provides an internet address for accessing VA Form 10–10EZ online.

**DATES:** *Effective Date: August 27, 2010.*

**FOR FURTHER INFORMATION CONTACT:** Roscoe Butler, Acting Director, Business Policy, Chief Business Office (163), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–1586. (This is not a toll free number).

**SUPPLEMENTARY INFORMATION:** Current 38 CFR 17.36(d)(4) provides that "veterans who were notified by VA letter that they were enrolled in the VA healthcare system under the trial VA enrollment program prior to October 1, 1998, automatically will be enrolled in the VA healthcare system under this section." We are removing this paragraph because all of the veterans in the 1998 trial enrollment program have been accounted for and the program has been discontinued. Therefore, the paragraph is no longer relevant.

Current § 17.36(d)(5)(i) provides that a veteran enrolled in the VA healthcare system will be disenrolled only if "[t]he veteran submits to a VA medical center or the VA Health Eligibility Center, 1644 Tullie Circle, Atlanta, Georgia 30329, a signed document stating that the veteran no longer wishes to be enrolled." We are making two changes to this provision. First, this final rule prescribes that the veteran must sign and date the document. This is necessary to ensure that the document reflects the veteran's current intent. Second, the final rule updates the address for the VA Health Eligibility Center.

Current § 17.36(d)(5)(iii) provides that a veteran enrolled in the VA healthcare system will be disenrolled only if "[a] VA network or facility Director, or the Deputy Under Secretary for Health for Operations and Management or Chief, Health Administration Service or equivalent official at a VA medical facility, or Director, Health Eligibility Center, * * * determines that the veteran failed to return [a completed VA Form 10–10EZ] to the address on the return envelope within 60 days from receipt of the form." We are removing paragraph (d)(5)(iii) in order to conform with current VA practice, which does not disenroll veterans based on their failure to file VA Form 10–10EZ. Current practice is reflected in current paragraph (d)(3)(iv). Removing paragraph (d)(5)(iii) also eliminates any potential for conflict or ambiguity between paragraphs (d)(3)(iv) and (d)(5)(iii).

Finally, we are revising § 17.36(f) to remove the reproduced image of the 1998 version of VA Form 10–10EZ, which has been superseded by the 2009 version of the form. Rather than

reproduce an image of the form in the CFR, we will provide a link to the VA Web site where the current form is available for printing, downloading, or online submission. The form is also available at any VA medical center. This change will ensure that the CFR does not reference and depict an out-of-date form.

**Administrative Procedure Act**

VA finds, in accordance with 5 U.S.C. 533(b)(3)(A) of the Administrative Procedure Act (APA), that this final rule relates solely to agency organization, procedure, or practice. Therefore, the provisions of the APA regarding notice of the proposed rulemaking and opportunity for public participation are not applicable.

**Unfunded Mandates**

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any given year. This final rule would have no such effect on state, local, and tribal governments, or on the private sector.

**Paperwork Reduction Act**

Although 38 CFR 17.36, which this final rule amends, contains provisions constituting collections of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521), the amendments establish no new or proposed revised collections of information. The information collection provisions for § 17.36 are currently approved by OMB and have been assigned OMB control number 2900–0091.

**Executive Order 12866**

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a regulatory action as a "significant regulatory action," requiring review by OMB unless OMB waives such review, if it is a regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this final rule have been examined and it has been determined not to be a significant regulatory action under Executive Order 12866.

**Regulatory Flexibility Act**

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule concerns only VA organization, procedure, or practice, specifically with respect to enrollment and disenrollment of VA beneficiaries, and will not have a significant economic impact on healthcare providers, suppliers, or other entities since only a small portion of the business of such entities concerns VA beneficiaries. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

**Catalog of Federal Domestic Assistance**

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.005, Grants to States for Construction of State Home Facilities; 64.007, Blind Rehabilitation Centers; 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.011, Veterans Dental Care; 64.012, Veterans Prescription Service; 64.013, Veterans Prosthetic Appliances; 64.014, Veterans State Domiciliary Care; 64.015, Veterans State Nursing Home Care; 64.016, Veterans State Hospital Care; 64.018, Sharing Specialized Medical Resources; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence; 64.022, Veterans Home Based Primary Care.

**Signing Authority**

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the **Federal Register** for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on August 19, 2010, for publication.

**List of Subjects in 38 CFR Part 17**

Administrative practice and procedure; Alcohol abuse; Alcoholism; Claims; Day care; Dental health; Drug abuse; Government contracts; Grant programs—health; Grant programs—Veterans; Health care; Health facilities; Health professions; Health records; Homeless; Mental health programs; Nursing homes; Philippines, Reporting and recordkeeping requirements; Veterans.

Dated: August 23, 2010.

**Robert C. McFetridge,**

*Director, Regulations Policy and Management, Office of the General Counsel, Department of Veterans Affairs.*

■ For the reasons set forth in the preamble, 38 CFR part 17 is amended as follows:

## PART 17—MEDICAL

■ 1. The authority citation for part 17 continues to read as follows:

**Authority:** 38 U.S.C. 501, 1721, and as noted in specific sections.

■ 2. Amend 17.36 by:
■ a. Removing and reserving paragraph (d)(4).
■ b. In paragraph (d)(5), introductory text, removing "or (d)(4)".
■ c. Revising paragraph (d)(5)(i).
■ d. In paragraph (d)(5)(ii), removing "; or" and adding, in its place, a period.
■ e. Removing paragraph (d)(5)(iii).
■ f. Revising paragraph (f).

The revisions and addition read as follows:

**§ 17.36 Enrollment—provision of hospital and outpatient care to veterans.**

* * * * *

(d) * * *

(5) * * *

(i) The veteran submits to a VA Medical Center or to the VA Health Eligibility Center, 2957 Clairmont Road, NE., Suite 200, Atlanta, Georgia 30329–1647, a signed and dated document stating that the veteran no longer wishes to be enrolled; or

* * * * *

(f) *VA Form 10–10EZ.* Copies of VA Form 10–10EZ are available at any VA medical center and at *https://www.1010ez.med.va.gov/sec/vha/1010ez/.*

* * * * *

[FR Doc. 2010–21297 Filed 8–26–10; 8:45 am]

BILLING CODE 8320–01–P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Medicare & Medicaid Services**

**42 CFR Part 424**

**[CMS–6036–F]**

**RIN 0938–AO90**

# Medicare Program; Establishing Additional Medicare Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Supplier Enrollment Safeguards

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Final rule.

**SUMMARY:** This final rule will clarify, expand, and add to the existing enrollment requirements that Durable Medical Equipment and Prosthetics, Orthotics, and Supplies (DMEPOS) suppliers must meet to establish and maintain billing privileges in the Medicare program.

**DATES:** These regulations are effective on September 27, 2010.

**FOR FURTHER INFORMATION CONTACT:** Barry Bromberg, (410) 786–9953 for general issues, on-site inspections, maintaining ordering and referring documentation, and hours of operation.

Kimberly McPhillips, (410) 786–5374 for issues related to compliance with applicable laws, appropriate sites, direct solicitation, oxygen suppliers, and prohibition on sharing a practice location.

**SUPPLEMENTARY INFORMATION:**

## I. Background

### *A. General Overview*

Medicare services are furnished by two types of entities, providers, and suppliers. At § 400.202, the term "provider" is defined as a hospital, a critical access hospital (CAH), a skilled nursing facility (SNF), a comprehensive outpatient rehabilitation facility (CORF), a home health agency (HHA), or a hospice that has in effect an agreement to participate in Medicare, or a clinic, a rehabilitation agency, or a public health agency that has in effect a similar agreement but only to furnish outpatient physical therapy or speech pathology services, or a community mental health center that has in effect a similar agreement but only to furnish partial hospitalization services. The term "provider" is also defined in sections 1861(u) and 1866(e) of the Social Security Act (the Act).

For purposes of the DMEPOS supplier standards, the term "supplier" is defined in § 424.57(a) as an entity or individual, including a physician or Part A provider, that sells or rents Part B covered DMEPOS items to Medicare beneficiaries that meet the DMEPOS supplier standards. This final rule applies to all DMEPOS suppliers and amends the DMEPOS supplier standards set forth at § 424.57(c). Those individuals or entities that do not furnish DMEPOS items but furnish other types of health care services only (for example, physician services or nurse practitioner services) would not be subject to this requirement. A supplier that furnishes durable medical equipment, prosthetics, orthotics, and suppliers (DMEPOS) is one category of supplier. Other supplier categories may include, for example, physicians, nurse practitioners, and physical therapists. If a supplier, such as a physician or physical therapist, also provides DMEPOS to a patient, then the supplier is also considered to be a DMEPOS supplier. The term "DMEPOS" encompasses the types of items included in the definition of medical equipment and supplies in section 1834(j)(5) of the Act.

In FY 2007, the Medicare program spent more than $10 billion for DMEPOS supplies, and in March 2008, there were 113,154 individual DMEPOS suppliers. However, due to the affiliation of some DMEPOS suppliers with chains, there were 65,984 unique billing numbers. The largest concentrations of DMEPOS suppliers were located in five States: California (approximately 9 percent), Texas (approximately 7 percent), Florida (approximately 7 percent), New York (approximately 6 percent) and Pennsylvania (approximately 5 percent). We believe that approximately 20 percent of the DMEPOS suppliers are located in rural areas throughout the United States and that the vast majority of DMEPOS suppliers are small entities (based on Medicare reimbursement alone).

The term "durable medical equipment" is defined at section 1861(n) of the Act. This definition, in part, excludes from coverage as DMEPOS, items furnished in SNFs and hospitals. Also, the term DMEPOS is included in the definition of "medical and other health services" in section 1861(s)(6) of the Act. Furthermore, the term is defined in § 414.202 as equipment furnished by a supplier or a HHA that—

- Can withstand repeated use;
- Is primarily and customarily used to serve a medical purpose;
- Generally is not useful to an individual in the absence of an illness or injury; and
- Is for use in the home.

Examples of DMEPOS supplies include items such as blood glucose monitors, hospital beds, nebulizers, oxygen delivery systems, and wheelchairs.

Prosthetic devices are included in the definition of "medical and other health services" under section 1861(s)(8) of the Act. Prosthetic devices are defined in this section of the Act as "devices (other than dental) which replace all or part of an internal body organ (including colostomy bags and supplies directly related to colostomy care), including replacement of such devices, and including one pair of conventional eyeglasses or contact lenses furnished subsequent to each cataract surgery with insertion of an intraocular lens." Other examples of prosthetic devices include cardiac pacemakers, cochlear implants, electrical continence aids, electrical nerve stimulators, and tracheostomy speaking valves.

Section 1861(s)(9) of the Act provides for the coverage of "leg, arm, back, and neck braces, and artificial legs, arms, and eyes, including replacement of required because of a change in the patient's physical condition." As indicated by section 1834(h)(4)(C) of the Act, these items are often referred to as "orthotics and prosthetics." Under section 1834(h)(4)(B) of the Act, prosthetic devices do not include parenteral and enteral nutrition nutrients and implantable items payable under section 1833(t) of the Act."

Section 1861(s)(5) of the Act includes "surgical dressings, splints, casts, and other devices used for reduction of fractures and dislocation" as one of the "medical and other health services" that is covered by Medicare. Other items that may be furnished by suppliers would include (among others):

- Prescription drugs used in immunosuppressive therapy furnished to an individual who receives an organ transplant for which payment is made under this title, and that are furnished within a certain time period after the date of the transplant procedure as noted at section 1861(s)(2)(j) of the Act.
- Extra-depth shoes with inserts or custom molded shoes with inserts for an individual with diabetes as listed at section 1861(s)(12) of the Act.
- Home dialysis supplies and equipment, self-care home dialysis support services, and institutional dialysis services and supplies included at section 1861(s)(2)(F) of the Act.
- Oral drugs prescribed for use as an anticancer therapeutic agent as specified in section 1861(s)(2)(Q) of the Act.
- Self-administered erythropoietin as described in section 1861(s)(2)(O) of the Act.

The National Supplier Clearinghouse (NSC) is the Center for Medicare & Medicaid Services' (CMS) designated national enrollment contractor for DMEPOS suppliers. The primary functions of the NSC are to: (1) Ensure that only qualified suppliers of DMEPOS are enrolled or remain enrolled in the Medicare program; (2) process enrollment application in timely and accurate manner; and (3) take the necessary actions to revoke enrolled suppliers who no longer meet supplier standards.

*B. Statutory Authority*

Various sections of the Act and the regulations require providers and suppliers to furnish information concerning the amounts due and the identification of individuals or entities that furnish medical services to beneficiaries before payment can be made. The following is an overview of the sections that grant this authority:

- Sections 1102 and 1871 of the Act provide general authority for the Secretary of Health and Human Services (the Secretary) to prescribe regulations for the efficient administration of the Medicare program. Under this authority, this final rule will require the collection of information from providers and suppliers for the purpose of enrolling in the Medicare program and granting privileges to bill the program for health care services furnished to Medicare beneficiaries.
- Sections 1814(a), 1815(a), and 1833(e) of the Act require the submission of information necessary to determine the amounts due a provider or other person.
- Section 1834(j)(1)(A) of the Act states that no payment may be made for items furnished by a supplier of medical equipment and supplies unless such supplier obtains (and renews at such intervals as the Secretary may require) a supplier number. In order to obtain a supplier billing number, a supplier must comply with certain supplier standards as identified by the Secretary.
- Section 1842(r) of the Act requires CMS to establish a system for furnishing a unique identifier for each physician who furnishes services for which payment may be made. To complete this, we need to collect information unique to that physician.
- Section 1862(e)(1) of the Act states that no payment may be made when an item or service was at the medical direction of an individual or entity that is excluded in accordance with sections 1128, 1128A, 1156, or 1842(j)(2) of the Act.
- Section 4312 of the Balanced Budget Act of 1997 (BBA) (Pub. L. 105–33) amended section 1834 of the Act to require that certain Medicare supplies of durable medical equipment, prosthetics, and supplies (DMEPOS) to furnish CMS with a surety bond in an amount not less than $50,000.
- Section 4313 of the BBA amended sections 1124(a)(1) and 1124A of the Act to require disclosure of both the Employer Identification Number (EIN) and Social Security Number (SSN) of each provider or supplier, each person with ownership or control interest in the provider or supplier, any subcontractor in which the provider or supplier directly or indirectly has a 5 percent or more ownership interest, and any managing employees including Directors and Board Members of corporations and non-profit organizations and charities. The "Report to Congress on Steps Taken to Assure Confidentiality of Social Security Account Numbers as Required by the Balanced Budget Act" was signed by the Secretary and sent to the Congress on January 26, 1999. This report outlines the provisions of a mandatory collection of SSNs and EINs effective on or after April 26, 1999.
- Section 31001(i)(1) of the Debt Collection Improvement Act of 1996 (DCIA) (Pub. L. 104–134) amended section 7701 of 31 U.S.C. by adding paragraph (c) to require that any person or entity doing business with the Federal Government must provide their Tax Identification Number (TIN).
- Section 936(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108–173) amended section 1866 of the Act by adding a new subsection (j)(1) to require the Secretary to establish a process for the enrollment of providers of services and suppliers.
- Section 302(a)(1) of MMA amended the Act to require the Secretary to develop quality standards for DMEPOS suppliers.
- Section 154(b) of the MIPPA amended the Act to establish a deadline for DMEPOS accreditation.

Section 6405(a) of the Affordable Care Act (ACA) requires that in order for payment for services to be made, a physician who orders DME for individuals must be a Medicare participating physician enrolled under section 1866(j) of the Act or an eligible professional under section 1848(k)(3)(B) of the Act that is enrolled under section 1866(j) of the Act.

We are authorized to collect information on the Medicare enrollment application (that is, the CMS–855, (Office of Management and Budget (OMB) approval number 0938–0685)) to ensure that correct payments are made to providers and suppliers under the Medicare program as established by Title XVIII of the Act.

## II. Provisions of the Proposed Rule

In the January 25, 2008 **Federal Register** (73 FR 4503), we published a proposed rule that clarified, revised, and added to the DMEPOS supplier standards in § 424.57.

In § 424.57(c)(1), we proposed to revise this supplier standard by adding language to clarify that a DMEPOS supplier must be licensed to provide licensed service(s) and cannot contract with an individual or entity to provide the licensed service(s).

The purpose of this standard is to ensure that DMEPOS suppliers obtain and maintain the necessary State licenses required to furnish the services provided to Medicare beneficiaries. In addition, we believe that each DMEPOS supplier is responsible for determining what licenses are required to operate a DMEPOS supplier's business. While the NSC maintains information regarding State licensure laws, we do not believe that the NSC is responsible for notifying any supplier of what licenses are required or that any changes have occurred in the State licensing requirements. We believe that we are enrolling DMEPOS suppliers, not third party agents that subcontract their operations to suppliers that are not enrolled or cannot enroll in the Medicare program. Therefore, to ensure that only qualified suppliers are enrolled or maintain enrollment in the Medicare program, we maintain that a DMEPOS supplier must be licensed to provide licensed service(s) and cannot contract with an individual or entity to provide the licensed service(s).

In § 424.57(c)(7), we proposed to clarify the supplier standard for maintaining a physical facility on an appropriate site. Specially, we proposed to clarify the term, "appropriate site." In addition, we stated that an "appropriate site" applies to "closed door" businesses, (such as pharmacies/suppliers providing services only to beneficiaries residing in a nursing home). We also solicited comments on whether we should establish a minimum square footage requirement to the definition of an appropriate site and what, if any, appropriate exceptions would apply to a minimum square footage requirement.

The supplier location must be accessible during posted business hours to beneficiaries and to CMS, and must maintain a visible sign and posted hours of operation. We believe that all DMEPOS suppliers must have a permanent, durable sign that is visible at the main entrance of the facility and

positioned so that it is visible to the public, including customers using wheelchairs.

In § 424.57(c)(8), we proposed to clarify this provision by revising (c)(8) to read as follows: "Permits CMS, the NSC, or agents of CMS or the NSC to conduct on-site inspections to ascertain supplier compliance with the requirements of this section." If the NSC or its agents are unable to perform a site visit during a supplier's posted business hours, the NSC would deny billing privileges for prospective applicants or would revoke the billing privileges of DMEPOS suppliers enrolled in the Medicare program.

In § 424.57(c)(9), we proposed to revise this supplier standard to exclude the use of cell phones and beepers/pagers as a method of receiving calls or using "call forwarding" to forward a call to a cell phone or beeper/pager from the public or beneficiaries during the supplier's posted hours of operation. We maintain that DMEPOS suppliers who are utilizing cell phones, call forwarding, beeper numbers, pagers, answering services or other methods to receive telephone calls in a location other than the place of business for business calls during their posted hours of operations are not in compliance with this standard and that DMEPOS suppliers who exclusively use answering machines or answering services during their posted hours of operations are not in compliance with this standard. Therefore, we revised this standard to read, "Maintains a primary business telephone that is operating at the appropriate site listed under the name of the business locally or toll-free for beneficiaries. The use of cellular phones, beeper numbers, and pagers as the primary business phone is prohibited. Additionally, DMEPOS suppliers are prohibited from forwarding calls from the primary business telephone listed under the name of the business to a cellular phone, or a beeper/pager. The exclusive use of answering machines, answering services or facsimile machine (or combination of these options) cannot be used as the primary business telephone during posted operating hours."

In § 424.57(c)(10), we proposed to revise this provision to specify that the DMEPOS supplier has a comprehensive liability insurance policy in the amount of at least $300,000 per incident that covers both the supplier's place of business and all customers and employees of the supplier and ensures that insurance policy must remain in force at all times. In addition, we proposed that a DMEPOS supplier must list the NSC as a certificate holder on the policy and notify the NSC in writing within 30 days of any policy changes or cancellations.

In § 424.57(c)(11), we proposed to revise this supplier standard to clarify that suppliers cannot directly solicit patients, which includes, but is not limited to, a prohibition on telephone, computer e-mail or instant messaging, coercive response Internet advertising on sites unrelated to DMEPOS products, or in-person contacts. We also proposed that DMEPOS supplier may only contact the Medicare beneficiary under the current provisions at § 424.57(c)(11)(i) through (iii). We believe that if CMS or the NSC through on-site inspection obtains or develops evidence that a DMEPOS supplier has made prohibited contacts with Medicare beneficiaries in violation of the provisions found in this section that CMS or the NSC may revoke that supplier's billing privileges, and may determine if such billing may be for fraudulent or unnecessary supplies.

In § 424.57(c)(12), we proposed to revise the provision to clarify its intent. Specifically, we proposed that a DMEPOS supplier: (1) Is responsible for maintaining proof of the delivery in the beneficiary's file; (2) must furnish information to beneficiaries at the time of delivery of items as to how the beneficiary can contact the supplier by telephone; (3) must provide the beneficiary with instructions on how to safely and effectively use the equipment or contract this service to a qualified individual; (4) is responsible for providing instruction on the safe and effective use of the equipment that should be completed at the time of delivery; and (5) must document that this instruction has taken place. Our proposal was based on the belief that a DMEPOS supplier is solely responsible for delivery of Medicare-covered items and for instruction on the use of those items. While we believe that a DMEPOS supplier may choose to contract out the delivery of Medicare-covered items to another individual or entity, the DMEPOS supplier has ultimate responsibility for ensuring delivery in accordance with this standard and for maintaining all necessary documentation to demonstrate that the beneficiary received the Medicare-covered item and appropriate instructions for its use. We believe that our revised interpretation of this section will help to ensure that instructions for the safe and appropriate use of products will be given to beneficiaries.

In § 424.57(c)(27), we proposed a new standard that specified that the DMEPOS supplier must obtain oxygen from a State-licensed oxygen supplier. To ensure that DMEPOS suppliers meet and maintain this standard, we believe that DMEPOS suppliers who are supplying oxygen must contract with a supplier licensed by the State to provide them with oxygen. Obviously, this standard does not apply when the State does not license oxygen suppliers. We understand that in certain areas, DMEPOS suppliers may obtain oxygen from oxygen suppliers in other States. However, when a DMEPOS supplier is located in a State where licensure is required, then they must obtain their oxygen from a State-licensed oxygen supplier, regardless of which State the oxygen supplier obtained their licensure. We believe that this standard would help to protect Medicare beneficiaries and promote quality in the furnishing of oxygen.

In § 424.57(c)(28), we proposed a new supplier standard that states that the supplier is required to maintain ordering and referring documentation, including the National Provider Identifier, received from a physician, nurse practitioner, physician assistant, clinical social worker, or certified nurse midwife, for 7 years after the claim has been paid. We maintain that a DMEPOS supplier should retain the necessary ordering and referring documentation received from physicians, nurse practitioners, physician assistants, clinical social workers, or certified nurse midwives to assure themselves that coverage criterion for an item has been met. If the information in the patient's medical record does not adequately support the medical necessity for the item, the supplier is liable for the dollar amount involved unless a properly executed Advance Beneficiary Notice of possible denial has been obtained.

In § 424.57(c)(29), we proposed a new standard that specifies that the supplier is prohibited from sharing a practice location with another Medicare supplier. In addition, we solicited comments on whether we should establish an exception to this space sharing proposal for physicians and nonphysician practitioners and the circumstances which warrant an exception since we are aware that physicians and other licensed nonphysician practitioners may obtain their own DMEPOS supplier number and furnish DMEPOS from their office. We believe that allowing a DMEPOS supplier to commingle its practice location with another DMEPOS supplier effectively limits the ability of CMS and the NSC to ensure that each DMEPOS supplier meets all of the supplier standards specified at § 424.57. Since we are aware that physicians and other licensed nonphysician practitioners

may obtain their own DMEPOS supplier number and furnish DMEPOS from their office, we solicited comments on whether we should establish an exception to this space sharing proposal for physicians and nonphysician practitioners and the circumstances which warrant an exception.

In § 424.57(c)(30), we proposed a new supplier standard that would require a DMEPOS supplier to be open to the public a minimum of 30 hours per week, except for those DMEPOS suppliers who are working with custom-made or fitted orthotics and prosthetics. We believe that most legitimate DMEPOS suppliers are open to the public for more than 40 hours per week and that all legitimate DMEPOS would need to be open a minimum of at least 30 hours per week in order to attract, retain, and serve Medicare beneficiaries. Given that Medicare beneficiaries may not be able to find transportation during limited operating hours, the DMEPOS supplier must be open and available for periods long enough for beneficiaries to readily access their facility. We believe that most legitimate DMEPOS suppliers are open to the public for more than 40 hours per week and that all legitimate DMEPOS would need to be open a minimum of at least 30 hours per week in order to attract, retain, and serve Medicare beneficiaries. To ensure that DMEPOS suppliers are able to report any change in their posted business hours, we are proposing to revise the CMS–855S Medicare enrollment application to accommodate this proposed change.

In § 424.57(c)(31), we proposed to add a new supplier standard that specified that a DMEPOS supplier could not have Internal Revenue Service (IRS) or a State taxing authority tax delinquency. We also proposed to define a "tax delinquency" as meaning an amount of money owed to the United States or a State: a conviction or civil judgment for tax evasion, a criminal or civil charge of tax evasion, or the filing of a tax lien.

In § 424.57(d), we proposed to redesignate the current text as paragraph (d)(1) and proposed adding a new paragraph that specified that "CMS, the NSC, or CMS designated contractor establishes a Medicare overpayment from the date of an adverse legal action or felony conviction (including felony convictions within the 10 years preceding enrollment or revalidation of enrollment) that precludes payment. In addition, we proposed that any overpayment assessed by CMS or its designated contractor due to a lack of reporting would follow the existing rules governing Medicare overpayments set forth at § 405.350 et seq. We believe that § 424.57(d)(2) is necessary because some DMEPOS suppliers fail to report adverse legal actions and felony convictions to the NSC within the 30 days of the reportable event. Since it is essential that DMEPOS suppliers notify the NSC of all adverse legal actions and felony convictions within 30 days of the reportable event, we believe that it is essential to establish this new provision. This new provision would allow the CMS, the NSC, or a designated Medicare contractor the authority to assess and collect an overpayment from the time of the reportable event. In addition, the CMS, the NSC, or a designated CMS contractor would revoke the DMEPOS supplier's Medicare billing privileges, in accordance with § 424.57(d)(1), if the legal adverse action or felony conviction precludes participation in or payment from the Medicare program.

## III. Analysis of and Responses to Public Comments

In the January 25, 2008 **Federal Register** (73 FR 4503), we published a proposed rule that clarified, revised, and added to the DMEPOS supplier standards in § 424.57.

We received 208 timely comments in response to the proposed rule. In this section of the final rule we present a summary of our proposals and address the comments received on these proposals.

### *A. Clarifications and Revisions of Existing DMEPOS Supplier Standards*

1. Licensure Requirements

In § 424.57(c)(1), we proposed to revise this supplier standard by adding language to clarify that a DMEPOS supplier must be licensed to provide licensed service(s) and cannot contract with an individual or entity to provide the licensed service(s). These licensed services include but are not limited to supplying oxygen or a general DMEPOS license.

*Comment:* A commenter believes the NSC should maintain and make available, a list of each State's licensing requirements.

*Response:* The National Supplier Clearinghouse (NSC) does maintain information regarding State licensure laws for DMEPOS suppliers on its Web site (see *http://www.palmettogba.com/nsc).* However, the DMEPOS supplier is ultimately responsible for determining what business, product and other applicable licenses are required for his or her business, regardless of the accuracy of the information provided on the NSC Web site. We also believe it is the business owner's responsibility to be aware of any changes in the State licensing requirements for his or her business. During the enrollment and reenrollment process the NSC verifies that the DMEPOS supplier is in compliance with all applicable State licensing requirements.

*Comment:* Several commenters supported requiring DMEPOS suppliers to be licensed for all services they provide and that DMEPOS suppliers should not be allowed to contract out for these services. In addition, one commenter stated that the changes proposed to the licensure requirement for Medicare suppliers are necessary and beneficial.

*Response:* We agree and are revising § 424.57(c)(1)(ii)(C) to address the commenters' concern regarding contracting out of services. In addition, this requirement applies to the competitive bidding program as governed by part 414, subpart F.

*Comment:* A commenter believes that because of the complexity of State licensing requirements, it is too severe to revoke all billing numbers when licensing requirements are not met in only one State.

*Response:* We do not believe that there are any exceptions to State licensing requirements, unless the State in which the DMEPOS supplier furnishes services provides for such an exception, and that exception does not conflict with Federal law. Moreover, while a DMEPOS supplier can enroll using a single tax identification number (TIN) for one or more practice locations, a DMEPOS supplier also may obtain different TINs for each practice location. If the DMEPOS supplier makes the business decision to enroll multiple practice locations under the same TIN, a revocation by the NSC of this TIN will necessitate the revocation of related businesses associated with that TIN.

*Comment:* One commenter stated that restricting licensed professionals to W–2 employees likely will increase overall operating expenses and requested that we clarify that licensed professionals may be hired as either part-time or full-time employees.

*Response:* We agree and have revised § 424.57(c)(1)(ii) to clarify that the licensed professionals must be part-time or full-time employees.

*Comment:* A commenter stated that § 424.57(c)(1)(ii) as written, would allow DMEPOS suppliers to contract with nonlicensed individuals to avoid contracting with licensed individuals. In addition, it would not be financially feasible for all DMEPOS suppliers to have licensed professionals on staff, and therefore, CMS should allow contracting for services as long as they are in compliance with State requirements.

*Response:* We do not believe that this provision is written in such a way as to allow DMEPOS suppliers to contract with nonlicensed individuals to avoid employing part-time or full-time W–2 employees. In addition, we believe that a DMEPOS supplier who does not have a licensed individual on staff (part-time or full-time) as a W–2 employee would be in violation of § 424.57(c)(1). Moreover, while we are concerned with the financial burden placed on small businesses, we recognize that a certain amount of capital is required to establish and maintain a business. To this end, we believe that enrolled DMEPOS suppliers should be required to meet State licensing qualifications, rather than subcontracting to a third-party agent who may or may not be qualified. Moreover, since we cannot ensure with any degree of certainty, the qualifications of a subcontracted individual or his or her compliance with Federal, State, and local licensure requirements, we believe the Medicare program and its Medicare beneficiaries would be better served if we could verify that a DMEPOS supplier meets the applicable State licensing requirements for a DMEPOS supplier's chosen specialty.

*Comment:* One commenter questioned whether CMS considers a co-employment arrangement with a Professional Employment Organization to be compliant or noncompliant with this proposed rule.

*Response:* We would consider a co-employment arrangement with a professional employment organization to be compliant with this proposed rule provided any licensed services are performed by an individual who receives a W–2 with the DMEPOS supplier's legal business name on it. For situations of co-employment, the W–2 also may have the legal business name of the professional employment organization, but this must be in addition to the DMEPOS supplier's legal business name.

*Comment:* A commenter requested that physical therapy clinics be exempt from the requirement for State certification that applies to DMEPOS suppliers because it will affect patient access to necessary care if the physical therapy clinic in which an individual was being treated was not certified as a DMEPOS supplier and that it is an unnecessary burden to apply the same rules to licensed health care professionals as supplier companies.

*Response:* We believe that enrolled DMEPOS suppliers should meet all applicable State licensing requirements. We do not believe it is an unnecessary burden to apply the same rules to licensed health care professionals as supplier companies; in fact, to do otherwise would allow different regulatory and compliance standards to emerge. Finally, many of the rules of licensed health care professionals and many of the rules of the supplier companies are not duplicative or consecutive; rather, they are cumulative.

*Comment:* Several commenters believe that the licensing requirement provision is too restrictive and should be revised to state that properly licensed personnel are available to furnish the offered services. In addition, these commenters stated that the current language is too broad and would include administrative staff.

*Response:* This final regulation states that a DMEPOS supplier must be in compliance with Federal, State, and local laws and requirements. It also states a DMEPOS supplier cannot contract with an individual or other entity to provide licensed services. This requirement only would apply to a DMEPOS supplier's administrative staff if the administrative staff member is also responsible for providing a licensed service for the DMEPOS supplier. Moreover, we are promoting a State's prerogatives on licensure by imposing this requirement only in States where there are no such rules for contracting for licensed services. Rather, we are hoping to diminish the chance of fraudulent practices by requiring that a DMEPOS supplier directly furnish licensed services.

*Comment:* One commenter believes disallowing contracting with individuals or entities is unfair to the small supplier.

*Response:* While we are concerned with the potential financial burden that this change imposes on small businesses, and we will monitor the impact of this requirement on small businesses. We believe that small DMEPOS suppliers should meet the applicable State licensing requirements for the services they provide.

*Comment:* One commenter recommended that rather than restricting the practice of contracting with licensed personnel, CMS should require the supplier to purchase additional insurance to cover the licensed person.

*Response:* We believe that a DMEPOS supplier must meet the applicable State licensing requirements for the services they provide to Medicare beneficiaries. In addition, while we agree that additional insurance may provide additional protection for the supplier, it does not help to ensure that a Medicare beneficiary is receiving quality products and instruction from a licensed individual and we will allow contracting for licensed services only when the State where the item or service is supplied permits a DMEPOS supplier to contract for licensed services. Moreover, we believe that DMEPOS suppliers participating in competitive bidding must maintain all applicable State licenses for the products and services they are bidding on or furnishing in each competitive bidding area. In addition, we believe that it is the responsibility of DMEPOS suppliers participating in competitive bidding to ensure that any subcontractor obtains and maintains all appropriate State licenses in the area where they are providing services. We maintain that DMEPOS suppliers awarded a competitive bidding contract and that are subcontracting will be allowed on a phase-in basis for licenses services and licensed professionals participating in competitive bidding.

*Comment:* One commenter believes that this regulation is in conflict with some State licensing requirements, as some States permit DMEPOS suppliers to comply with its State licensing requirements by contracting with an individual or other entity to provide the licensed service. In addition, the commenter states a Federal regulation cannot supersede the historic police powers of the State unless it was the clear and manifest purpose of the Congress (*see Downhaur* v. *Somani*).

*Response:* We agree with this commenter because, State licensing laws and regulations on the licensure of DMEPOS suppliers govern how DMEPOS suppliers furnish items within a particular State. Therefore, we maintain that a DMEPOS supplier can contract for licensed services only when the State where the licensed service is being provided allows for this sort of arrangement consistent with § 424.57(c)(1)(ii)(C).

*Comment:* A commenter does not believe that CMS should be in the business of professional licensing.

*Response:* It is important to note that we require the DMEPOS supplier to be State licensed, not to obtain a license from CMS. This change will help to ensure that DMEPOS suppliers are meeting State licensing requirements.

*Comment:* Several commenters recommended that the provision of not contracting out licensed services and the W–2 employee provisions of this standard only apply when not addressed by State licensing requirements.

*Response:* We agree with these commenters. We believe that DMEPOS suppliers must meet all applicable State licensing requirements and that this

standard will only apply when not addressed by State licensing requirements.

*Comment:* Several commenters do not believe it should matter if the service is furnished by a W–2 employee or a 1099 contractor so long as both are properly licensed with no adverse legal action current or pending.

*Response:* We agree with these commenters because a DMEPOS supplier is accountable for meeting the applicable State licensing requirements, and by requiring that W–2 employees or a 1099 contractor (when allowed by State law) of the supplier are appropriately licensed, the NSC can verify that a DMEPOS supplier is meeting all applicable State licensing requirements.

*Comment:* One commenter stated that they are opposed to the revisions in § 424.57(c)(1) because it would prevent all but the largest DMEPOS suppliers from bidding on contracts under the DMEPOS competitive bidding program because smaller businesses would not be able to hire staff all the potential licensed professionals as W–2 employees.

*Response:* We want to clarify that the employment requirement will not apply to contract suppliers participating in the competitive bidding program and we have reflected this intention in § 424.57(c)(1)(ii)(B).

*Comment:* Several commenters believe that the proposed rule conflicts with the rules for participation in the competitive bidding program, as the competitive bidding program itself allows items and services in a product category to be supplied directly or through a subcontractor and provides safeguards to allow subcontracting.

*Response:* We agree with these commenters, and have revised § 424.57(c)(1)(ii)(B) to reflect that the employment requirement for the furnishing of licensed services does not apply to contract suppliers participating in the competitive bidding program.

*Comment:* One commenter stated that this regulation conflicts with CMS' accreditation standards which permit contracting for licensed services, so long as the DMEPOS supplier complies with State licensure laws and is ultimately responsible for the services provided by a contractor.

*Response:* We have amended § 424.57(c)(1) to permit contracting for licensed services, so long as the State where the licensed services are being performed allow for such contracting and the DMEPOS supplier complies with State licensure laws and is ultimately responsible for the services provided by a contractor. The supplier standards in § 424.57 are separate from the quality standards which are used by accrediting organizations. This regulation does not conflict with our accreditation standards listed at § 424.57(c)(22) through (c)(25).

*Comment:* A commenter stated that the proposed rule is unnecessary because many of the DMEPOS suppliers must be accredited by September 30, 2009 on top of already having to meet the State licensure requirements. Moreover, supplier's ability to use subcontractors for the purpose of assuring service throughout a competitive bidding area would be limited which could disadvantage the small suppliers compared to large suppliers.

*Response:* We disagree with these commenters because a DMEPOS supplier is accountable for meeting the applicable State licensing requirements, and by requiring DMEPOS suppliers to employ individuals who are appropriated licensed, the NSC can verify that a DMEPOS supplier is meeting all applicable State licensing requirements.

*Comment:* Several commenters stated that the standard to prohibit a DMEPOS supplier from contracting with an individual or other entity to provide the licensed service places an unfair burden on small suppliers who at times must contract with licensed personnel or provide specific services to the supplier's patients. Also, this requirement makes it seem like CMS is singling out DMEPOS suppliers by not allowing them the use of staffing agencies when demand is great. In addition, the commenter believes that this standard would restrict suppliers that have full time respiratory therapists from hiring temporary licensed respiratory therapists during times of vacation, illness or increased staffing needs, and have a detrimental effect on patient's access to care and restrict respiratory therapists from performing duties in the patient's home.

*Response:* We believe that a DMEPOS supplier must be licensed to provide licensed services, and therefore, we are not adopting any exceptions to this provision except where a State permits contracting for licensed services. In addition, many small businesses currently have an owner or W–2 employee who is licensed to provide a service that requires a State licensure. We believe that the changes we are adopting in this final regulation will not have a detrimental effect on patient's access to care and do not restrict respiratory therapists from performing duties in the patient's home. Finally, as stated previously, we are clarifying that DMEPOS supplier may hire a licensed W–2 employee on a part-time or full-time basis and we will permit contracting for licensed services, so long as the State permits contracting for licensed services and the DMEPOS supplier complies with State licensure laws and is ultimately responsible for the services provided by a contractor.

*Comment:* One commenter asks how disallowing the contracting of licensed individuals could affect competitive bidding, given that a supplier is required to submit a bid for all of the oxygen modalities.

*Response:* When allowed under State law, we will permit contracting for licensed services, so long as the DMEPOS supplier complies with State licensure laws and is ultimately responsible for the services provided by a contractor. In order for a DMEPOS supplier to be able to participate in the DMEPOS competitive bidding program, the supplier must comply with all of the DMEPOS supplier standards and be enrolled in the Medicare program as a DMEPOS supplier.

*Comment:* One commenter asked if this rule is requiring all oxygen suppliers to directly provide liquid oxygen since CMS competitive bidding rules allow for contracting in certain areas.

*Response:* No, all oxygen suppliers do not need to directly provide liquid oxygen. A supplier can use a qualified subcontractor to deliver oxygen. If the supplier is not in a competitive bidding area and does not furnish liquid oxygen as part of their business model and the prescription specifically indicates that the physician is ordering liquid oxygen, the supplier would either need to get approval from the ordering physician to furnish a different modality or refer the beneficiary to another supplier. If a physician orders liquid oxygen in areas that fall under competitive bidding, then the oxygen supplier must supply liquid oxygen.

*Comment:* A commenter stated that the proposed rule would result in different Federal requirements for hospital-based DMEPOS suppliers based solely on the location of the supplier and further disadvantage hospitals because hospitals generally use independent contractors to perform its services.

*Response:* We disagree with this commenter because all DMEPOS suppliers, including those based at hospitals or operated by other providers, are required to meet State licensing requirement for the services they provide. This change will enable CMS or our designated contractor to verify that the supplier is meeting the

applicable State licensing requirements for the services that it furnishes.

2. Physical Facility—Appropriate Site

In § 424.57(c)(7), we proposed to clarify the supplier standard for maintaining a physical facility on an appropriate site. Specially, we proposed to clarify the term, "appropriate site." In addition, we stated that an "appropriate site" applies to "closed door" businesses (such as pharmacies/suppliers providing services only to beneficiaries residing in a nursing home). We also solicited comments on whether we should establish a minimum square footage requirement to the definition of an appropriate site and what, if any, appropriate exceptions would apply to a minimum square footage requirement.

*Comment:* One commenter recommended that a minimum square footage requirement be established so the suppliers cannot qualify for participation in the Medicare program with unsuitable locations. This commenter stated that square footage should be adequate to store the necessary inventory.

*Response:* We appreciate this comment and have adopted a minimum square footage requirement of 200 square feet in § 424.57(c)(7). We agree with this commenter that a DMEPOS supplier must maintain a minimum area of space for inventory, storage, and including patient records.

*Comment:* Several commenters stated that the variability between suppliers and services provided are too great to set a minimum number of square feet required to attain a supplier number.

*Response:* We appreciate these comments and considered them in establishing minimum square footage requirements within § 424.57(c)(7).

*Comment:* A number of commenters opposed the establishment of a specific square footage requirement for supplier' physical locations.

*Response:* Since many DMEPOS suppliers who do not have a minimum square footage have been determined in the past to be fraudulent suppliers or have provided less than sufficient services to Medicare beneficiaries, we believe that a minimum square footage requirement is necessary to ensure that DMEPOS suppliers are operating a legitimate business. However, based on public comments, we were concerned that establishing a minimum square footage requirement of 500 square feet may impose an undue burden for some suppliers. Accordingly, based on public comments and our review of existing supplier operations, we are adopting a minimum square footage of 200 square feet per practice location. We believe that 200 square feet represents the smallest practice location that can be used to meet the supplier standards in § 424.57. Specifically, we would expect that most practice locations have space for inventory, storage, including patient records, a desk and chairs, and in most cases a restroom for employees and customers.

*Comment:* One commenter recommended that we clarify that DMEPOS suppliers may continue to utilize centralized business centers to house beneficiary and other business records and centralized customer call centers are permissible under this revised standard.

*Response:* We believe that it is necessary to have prompt access to delivery, maintenance, and beneficiary records at the supplier's facility where the beneficiary receives services. This enables the beneficiary to promptly obtain necessary information and for CMS and our agents to perform a review of the records. We agree that the use of a centralized business center by a multisite supplier to house these records when the information in the records can be furnished to the beneficiary or CMS and our agents, or both. For example, the supplier location could use a computer terminal to access the records which are being stored off site. Then, it could express mail the documents requested.

*Comment:* A commenter stated that it is not economically feasible for a small supplier to maintain a storefront.

*Response:* We do not require that a DMEPOS supplier maintain a storefront, and if the DMEPOS supplier chooses to maintain a storefront, it may be coupled with its storage space for DMEPOS. However, if the supplier is in a commercial building, the sign can be posted at the entrance of the building. We believe that it is essential for our beneficiaries and site reviewers to be able to promptly locate the supplier. Therefore, the signage must be readily visible to the general public. We understand the concerns that additional costs may be incurred for small businesses. However we believe that the majority of our DMEPOS suppliers already meet this requirement. Additionally, those DMEPOS suppliers with less than the 200 square foot minimum space and who have entered into a long term lease before the publication of this final rule will have time to transition into a new location, as explained later in this rule.

*Comment:* Several commenters stated that they do not support CMS' proposal to micromanage a supplier's business operation by dictating size, hours, staffing, and access via a single standard without exception for the specific services being furnished.

*Response:* We believe that the provisions of § 424.57(c)(7) are designed to ensure that DMEPOS suppliers conform to generally accepted business practices employed by quality suppliers.

*Comment:* Several commenters believe it would be in CMS's best interest to retain the current policy which allows for a central record storage location for multi-State DME suppliers.

*Response:* We agree that multistate DME suppliers can maintain central record storage locations and have amended the regulations text in § 424.57(c)(7)(i) to reflect this concern.

*Comment:* One commenter stated that there can be a problem with the requirement of external signage when it conflicts with local zoning ordinances.

*Response:* We believe that prospective suppliers of DMEPOS and existing suppliers of DMEPOS must understand and comply with the supplier standards found in this section. Accordingly, prospective suppliers of DMEPOS should ensure that their practice location meets the requirements found in § 424.57(c)(7) and the other supplier standards found in this section prior to buying or entering into a leasing arrangement for a given practice location. For example, if the owner of prospective supplier of DMEPOS knows or should have known that local zoning ordinances preclude the establishment of home-business in a residential neighborhood, then the prospective supplier of DMEPOS should make the business decision to: (1) Obtain a waiver to the local zoning ordinance in advance of submitting their enrollment application to the NSC; or (2) select a different practice location that will ensure the supplier's compliance with the requirements specified in § 424.57(c)(7).

*Comment:* One commenter stated that it may not be possible to fulfill the signage requirement because the owner of the building may not allow the posting of the sign, and that the patients that they see are by appointment only so posting a sign with office hours is not necessary.

*Response:* As previously stated, we believe that prospective suppliers of DMEPOS and existing suppliers of DMEPOS must understand and comply with the supplier standards found in this section. Accordingly, prospective suppliers of DMEPOS should ensure that their practice location meets the requirements found in § 424.57(c)(7) and the other supplier standards found in this section prior to buying or entering into a leasing arrangement for a given practice location. Accordingly,

we disagree with this commenter, and believe that it is essential that the beneficiaries and CMS agents can clearly see where the supplier is located and the supplier's hours of operation. If the building owner will not allow the posting of hours of operation, then the DMEPOS supplier should consider the supplier site to be inappropriate for a business that serves Medicare beneficiaries. Even for suppliers that take appointments, we believe that proper signage and posted hours are required for proper beneficiary information.

*Comment:* One commenter believes it is not always possible to give the NSC prior notice to a change in the hours of operation.

*Response:* While we understand that suppliers have 30 days to notify the NSC of change in posted business hours, we do not believe that legitimate suppliers routinely change their posted hours of operation frequently. Moreover, there is nothing in our current rules or within this final regulation which precludes a DMEPOS supplier from notifying the NSC prior to or at the time a change of posted business hours are implemented.

*Comment:* A commenter stated that size and space requirements are already established in the accreditation process, and therefore, are unnecessary as a separate supplier standard.

*Response:* Since the requirements included within accreditation standards set forth in § 424.57(c)(21) through § 424.57(c)(25) and quality standards are independent of the supplier standards in § 424.57, we believe that it is appropriate to establish a minimum square footage requirement to assist us in determining whether a DMEPOS supplier is operating a legitimate business as neither of the aforementioned sets of standards include a provision for minimum square footage.

*Comment:* One commenter requested what defines a permanent, durable sign and noted that sometimes it may be necessary to have permanent signage attached to the glass panel of a facility.

*Response:* While we have not defined what constitutes a permanent durable sign, there is no requirement that a permanent sign be or not be attached to a glass panel.

*Comment:* Several commenters suggested that an exemption should be granted when it is necessary for the office to be temporarily closed during posted office hours to account for holidays, natural disasters, short-term closures, patient deliveries, emergencies, and other unforeseen occurrences.

*Response:* We note that we have always made exceptions concerning posted hours for disasters and emergencies and Federal and State holidays. However, while we recognize that personal emergencies do occur, we believe that suppliers should be available during posted business hours. Moreover, we believe that a DMEPOS supplier should do its best to plan and staff for temporary absences.

*Comment:* One commenter believes the minimum square footage requirement causes potential issues for orthotic and prosthetic suppliers since the lab area is separate from the patient area and is often located off-site. The patient interaction area is most important, but since this area can be as small as 80 square feet, the size requirement should not be imposed as to orthotic and prosthetic suppliers.

*Response:* We agree with the concerns raised by this commenter and have adopted an exception to § 424.57(c)(7) for State-licensed orthotic and prosthetic personnel in private practice as one of the exceptions to this provision.

*Comment:* One commenter suggests that rather than mandating a certain amount of square footage, an alternative could be a rule indicating that the office space must consist of an ADA accessible reception area, a minimum of one examination room and a restroom, unless there is a common area restroom.

*Response:* We believe that it would be very difficult for us to develop specifications for these items. Moreover, we believe that doing so would likely be more restrictive for some types of suppliers.

*Comment:* One commenter notes that in most leased spaces, especially in medical buildings, the signage locations are predetermined, and therefore, the commenters do not believe a quality standard should mandate signage on the exterior of the building.

*Response:* We believe that the sign must be visible at the main entrance of the facility and visible to the public. Therefore, in a public medical building, the sign could be posted in the main lobby entrance if access to the lobby is available to the general public.

*Comment:* One commenter recommended that if CMS does set minimum square footage requirements that we give suppliers time for the expiration of current leases and to obtain a new location or "grandfather" locations already in use.

*Response:* We agree with this commenter and will establish a 3-year phase-in period for those existing suppliers of DMEPOS who have signed leases, including long-term leases, on or before the publication date of this final rule. We believe that this phase-in period will provide small businesses with sufficient time to identify a practice location that meets the minimum square footage requirement. We will make this requirement effective for existing DMEPOS suppliers 3 years from the effective date of this regulation. However, we do not believe that it is appropriate to establish a similar requirement for prospective suppliers of DMEPOS, including those suppliers who have a pending enrollment application with the NSC. Consequently, we expect prospective DMEPOS suppliers to comply with this requirement as of the effective date of this regulation. As prospective DMEPOS suppliers seek billing privileges after the effective date of this regulation, we expect them to comply with this requirement in order to be enrolled in Medicare.

*Comment:* One commenter is concerned that the minimum square footage requirement may be over interpreted as a means to shut down legitimate suppliers (for example, a legitimate supplier being 25 feet short after the rule becomes effective but having a 5-year lease to fulfill).

*Response:* We proposed the minimum square footage as a basis for ensuring that legitimate suppliers are meeting the supplier standards in § 424.57 and that these suppliers are providing quality products and services to Medicare beneficiaries. As stated previously, we will impose this requirement on those suppliers who have entered into leases, including long-term leases, on or before the date of publication of this final rule. Accordingly, we maintain that DMEPOS suppliers who had entered into lease arrangements of 1 year or less must come into compliance with this provision at the end of their current lease. Similarly, DMEPOS suppliers who have entered into leasing arrangements of more than 1 year but less than 3 years must come into compliance with this standard at the end of their current lease; and that all existing DMEPOS suppliers must come into compliance with this standard within 3 years of the effective date of this final rule.

Finally, while we are establishing a transition period for implementation of this requirement for DMEPOS suppliers already enrolled in the Medicare program, we are not adopting a transition period for DMEPOS suppliers enrolling a new practice location, reactivating the billing privileges for a DMEPOS supplier previously enrolled in the Medicare program or for DMEPOS suppliers changing their existing

practice location or selling their existing practice location.

*Comment:* One commenter notes that licensing and accrediting bodies inspect suppliers' facilities to assure the supplier has a legally defined means of providing care. The commenter believes that Medicare should have no role in determining the appropriateness of a supplier's facility.

*Response:* While we agree that licensing and accreditation are essential elements for ensuring quality of care, we disagree with the commenter that CMS or our designated contractor should have no role in determining the appropriateness of a supplier's facility. Since the implementation of the DMEPOS supplier standards in October of 2000, we have played an important role in determining the appropriateness of a supplier's facility via regulation at § 424.57.

*Comment:* One commenter questioned why the square footage matters if a supplier meets all requirements and has Medicare beneficiaries coming to the supplier's physical location where products are stocked and provided.

*Response:* We maintain that an appropriate amount of square footage is generally necessary to ensure that the facility can meet its obligations to a beneficiary which include an area for the beneficiary to sit, or room for a wheelchair and room for it to turn/move around, as well as room for stock and for the equipment necessary for running a business. In addition, in the past many suppliers with very minimal square footage have been determined to be fraudulent or have provided inferior service to Medicare beneficiaries.

*Comment:* One commenter questioned whether it is CMS' intent to require suppliers to be a retail-type business by mandating minimum square footage which needlessly drives up the cost of doing business for nonretail suppliers.

*Response:* While "closed door" businesses are eligible to participate in the Medicare program, we believe that it is necessary to include a minimum square footage into what is considered an appropriate site. We understand there may be concern that this requirement may cause a change in business practices for smaller suppliers and could possibly result in increased costs. However, we believe that most DMEPOS suppliers are already meeting this standard.

*Comment:* A commenter stated that the minimum square footage requirement is not appropriate because the Federal rule would preempt State or local land use or supplier laws already in place and will not take into account the supplier's operations or the needs of the beneficiaries being serviced.

*Response:* We disagree with this commenter. While we are not preempting State and local land use laws, we are establishing criteria to enroll in the Medicare program as a DMEPOS supplier. We believe that this revised criterion will help to ensure that Medicare beneficiaries receive quality services from quality suppliers.

*Comment:* A commenter stated that the minimum square footage requirement is unnecessary for suppliers' facilities that are not intended for beneficiary access and that this proposed standard blurs the distinction between a classic retail establishment and a service facility dedicated to the provision of supplies and equipment to patients in their homes. In addition, the commenter requests that CMS consider different business models for supplier standards, including suppliers that provide quality items and services to beneficiaries, but do not operate facilities intended to be stores for in-person access.

*Response:* We disagree with this commenter. Since most DMEPOS suppliers are not solely service facilities, we believe that these enrolled suppliers must provide reasonable access for Medicare beneficiaries in the event that a beneficiary has a problem or requires prompt service. It is also essential that CMS or our agents have access during posted hours of operations to ensure that the supplier continues to meet the supplier standards in § 424.57.

*Comment:* A commenter suggests that CMS consider that the appropriate size of a facility is based on the services provided, the size of the organization and the status of the location.

*Response:* We appreciate this comment and have considered these factors in adopting a minimum square footage requirement for DMEPOS suppliers. As noted previously, we maintain that an appropriate amount of square footage is generally necessary to ensure that the facility can meet its obligations to a beneficiary which include an area for the beneficiary to sit, or room for a wheelchair and room for it to turn/move around, as well as space for inventory, patient records and equipment necessary for running a business.

3. On-Site Inspections

In § 424.57(c)(8), we proposed to clarify this provision by revising (c)(8) to read as follows: "Permits CMS, the NSC, or agents of CMS or the NSC to conduct on-site inspections to ascertain supplier compliance with the requirements of this section."

*Comment:* One commenter recommended that instead of revoking a supplier's billing privileges when a site visit cannot be conducted, the NSC should "suspend" the billing privileges pending further investigation to determine if the entity is a legitimate supplier.

*Response:* We do not have statutory or regulatory authority to suspend billing privileges under those circumstances. However, we note that DMEPOS suppliers are afforded appeal rights if their billing privileges are revoked.

*Comment:* A commenter believes routine on-site visits should be by appointment to ensure proper person(s) are available.

*Response:* We disagree with this commenter. While we understand that proper staff may not always be on-site when unannounced site visits occur, it is necessary for all DMEPOS suppliers to be open during posted hours of operations. The revised language only clarifies who is authorized to conduct the on-site visit. Moreover, we believe that unannounced site visits are necessary to ensure that a DMEPOS supplier is continually meeting the supplier standards in § 424.57.

*Comment:* Several commenters believed that it would be unjust to deny or revoke based on one site visit during posted hours because the business could be closed for a legitimate reason on the day of the visit, the mandated staff may be on call, or that another emergency situation may occur that would prevent a DMEPOS supplier from being open during posted hours of operation.

*Response:* While we understand that unexpected or emergency business closings can occur, we believe that it is essential that DMEPOS suppliers establish practices and procedures to address unexpected or emergency situations. In addition, we understand the nature of unforeseen emergencies and when warranted, the NSC will conduct an unannounced follow-up visit prior to denying or revoking billing privileges.

*Comment:* One commenter believes this requirement constitutes over regulating by the government.

*Response:* We disagree with the commenter. We have found unannounced on-site visits to be a very effective tool in combating fraud and abuse and to protect the Medicare Trust Fund from unscrupulous suppliers. Moreover, CMS and our designated contractor, the NSC, have conducted unannounced on-site visits since 2000 to ensure compliance with those

standards which only can be verified by visual inspection.

4. Business Telephone Operations

In § 424.57(c)(9), we proposed a revision of this standard so that it would read, "Maintains a primary business telephone that is operating at the appropriate site listed under the name of the business locally or toll-free for beneficiaries. The use of cellular phones, beeper numbers, and pagers is prohibited. Additionally, DMEPOS suppliers are prohibited from forwarding calls from the primary business telephone listed under the name of the business to a cellular phone, or a beeper/pager. The exclusive use of answering machines, answering services or facsimile machine (or combination of these options) cannot be used as the primary business telephone during posted operating hours."

*Comment:* One commenter requested that we clarify that all call forwarding to a main business office number when multiple office locations exist would be permitted.

*Response:* While we appreciate this comment, we do not believe that it is appropriate for a DMEPOS supplier to forward calls from one practice location to a main business office number when multiple practice locations exists.

*Comment:* One commenter stated that preventing the use of alternative technologies during business hours would have an adverse effect on the quality of services that suppliers are able to furnish to Medicare beneficiaries.

*Response:* While we appreciate this comment, we believe that the supplier standards in § 424.57(c)(9) are not overly prescriptive and help to ensure that the DMEPOS supplier is operational during posted hours of operations.

5. Comprehensive Liability Insurance

In § 424.57(c)(10), we proposed a revision to this provision to specify that the DMEPOS supplier has a comprehensive liability insurance policy in the amount of at least $300,000 per incident that covers both the supplier's place of business and all customers and employees of the supplier and ensures that insurance policy must remain in force at all times. In addition, we proposed that a DMEPOS supplier must list the NSC as a certificate holder on the policy and notify the NSC in writing within 30 days of any policy changes or cancellations. Although we are not finalizing the proposed revision in this final rule, we will consider this provision in a future rulemaking.

6. Solicitation of Beneficiaries

In § 424.57(c)(11), we proposed to revise this supplier standard to clarify that suppliers and their agents cannot make a direct solicitation of Medicare beneficiaries, which includes, but is not limited to, telephone, computer, e-mail, instant messaging, or in-person contacts, except under the current provisions at § 424.57(c)(11)(i) through (iii).

*Comment:* One commenter recommended that we retract the proposed provision and allow the current telephone standard to remain unchanged. This commenter also stated that a supplier is not "cold calling" the beneficiary when the supplier has received a verbal order from a physician and requested that we clarify that a supplier is not violating this standard if the supplier contacts a beneficiary via telephone after it has received a verbal order from the beneficiary's treating physician.

*Response:* We do not agree. We believe that it is inappropriate for a DMEPOS supplier to contact a beneficiary based solely on a physician order. In the situation described by the commenter, the contact is without the beneficiary's knowledge that the physician would be contacting a supplier on the beneficiaries behalf and would be prohibited unless one of the current provisions in § 424.57(c)(11)(i) through (iii) applied. However, if a physician contacts the supplier on behalf of the beneficiary's with the beneficiary's knowledge, and then a supplier contacts the beneficiary to confirm or gather information needed to provide that particular covered item (including the delivery and billing information), then that contact would not be considered a direct solicitation for the purpose of this standard. This is the case even if the physician has not specified the precise DMEPOS supplier that will be contacting the beneficiary regarding the item referred by that physician.

*Comment:* One commenter stated that CMS lacks the statutory authority to expand on the longstanding statutory and regulatory prohibition on unsolicited telephone contacts to further types of speech.

*Response:* We disagree with the commenter's assertion that we are trying to expand on the statutory authority which prohibits unsolicited telephone contacts set forth in section 1834(a)(17) of the Act. We believe that we have the statutory authority to clarify and revise the supplier standard in § 424.57(c)(11). Specifically, section 1834(j)(1)(B) of the Act gives the Secretary the authority to establish additional supplier standards. In addition, section 1871 of the Act provides the Secretary the right to prescribe regulations as may be necessary to carry out the administration of the Medicare program. Moreover, we believe that it is necessary to review, clarify, and, if necessary, revise existing regulatory standards to address changes in practice by DMEPOS suppliers in order to protect Medicare beneficiaries and the Medicare Trust Funds.

*Comment:* Several commenters stated that our proposal to clarify and revise § 424.57(c)(11) violated First Amendment protections by unconstitutionally restricting commercial speech. In addition, this commenter stated that, "Business solicitation by DME suppliers is clearly a form of commercial speech as any business has the right to market its products to potential customers. Advertising by suppliers of medical equipment is not inherently misleading and can be an important method of informing beneficiaries of products and services that are covered or accessible under their Medicare coverage."

*Response:* We disagree that the revisions that we are adopting in § 424.57(c)(11) of this final rule deny or abridge First Amendment rights. Specifically, this revised standard does not change or alter a DMEPOS supplier's ability to advertise its products and services to the general public or Medicare beneficiaries generally. As such, television, radio, and Internet advertisements are permitted. In addition, DMEPOS suppliers may advertise their products or services at health fairs, community events, or the DMEPOS supplier's Web site. This provision seeks to prohibit a supplier from making direct solicitations with Medicare beneficiaries without their consent.

*Comment:* One commenter stated that the proposed change to § 424.57(c)(11) would harm Medicare beneficiaries and all healthcare consumers. This commenter also stated that this proposal would have the effect of limiting consumer education, price comparison, and overall choice.

*Response:* We disagree with this commenter that the changes we are adopting in this final rule will limit consumer education, price comparison or overall choice because suppliers can continue to educate the public about the advantages of their products or services through marketing practices that help to educate and inform the public and Medicare beneficiaries about their healthcare choices.

*Comment:* One commenter stated that if a beneficiary visited a retail store, on

their on volition, to seek information on DMEPOS products, that the proposed change would prohibit the supplier from providing information or education that the beneficiary requested.

*Response:* We disagree that a DMEPOS supplier could not provide information or education when the beneficiary contacts the DMEPOS supplier for information. The revised supplier standard in § 424.57(c)(11) states that DMEPOS suppliers must agree not to directly solicit patients, except as permitted under the current provisions in § 424.57(c)(11)(i) through (iii). Accordingly, if the Medicare beneficiary initially contacts the DMEPOS supplier, then the supplier's contact with the beneficiary would not be a direct solicitation and the supplier may, therefore, discuss, educate, and inform the Medicare beneficiary about the various products and alternatives available to that beneficiary.

*Comment:* One commenter stated that we did not adequately define, "directly solicit" or "coercive internet advertising."

*Response:* We appreciate the request for clarification. We believe that "direct solicitation" occurs when a DMEPOS supplier or its agents directly contacts an individual Medicare beneficiary by telephone, e-mail, instant messaging, or in-person contact without his or her consent for the purpose of marketing the DMEPOS supplier's health care products or services or both. In addition, we removed the reference to "coercive response internet advertising" from this rule in order to ensure that this standard is clear and understandable.

*Comment:* One commenter asked if internet advertising such as internet "yellow pages," the use of Google AdWords, appearance in search engine results or other "keyword" advertisements informing the public of products and services provided by a supplier would constitute coercive response Internet advertising.

*Response:* As noted previously, we removed the reference to "coercive response Internet advertising" from this final rule in order to ensure that this standard is clear and understandable. We believe that advertising techniques such as internet yellow pages, Google AdWords, and search engine keyword result-driven advertising are techniques used by businesses to educate and inform the public about a company and its products. In addition, these practices are normally considered mass advertising. Accordingly, web site advertisements that are intended to market a DMEPOS supplier to the general public are permissible and are not considered direct solicitation for the purpose of this standard.

*Comment:* Several commenters would like CMS to clarify the restrictions on a supplier who may contact a Medicare recipient about noncovered items because it appears to limit a supplier's legitimate marketing activities such as web pages describing various products, services and inserts to periodical publications dealing with various products and services.

*Response:* We do not agree that this standard limits a supplier's legitimate marketing activities. We believe that DMEPOS suppliers can continue to conduct mass advertising. For the purposes of this final rule, we believe direct solicitation targets Medicare beneficiaries without their consent. Accordingly, we believe that direct solicitation is significantly different in scope than general advertising. Again, these solicitations are one on one in nature and not the same as general advertising to the public and also apply to noncovered items if they are being solicited by a Medicare enrolled DMEPOS supplier.

*Comment:* One commenter asks if a web site dedicated to short-term cash rentals of not readily-accessible portable oxygen concentrators for travel use (using an Advance Beneficiary Notices (ABN) if the customer is a Medicare beneficiary) violates the provisions outlined in the proposed rule.

*Response:* We believe, for the purpose of this standard, a web site dedicated to short-term cash rentals of not-readily accessible portable oxygen concentrators for travel use to be of use to the general public. Using ABNs if the customer is a Medicare beneficiary would be required for the supplier to not be held liable for the charge under section 1879 of the Act. Using ABNs assists the beneficiaries in making informed decisions about the product. A dedicated web site that can be freely accessed by the general public, at the consumer's choice, is not considered direct solicitation for the purpose of this standard.

*Comment:* Several commenters suggested that the standard is satisfactory as it exists and that changing it as proposed would be overly restrictive, burdensome, and could prevent patients from receiving important information.

*Response:* We believe the revision of this standard was necessary to include current trends and technological advances, such as door-to-door solicitation, electronic mail, and instant messaging. However, we do not believe this provision would prohibit DMEPOS suppliers from contacting Medicare beneficiaries in the situations described in the current provisions in § 424.57(c)(11)(i) through (iii). For example, a supplier could contact a beneficiary with whom they already have an established business relationship or for legitimate reasons, such as annual fitting reminders, updating or verifying information from previously serviced beneficiaries.

*Comment:* Several commenters recommended that we add another reason for the DMEPOS supplier to contact the patient, namely when the physician places the DMEPOS order (written or verbal) on behalf of the patient.

*Response:* As noted previously, a DMEPOS supplier may not contact a beneficiary based solely on a physician order. However, a supplier may contact a beneficiary if a physician contacts a DMEPOS supplier on behalf of a beneficiary with the beneficiary's knowledge, and then a supplier contacts the beneficiary to confirm or gather information needed to provide that particular covered item (including delivery and billing information). In that instance, the contact would not be considered a direct solicitation and therefore, would not implicate the standard set forth at § 424.57(c)(11). Please note that the beneficiary need only be aware that a DMEPOS supplier will be contacting him/her regarding the prescribed covered item, recognizing that the appropriate supplier may not have been identified at the time of the consultation.

*Comment:* A commenter stated that prohibiting a supplier from directly soliciting patients, including "in-person contacts" improperly restrains free speech and disadvantages a small supplier by limiting a supplier to mass media advertising, which is only financially feasible to large suppliers. The commenter also stated that the beneficiary will be adversely affected because, under the proposed rule, a member of the hospital staff would need to obtain written permission from the beneficiary and transmit that permission to the supplier before the supplier could initiate the service causing unnecessary waiting periods.

*Response:* We believe that a "direct solicitation" occurs when a DMEPOS supplier or their agent contacts an individual Medicare beneficiary without their consent for the purpose of marketing the DMEPOS supplier's health care products or services or both; therefore we are clarifying our regulations by adding the definition of "direct solicitation" to § 424.57(a). These types of direct solicitations are one on

one in nature and not the same as advertising to the public in a general marketing campaign. Finally, we do not believe Medicare beneficiaries will be adversely affected by this provision's contact restrictions causing unnecessary waiting periods prior to a DMEPOS supplier's initiation of services. As long as the beneficiary has completed a consent form giving the hospital staff member permission to share the beneficiary's information with the DMEPOS supplier for the purpose of initiating service, the hospital staff person can order the service on the beneficiary's behalf. Hospitals or other entities use consent forms for the purpose of ordering medical supplies or services on behalf of patients as standard operating procedure to ensure compliance with the Privacy Act and its implementing regulations.

7. Product Delivery and Beneficiary Instructions

In § 424.57, we proposed to revise paragraph (c)(12) provision to clarify its intent. Specifically, we proposed that a DMEPOS supplier: (1) Is responsible for maintaining proof of the delivery in the beneficiary's file; (2) must furnish information to beneficiaries at the time of delivery of items as to how the beneficiary can contact the supplier by telephone; (3) must provide the beneficiary with instructions on how to safely and effectively use the equipment or contract this service to a qualified individual; (4) is responsible for providing instruction on the safe and effective use of the equipment that should be completed at the time of delivery; and (5) must document that this instruction has taken place. We are continuing to review the public comments received on this provision and we will consider finalizing this provision in a future rulemaking effort.

*B. New DMEPOS Supplier Standards*

1. Obtaining Oxygen

In § 424.57(c)(27), we proposed a new standard that specified that the DMEPOS supplier must obtain oxygen from a State-licensed oxygen supplier. In addition, we stated that the proposed new standard would not apply when the State does not license oxygen suppliers.

*Comment:* One commenter stated that they generally agree that DMEPOS suppliers should obtain oxygen from appropriately licensed oxygen supply companies, but requested that we clarify that the supplier standard in § 424.57(c)(27) does not preclude suppliers from subcontracting the pick-up and delivery of liquid and gaseous oxygen cylinders.

*Response:* It is our intention to ensure that oxygen suppliers promote quality in the furnishing of oxygen or oxygen-related equipment, and, in doing so, protect Medicare beneficiaries against substandard product(s) or poor service. The pick-up and delivery of liquid and gaseous oxygen cylinders does not interfere with our intentions for this provision. Therefore, oxygen suppliers may continue to subcontract the pick-up and delivery of oxygen and oxygen-related products.

*Comment:* A commenter stated that there is confusion regarding who needs to be licensed for specific services and believes the provisions in § 424.57(c)(27) needs greater specificity and detail.

*Response:* We appreciate this comment and have revised § 424.57(c)(27) to address this concern. We have clarified in this section that DMEPOS suppliers are responsible for knowing which licenses are required for the DMEPOS that they supply.

*Comment:* One commenter interpreted the proposed rule as requiring an oxygen supplier to get their oxygen from an in-State licensed oxygen supplier.

*Response:* This final rule will require licensed oxygen suppliers to get their oxygen and oxygen-related equipment from other licensed or State-certified oxygen suppliers. However, if an oxygen supplier's physical location is in a State that does not require oxygen licensure or certification, then the oxygen supplier is not required to get its oxygen or oxygen-related equipment from other licensed oxygen suppliers. It is not our intention to restrict Medicare beneficiaries' oxygen supplier choices.

*Comment:* One commenter interpreted this standard as requiring an in-State oxygen license for out-of-State suppliers and believes this limits access for Medicare beneficiaries.

*Response:* We do not require oxygen licensure or certification for oxygen suppliers whose physical locations are in States that do not require oxygen licensure or certification. However, this provision does restrict unlicensed oxygen suppliers from supplying oxygen and oxygen-related equipment to oxygen suppliers whose physical locations are in States that require oxygen licensure or certification.

*Comment:* A commenter suggested adding "if applicable" to this provision because not all States license oxygen suppliers.

*Response:* We agree and will revise § 424.57(c)(27) to incorporate language regarding applicability to States that license oxygen suppliers.

*Comment:* One commenter recommended that we incorporate the proposed standard in § 424.57(c)(27) into the revised supplier standard in § 424.57(c)(1).

*Response:* We disagree with this commenter and have adopted a new supplier standard in § 424.57(c)(27).

2. Ordering and Referring Documentation

In § 424.57(c)(28), we proposed a new supplier standard that states that the supplier is required to maintain ordering and referring documentation, including the National Provider Identifier, received from a physician, nurse practitioner, physician assistant, clinical social worker, or certified nurse midwife, for 7 years after the claim has been paid.

*Comment:* One commenter stated that it would be more practical and reasonable to base any records retention policy on the date of service and lengthen the retention period to 10 years, which is the guideline used by many in the industry. This commenter stated that this change would capture CMS' concerns about availability of records and cause fewer disruptions to the supplier recordkeeping practices. Another commenter believes that record retention should mirror that of industry or State standards such as the State Board of Pharmacy which is typically 3 years.

*Response:* We appreciate the commenter' suggestions. However with the enactment of section of 6406(a) of the ACA, we published an interim final rule with comment in the May 5, 2010 **Federal Register** (75 FR 24437), which established 7 year retention period based on the date of service in § 424.516(f). Moreover, we believe that this retention policy is consistent with the policy established at § 424.516(f) in the November 19, 2008 final rule (73 FR 69726) entitled "Medicare Program; Payment Policies Under the Physician Fee Schedule and Other Revisions to Part B for CY2009; E-Prescribing Exemption for Computer-Generated Facsimile Transmissions; and Payment for Certain Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS)". Finally, in § 424.57(c)(28), we establish that suppliers are required to maintain ordering and referring documentation consistent with the provisions found in § 424.516(f).

*Comment:* One commenter stated that it would be more practical and reasonable to base any records retention policy on the date of service.

*Response:* We concur with this commenter and have revised this supplier standard to reflect that records

should be based on the date of service and not the date of payment.

*Comment:* One commenter is concerned about why CMS would develop a supplier safeguard mandating records retention based upon the date the claim was paid when all business transactions are based upon the date of service or date equipment was provided. The addition of a new date would require systems modification just for managing records and the purge process.

*Response:* As stated previously, we have revised this standard to base any records retention policy on the date of service.

*Comment:* Some commenters stated that the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Pub. L. 104–191) and State laws govern the manner in which medical records need to be kept and urged CMS to retract the new standard in § 424.57(c)(28).

*Response:* The HIPAA record retention policy codified at 45 CFR 164.530 relates to a covered entities privacy policies and procedures (for example, administrative records of complaints, notices, and other administrative actions or procedures); and therefore, does not preclude us from establishing a documentation retention standard. In addition, since Medicare is a Federal program, it is not subject to State law. We note that section 6406(a) of the ACA (Pub. L. 111–148) amends section 1842(h) of the Act by adding a new paragraph (9) which states the following:

> The Secretary may revoke enrollment, for a period of not more than one year for each act, for a physician or supplier under section 1866(j) if such physician or supplier fails to maintain and, upon request of the Secretary, provide access to documentation relating to written orders or requests for payment for durable medical equipment, certifications for home health services, or referrals for other items or services written or ordered by such physician or supplier under this title, as specified by the Secretary.

We also note that section 6406(d) of ACA specifies that "[t]he effective date of this provision shall apply to orders, certifications and referrals made on or after January 1, 2010." Therefore, we believe that finalization of our proposed record retention requirements at § 424.57(c)(28) is consistent with the section 6406(a) of ACA requirement.

3. Prohibition on Sharing of a Practice Location

In § 424.57(c)(29), we proposed a new standard that specifies that the supplier is prohibited from sharing a practice location with another Medicare supplier. In addition, we solicited comments on whether we should establish an exception to this space sharing proposal for physicians and nonphysician practitioners and the circumstances which warrant an exception since we are aware that physicians and other licensed nonphysician practitioners may obtain their own DMEPOS supplier number and furnish DMEPOS from their office.

*Comment:* One commenter stated that the proposed standard is too restrictive and could discourage suppliers from forming networks under the competitive rules and urged CMS to retract the new standard in § 424.57(c)(29).

*Response:* We do not believe that the new standard will restrict the ability of suppliers to form networks for the purpose of competitive bidding.

*Comment:* Several commenters requested that we clarify whether a "practice location" is limited to physical space or whether it also encompasses equipment or staff and requests clarification of the definition of the terms "sharing" and "practice location."

*Response:* DMEPOS suppliers list the practice location in Section 4 of the Medicare enrollment application (CMS–855S). For the purposes of this standard, sharing a practice location refers to sharing of the physical location as described on the CMS–855S. In general, the practice location is the physical space where a DMEPOS supplier operates his or her business and meets with customers and potential customers.

*Comment:* One commenter requested that we clarify that the enrolled practice location does not include a warehouse, storage facility, or repair facility.

*Response:* As stated previously, a DMEPOS supplier identifies the practice location in Section 4 of the CMS–855 and is a place where a DMEPOS supplier operates his or her business and meets with customers and potential customers.

*Comment:* Several commenters requested that we clarify that the space sharing provision in § 424.57(c)(29) is not intended to preclude a physician or licensed health professional (who is also recognized as a DMEPOS supplier by Medicare) from furnishing both DMEPOS products and professional services to his or her patients in the same practice location.

*Response:* We appreciate this comment and have established an exception to this standard for physicians and NPPs as defined in the statute. Under section 1842(b)(18)(C) of the Act, physical and occupational therapists may operate as a DMEPOS supplier, as well as a licensed professional at the same practice location if these suppliers are furnishing DMEPOS to their own patients as part of professional service.

*Comment:* One commenter stated that if any limitation on sharing practice locations is put in place that we should, at most, formalize the NSCs practice of prohibiting multiple NSC supplier numbers at a single address.

*Response:* While we have established a limited number of exceptions to the prohibition of sharing a practice location, we agree that the NSC should not convey billing privileges to suppliers who are not in compliance with the provisions of this final rule. Moreover, with the implementation of the National Provider Identifier (NPI), a DMEPOS supplier must obtain a NPI for each practice location, unless the supplier is a sole proprietorship. Accordingly, we believe that this policy is consistent with current National Supplier Clearinghouse operational policy and the provisions for issuing an NPI.

*Comment:* One commenter agreed with the statement in the preamble of the proposed rule that stated, "We do not believe that legitimate DMEPOS suppliers routinely share practice locations with another Medicare supplier."

*Response:* We appreciate this comment and continue to believe that legitimate businesses do not share practice locations with competitors.

*Comment:* One commenter stated that if a space sharing agreement passes under both the Anti-kickback statute and the Stark statute and regulations, then they do not believe such arrangements should be automatically prohibited by a supplier standard.

*Response:* We disagree with this commenter. While the statutory and regulatory provisions referenced previously are intended to prohibit specific practices, these provisions do not address the full range of problems that occur when DMEPOS suppliers are commingling practice locations. The Anti-kickback statute, the Stark statute, and our regulations are separate authorities and do not preclude us from establishing additional DMEPOS supplier standards. In addition, we do not believe that legitimate DMEPOS suppliers share inventory, staffing or a practice location with a competing DMEPOS supplier.

*Comment:* Several commenters recommended that physical therapists (PTs) be exempt from this provision because it would place an undue burden on the patient to purchase the limited DME items offered in the PT office at another location—especially for

pediatric PTs or those located in rural areas.

*Response:* As stated previously, we are establishing an exception for physical and occupational therapists from the provision in § 424.57(c)(29).

*Comment:* Several commenters stated that there should be an exception to this provision when both businesses are owned by the same person or entity or the DME supplier is a separate unit located within or owned by a larger health care facility such as a hospital. Other commenters stated there should be an exception to this provision when a pharmacy is operating within a State-licensed health center because of the burden separate locations would put on the patients.

*Response:* We disagree with commenters who stated that we should establish an exception based solely on ownership. Moreover, unless the owner of DMEPOS supplier is a sole proprietorship, DMEPOS suppliers are required to obtain a unique National Provider Identifier for each practice location. Accordingly, unless a DMEPOS supplier has satisfied an exception under § 424.57(c)(29), we do not believe that an owner should be permitted to establish a sole proprietorship and an organizational entity at the same practice location. Similarly, we do not believe that the same owner should be able to obtain separate Medicare billing privileges for DMEPOS suppliers at the same practice location found on the Medicare enrollment application. As stated previously, we do not believe that legitimate businesses share practice locations with competitors. However, we agree with the commenters who stated that there should be an exemption when the entity or DME supplier is a separate unit located within or owned by a larger facility. Therefore, we have established exceptions to the sharing of space limitation found in § 424.57(c)(29). In § 424.57(c)(29)(ii)(C), we have established an exception for DMEPOS suppliers that have a practice location within a Medicare provider that is subject to the requirements specified in 42 CFR 489.2(b). This exception will allow a hospital, home health agency (HHA), skilled-nursing facility (SNF), or other Part A provider that is enrolled in Medicare to co-locate with a DMEPOS supplier that is owned by that Part A provider and is a separate unit. It is important to note that these DMEPOS suppliers while owned by the Part A provider must still meet all of the other DMEPOS supplier standards in § 424.57 to obtain and maintain Medicare billing privileges.

*Comment:* One commenter asked if two entities, with two different "Doing Business As" (DBA) names are owned by the same parent company would they be prohibited from having a common location under § 424.57(c)(29).

*Response:* As stated previously, we have established certain exceptions to this provision. However, we do not believe that it is a common practice to establish multiple DBAs at the same practice location. Accordingly, we believe that two different DBAs that are owned by the same parent company would be prohibited from sharing a practice location under this provision.

*Comment:* One commenter believes the regulation text does not properly convey the intent of the language in the preamble and will result in additional micromanagement of DMEPOS suppliers by CMS.

*Response:* We believe that the provisions of this final rule and the regulation text are consistent. In addition, we believe that the provisions as adopted allow CMS or the NSC to ensure that DMEPOS suppliers are operating in accordance with established business practices used by legitimate companies. As stated previously, we do not believe that legitimate DMEPOS suppliers share inventory, staffing or operational space with their competitors.

*Comment:* One commenter believes that an orthotic and prosthetic facility should be allowed to share space with complementary, but not competing businesses that may already have a Medicare supplier number, specifically physicians and physical therapy offices.

*Response:* We disagree with this commenter. While we have established an exception to § 424.57(c)(29) for physicians, NPPs, and physical and occupational therapists who are furnishing items to their own patients as part of their professional service, we do not believe that a similar exception should be established for orthotic and prosthetic facilities or personnel because they are not individual practitioners who are furnishing items to their own patients as part of their professional service. The facilities in question would be sharing space with another supplier whereas the exceptions noted are supplying their own patients as part of their service.

*Comment:* Several commenters questioned whether the supplier can have an office in the same building where other hospital-owned Medicare suppliers (outpatient pharmacy, physician groups) are located if it is hospital-owned.

*Response:* We agree that a DMEPOS supplier may be enrolled within the same building owned by a hospital.

*Comment:* One commenter does not believe co-existing in an office space jeopardizes quality supplier standards.

*Response:* We disagree because we have found that unrelated business entities that share the same practice location often provide poor quality care or, in some case, are associated with fraudulent businesses or do not exist.

*Comment:* One commenter agrees with CMS' proposal that nonphysician DMEPOS suppliers should not share a practice location with another Medicare supplier, especially if that other Medicare supplier is a possible referral source.

*Response:* We appreciate the support for our provision regarding the sharing of space and further clarify that the Anti-kickback statute, the Stark Statute, and our regulations are separate authorities apart from the sharing of space provisions adopted within this final rule.

*Comment:* Several commenters requested that we not create exceptions to this provision for physicians and other licensed providers to share space as it is a bad idea that creates inconsistent application of the regulations. In addition, making physicians discontinue distributing DME from their offices is good and the physician, orthotist/prosthetist, and physical therapist should have no financial relationship to ensure true medical necessity.

*Response:* We believe that we can consistently apply the regulations and allow for reasonable exceptions. Moreover, we believe that physicians can furnish DMEPOS to their own patients as part of professional service. In addition, in many cases, a physician furnishing DMEPOS to their own patients can benefit those patients in terms of convenience and continuity of care.

*Comment:* One commenter asks if this standard would apply in the circumstance where the business owner owns a pharmacy and a separate DMEPOS company with 2 different supplier Medicare numbers sharing the same location for retail sales (note—both businesses have the same stock holders and are held by a separate holding company).

*Response:* We believe that the scenario described is prohibited under the provisions of this final regulation.

*Comment:* One commenter suggested that an exception to this provision be made for those physicians/NPPs that supply blood glucose monitoring devices to their patients.

*Response:* We appreciate this comment and as stated previously, we are adopting an exception to the prohibition on space sharing for physician, NPPs, and physical and occupational therapists.

4. Hours of Operation

In § 424.57(c)(30), we proposed a new supplier standard that would require a DMEPOS supplier to be open to the public a minimum of 30 hours per week, except for those DMEPOS suppliers who are working with custom-made orthotics and prosthetics.

*Comment:* Several commenters requested that physical therapy practices be exempt from posting office hours because this would limit the services available to the Medicare patients.

*Response:* We believe that all DMEPOS suppliers should have posted hours of operation.

*Comment:* A commenter stated that it would be burdensome for hospitals or health systems that owned or controlled DMEPOS suppliers to display hours of operation and that the proposed standard is unnecessary since the implementation of mandatory accreditation.

*Response:* In § 424.57(c)(8), we already require that DMEPOS suppliers, including those owned or controlled by hospitals and health systems, to maintain a visible sign and post their hours of operation. Accordingly, we believe that we are clarifying an existing NSC practice by adopting this revised standard. Moreover, since accreditation primarily focuses on patient care, it does not directly address the verification of this existing supplier standard.

*Comment:* One commenter believes the requirement that suppliers maintain a physical facility that is staffed at all times with posted working hours is most beneficial.

*Response:* We appreciate this comment and have adopted a minimum number of posted hours of operation for DMEPOS suppliers in § 424.57(c)(30).

*Comment:* Several commenters stated that it is a widespread practice among DMEPOS suppliers—large and small—to have part-time or "by appointment only" hours for some locations, especially in rural areas, and asked that we reconsider the new supplier standard in § 424.57(c)(30) which requires suppliers to remain open to the public for a minimum of 30 hours a week. Some commenters believe remaining at the facility for 30 hours per week would leave no time for item delivery and proposed that CMS consider the requirement met as long as the hours are posted and the supplier is open during those hours.

*Response:* We believe that DMEPOS suppliers must be open to the public a minimum number of hours to ensure patient access to services. After a careful review of these comments, we continue to believe that DMEPOS suppliers must be open and available to the public a minimum of 30 hours per week. We believe that establishing a minimum number of hours is in the best interest of the Medicare program and Medicare patients, especially for those who are disabled or with limited means of transportation.

*Comment:* Several commenters stated that they do not believe that CMS has the authority or business expertise to dictate the number of hours a DMEPOS supplier should operate to be considered legitimate when this would be determined based on the needs of the customer base.

*Response:* We believe that section 1834(j)(1)(B) of the Act gives the Secretary the authority to implement additional supplier standards. We maintain that the requirement that a DMEPOS supplier is open a minimum number of hours help to ensure that it is engaged in furnishing DMEPOS to Medicare beneficiaries. In addition, we believe that this requirement also may help increase access to care for Medicare beneficiaries.

*Comment:* One commenter recommended that we consider permitting flexibility in the hours of operation so long as they are clearly posted and deviations to the posted hours are noted with a specific return time.

*Response:* We disagree with this commenter. It is essential for our Medicare beneficiaries to have access to suppliers during regularly scheduled hours. Medicare beneficiaries should not be advised that the supplier has temporarily changed their hours once they have made the effort to visit the supplier. Moreover, allowing DMEPOS suppliers to constantly change their posted hours of operation would make it virtually impossible for us to determine if a supplier is actually in operation. While we recognize that emergencies do occur, it is the responsibility of the DMEPOS supplier to establish staff contingencies to ensure that their business remains open to the public in spite of a personal emergency.

*Comment:* Several commenters recommended that we establish an exception to the supplier standard in § 424.57(c)(30) for physicians, physical therapists, and other licensed health professionals holding DMEPOS suppliers numbers, especially when DMEPOS supplies makes up such a small portion of the practice.

*Response:* We appreciate these comments and have added an exception to this supplier standard for physicians and licensed non-physician practitioners, including physical and occupational therapists, that only furnish DMEPOS supplies to their own patients to § 424.57(c)(30).

*Comment:* Several commenters stated that it is not economically feasible for a small one person supplier to be staff during all posted hours of operations because they often make house calls.

*Response:* While we understand the concerns of small suppliers, we believe that Medicare beneficiaries and the NSC should be able to have access to the supplier at regularly posted hours. Also, as previously noted, we have established exceptions for physicians, NPPs, and certain other suppliers.

*Comment:* One commenter stated that this requirement does not allow a sole proprietor, being the only certified fitter as well as the owner, to be sick, go on vacation, or have a personal emergency without violating Medicare standards.

*Response:* We agree and have adopted an exception to this provision for suppliers working with custom-made orthotics and prosthetics.

*Comment:* Several commenters stated that there may be episodic instances where DMEPOS suppliers may legitimately not be able to be open for 30 hours per week including inclement weather conditions, staffing shortages as the result of labor disputes, staff illnesses or holiday periods, and various other unusual occurrences or natural disasters that would prohibit a supplier from being open 30 hours in a particular week.

*Response:* We recognize that unforeseen emergencies do occur that would require a supplier to make temporary changes to scheduled hours. The NSC will take these circumstances into account. However, we believe that DMEPOS suppliers should adhere to its posted hours and should develop contingencies to remain open when personal emergencies or when staffing issues occur.

*Comment:* One commenter recommended that CMS implement an exception for physical therapists for the posting of office hours.

*Response:* We disagree with this commenter. We believe a physical therapist enrolled as a DMEPOS supplier must post its hours of operation for beneficiaries so that CMS or its agents can perform site visits. However, as discussed previously, we note that we have established an exception for physical therapists in

certain circumstances to the supplier standard of the 30 hours minimum requirement.

*Comment:* One commenter suggested the language describing the proposed change at § 424.57(c)(8) be changed from "would deny" to "may deny" to allow for situations where the NSC or its agents are unable to perform a site visit during a supplier's posted business hours.

*Response:* While we understand this comment, we do not believe that the change is needed.

*Comment:* One commenter asked for clarification of what constitutes custom fabricated orthotics and prosthetics. The commenter questioned whether it is the definition from the competitive bidding document or the explanation of each product in the HCPCS codes.

*Response:* For purposes of the regulatory provision, orthotics and prosthetics is defined in the HCPCS codes related to each product and as described in the DMEPOS quality standards.

*Comment:* One commenter suggested an alternative to the proposed provision could be for the entire practice (all office locations collectively), to be open a minimum number of hours which would allow for satellite offices in remote areas, as well as accommodating those therapists in private practice for the purpose of limiting their work hours. The commenter considers 20 hours a week to be reasonable.

*Response:* Each DMEPOS supplier location is separately enrolled, and therefore, each location must meet all the required supplier standards in § 424.57.

*Comment:* A commenter stated that requiring DMEPOS suppliers, except suppliers of prosthetics and orthotics, to be open to the public for at least 30 hours a week is unnecessary for supplier's facilities that are not intended for beneficiary access and that this proposed standard blurs the distinction between a classic retail establishment and a service facility dedicated to the provision of supplies and equipment to patients in their homes. In addition, the commenter requests that CMS consider different business models for supplier standards, and let the beneficiaries and their physicians decide what model may work best for them.

*Response:* We do not believe these arrangements are always in the best interest of the patient. We believe that all enrolled DMEPOS suppliers, except suppliers of prosthetics and orthotics, should maintain a minimum number of hours open to the public. This will ensure that the DMEPOS supplier is operational and allows CMS, the NSC or agents of CMS or the NSC to conduct unannounced site visits to ensure compliance with the standards set forth at § 424.57.

*Comment:* One commenter believes the weekly hourly requirement severely limits the ability to provide services in small towns, because it does not allow for the use of "limited business hour" satellite facilities.

*Response:* After careful review of this standard, we have determined that requiring a DME supplier to be open and available to the public no less than 30 hours per week is in the best interest of the patient, especially for those who are disabled or with limited means of transportation.

5. Tax Delinquency

In § 424.57(c)(31), we proposed adding a new supplier standard that specified that a DMEPOS supplier could not have Internal Revenue Service (IRS) or a State taxing authority tax delinquency. We also proposed to define a "tax delinquency" as meaning an amount of money owed to the United States or a State: A conviction or civil judgment for tax evasion, a criminal or civil charge of tax evasion, or the filing of a tax lien.

With the enactment of section 189 of the Medicare Improvements for Patients and Providers Act (MIPPA) (Pub. L. 110–275) on July 15, 2008, we are deferring the implementation of this proposal while we continue to review the public comments received on this provision and we will consider finalizing this provision in a future rulemaking effort if we deem it necessary. Accordingly, we are not adopting this proposed supplier standard in this rule and have removed the paperwork burden associated with this provision.

6. Medicare Overpayment

In § 424.57(d), we proposed to redesignate the current text as paragraph (d)(1) and proposed adding a new paragraph that specified that "CMS, the NSC, or CMS designated contractor establishes a Medicare overpayment from the date of an adverse legal action or felony conviction (including felony convictions within the 10 years preceding enrollment or revalidation of enrollment) that precludes payment." In addition, we proposed that any overpayment assessed by CMS or its designated contractor due to a failure to report this information would follow the existing rules governing Medicare overpayments set forth at § 405.350 *et seq.* The underlying basis to report "adverse legal actions" to the NSC are found in § 424.530 and § 424.535, which state the provisions for denial of enrollment and the revocation of billing privileges.

*Comment:* One commenter stated that the term "adverse legal action" was vague and requested that we clarify or eliminate the authority regarding overpayments resulting from adverse legal actions in § 424.57(d). The commenter stated that no notice was provided regarding the types of events that would trigger an overpayment collection. This commenter further stated that before this regulatory provision could be finalized, more fulsome notice must be given so that stakeholders can submit meaningful comments.

*Response:* We agree and have revised § 424.57(a) to add a definition for the term "final adverse action" as meaning one or more of the following actions: (1) A Medicare-imposed revocation of any Medicare billing number; (2) suspension or revocation of a license to provide health care by any State licensing authority; (3) revocation or suspension of accreditation; (4) a conviction of a Federal or State felony offense (as defined in § 424.535(a)(3)(i)) within the last 10 years preceding enrollment, revalidation, or re-enrollment; or (5) an exclusion or debarment from participation in a Federal or State health care program. This definition is narrower than the list of final adverse actions contained in Section 3 of the CMS–855S which was published on March 23, 2009. In fact, we limited the definition of "final adverse action" in this rule to those actions that currently serve as a basis for CMS to revoke a supplier's Medicare billing privileges under § 424.535(a). If a final adverse action has been imposed upon a supplier, then that supplier would not be eligible to maintain Medicare billing privileges from the date of a final adverse action. This provision provides CMS or its contractors with the discretion to establish an overpayment determination (as defined in § 405.350) for all Medicare items and services furnished from the date of the final adverse action. CMS or our contractors may reopen all claims paid to the supplier on or after the date of the final adverse action that had been imposed upon that supplier. Moreover, suppliers who are assessed overpayments under this provision may appeal these determinations in accordance with the Medicare claims appeal procedures set forth in § 405.900 through § 405.1140.

*Comment:* One commenter believes the requirement to notify the NSC of changes is too burdensome.

*Response:* We appreciate the commenters' concerns. However, we maintain that it is necessary to require

DMEPOS suppliers to notify the NSC of a final adverse action or other reportable change, including change of location, change of ownership (including authorized and delegated officials) within 30 days to mitigate the possible impacts associated with these types of changes.

7. Notification of Change in Hours Operation

In § 424.57(c)(32), we are proposing that each supplier must report changes in hours of operation to the NSC 15 calendar days prior to the proposed change. The burden associated with this requirement is the time and effort associated with notifying the NSC of the change in hours of operation.

We are not finalizing this provision. In section V. of this final rule, we respond to the comment received on the information collection requirement associated with this provision.

8. Other Issues

The following is our response to a comment that was not on a proposal included in this proposed rule:

*Comment:* One commenter requested that we clarify that § 424.57(c)(26) was reserved for the proposed DME surety bond standard.

*Response:* We note that § 424.57(c)(26) was reserved for the proposed DME surety bond standard. We also note that the proposed provision at § 424.57(c)(26) was finalized in the January 2, 2009 final rule (74 FR 166) entitled "Medicare Program; Surety Bond Requirement for Suppliers of Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS)."

## IV. Provisions of the Final Regulations

This final rule finalizes the provisions of the proposed rule with the following exceptions:

- In § 424.57(a), we modified our proposal as follows:

++ Added the definition for the term "direct solicitation."

++ Revised the definition for the term "final adverse action". We note that the definition for this term was added by a January 2, 2009 final rule (74 FR 166). We revised this term by—(1) replacing the semicolons at the end of paragraphs (i) through (iv) with periods; (2) revising paragraph (iii) by adding the phrase "as stated § 424.58" to the end of the paragraph; and (3) revising paragraph (iv) by removing the word "or" from the end of the paragraph.

- In § 424.57(c)(1), we made the following modifications to our proposal:

++ Added language to clarify that a DMEPOS supplier must be licensed to provide the licensed service(s) and cannot contract with an individual or entity to provide the licensed service(s).

++ Added language to clarify that a licensed professional can be a part-time or full-time employee.

- In § 424.57(c)(7), we modified our proposal as follows:

++ Revised the proposed introductory text of paragraph (c)(7). The language regarding the space for storing records and retaining ordering and referring documentation was modified and redesignated as paragraphs (c)(7)(i)(E) and (F), respectively.

++ Added a new paragraph (c)(7)(i)(A) that specifies a minimum square footage requirement and an exception to the minimum square footage requirement for State-licensed orthotic and prosthetic personnel providing custom fabricated orthotics or prosthetics in private practice.

++ Modified and redesignated proposed paragraphs (c)(7)(i) through (c)(7)(iii) as paragraphs (c)(7)(i)(B) through (c)(7)(i)(D).

++ Redesignated paragraph (c)(7)(iv) as paragraph (c)(7)(ii).

++ Added a new paragraph (c)(7)(iii) that specifies that an appropriate site may be the centralized location for all of the business records and ordering and referring documentation of a multisite supplier.

- In § 424.57(c)(9), we made technical and clarifying changes.
- In § 424.57(c)(10), we are not finalizing this proposed provision in this final regulation.
- In § 424.57(c)(11), we added a definition of direct solicitation in § 424.57(a).
- In § 424.57(c)(12), we are not finalizing this proposed provision in this final rule.
- In § 424.57(c)(27), we are adopting this provision as proposed.
- In § 424.57(c)(28), we adopting the provision established in § 424.516(f).
- In § 424.57(c)(29), we added an exception to our requirements on the prohibition of sharing a practice location in paragraph (c)(29)(ii).
- In § 424.57(c)(30), we added exceptions for DMEPOS suppliers who are working with custom-made orthotics and prosthetics and physicians, nonphysician practitioners, and physical and occupational therapists.
- In § 424.57(c)(31), we are not finalizing this proposed provision in this final rule.
- In § 424.57(c)(32), we are not finalizing this proposed revision in this final rule. Accordingly, we have withdrawn the information collection requirement request associated with this provision.
- In § 424.57(e) (which was proposed as § 424.57(d)), we are modifying our proposal with a change to the effective date of date of revocation. (See the Surety Bond final rule in the March 27, 2009 **Federal Register** (74 FR 13345)). In order to be consistent with our regulations at § 424.535(g), we are extending the effective date of revocation from 15 to 30 days after notification of the revocation.

## V. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995 (PRA), agencies are required to provide a 30-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the PRA requires that we solicit comments on the following issues:

- Whether the information collection is necessary and useful to carry out the proper functions of the agency;
- The accuracy of the agency's estimate of the information collection burden;
- The quality, utility, and clarity of the information to be collected; and
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

The following is a discussion of the provisions, as stated in section III. of this final rule, that contain information collection requirements.

The provision at § 424.57(c)(1) states that a supplier must operate its own business and furnish Medicare–covered items in compliance with all applicable Federal and State licensure and regulatory requirements. The purpose of this standard is to ensure that DMEPOS suppliers obtain and maintain the necessary State licenses required to furnish services provided to Medicare beneficiaries. While there is burden associated with complying with this standard, we believe it is exempt from the PRA as stated in 5 CFR 1320.3(b)(3). A collection of information conducted or sponsored by a Federal agency that is also conducted or sponsored by a unit of State, local, or tribal government is presumed to impose a Federal burden except to the extent that the agency shows that such State, local, or tribal requirement would be imposed even in the absence of a Federal requirement. In addition, we believe the burden associated with the maintenance of the required documentation is exempt from

the PRA as stated in 5 CFR 1320.3(b)(2), to the extent that the time, effort, and financial resources necessary to comply with collection of information that would be incurred by persons in the normal course of their activities. Maintaining State license documentation is part of usual and customary business practices.

Proposed § 424.57(c)(10)(iii) stated that with respect to liability insurance, it was the responsibility of the DMEPOS supplier to, "promptly notify the NSC in writing of any policy changes or cancellations." The burden associated with this proposed requirement was the time and effort associated with drafting and submitting notification to the NSC of any policy changes or cancellations. However, we have decided not to finalize this requirement in this final rule and therefore will not be submitting an information collection request to OMB for its review and approval.

Proposed § 424.57(c)(12) stated that a supplier, "[m]ust be responsible for the delivery of Medicare-covered items to beneficiaries and maintain proof of delivery." In addition, the supplier must, "[d]ocument that it or another qualified party has at an appropriate time, provided beneficiaries with information and instructions on how to use the Medicare-covered items safely and effectively." The burden associated with this section is the time and effort required to: Document the delivery of the Medicare-covered item; document the provision of information or instructions to the beneficiary by the supplier itself or another qualified party; maintain the documentation of delivery of the Medicare-covered items and the necessary information and instructions. While the burden associated with the aforementioned proposed requirements is subject to the PRA, we have decided not to finalize these requirements in this final rule and therefore will not be submitting an information collection request to OMB for its review and approval.

Proposed § 424.57(c)(12)(ii) specified that a supplier must furnish information to beneficiaries at the time of delivery of items on how the beneficiary can contact the supplier by telephone. The burden associated with complying with the standard is the time and effort required for the supplier to provide its contact information to beneficiary at the time of delivery of the Medicare-covered item(s). While the burden associated with the aforementioned proposed requirement is subject to the PRA, CMS has decided not to finalize this requirement in this final rule and therefore will not be submitting an information collection request to OMB for its review and approval.

The provision at § 424.57(c)(28) discusses a recordkeeping requirement. This provision states that suppliers are required to maintain ordering and referring documentation, including NPI, received from a physician or eligible professional for 7 years from the date of service. Based on public comment and the provisions established in prior rulemaking documents, we revised this provision for record retention requirement from 7 years after a claim is reimbursed to 7 years from the date of service.

The burden associated with this requirement is the time and effort necessary for a supplier to file and maintain ordering and referring documentation from the previously stated list of providers. While this requirement is subject to the PRA, the associated burden is exempt under 5 CFR 1320.3(b)(2), to the extent that the time, effort, and financial resources necessary to comply with collection of information that would be incurred by persons in the normal course of their activities. Maintaining ordering and referring documentation is a usual and customary business practice.

Proposed § 424.57(c)(32), stated that each supplier must report changes in hours of operation to the NSC 15 calendar days prior to the proposed change. The burden associated with this requirement is the time and effort associated with notifying the NSC of the change in hours of operation. We estimated that 1,000 suppliers will be subject to this requirement. The estimated time required to report the information to the NSC is 10 minutes. The estimated total annual burden associated with this requirement is 167 hours. We received a public comment regarding the burden assessment for the information collection requirement contained in § 424.57(c)(32).

*Comment:* One commenter stated that there is little gained by imposing such a rigid notification and requests that the requirement be modified to permit the supplies to notify the NSC of changes in operation within 30 calendar days after the proposed change and that we should revise the burden estimate associated with this provision.

*Response:* We appreciate this comment and agree that this provision would increase the paperwork burden imposed on DMEPOS suppliers. Accordingly, we are not adopting this new supplier standard and have removed the paperwork burden associated with this provision. Consistent with supplier standard in § 424.57(c)(2), we will continue to require that DMEPOS suppliers report changes in operation within 30 calendar days.

We have submitted a copy of this final rule to OMB for its review and approval of the aforementioned information collection requirements.

**VI. Regulatory Impact Statement**

We have examined the impacts of this rule as required by Executive Order 12866 on Regulatory Planning and review (September 30, 1993), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999), and the Congressional Review Act (5 U.S.C. 804(2)).

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). This rule does not reach the economic threshold and thus is not considered a major rule.

To ensure that Medicare is making correct payments to only legitimate DMEPOS suppliers, we implemented a comprehensive payment and enrollment strategy. This strategy includes developing and implementing the statutorily-mandated competitive bidding program, making revisions to the National Supplier Clearinghouse contract, implementing a DMEPOS demonstration project, and publishing a proposed rule that would require DMEPOS suppliers to obtain a surety bond.

Accordingly, it is essential that we further develop and implement administrative and regulatory changes which prevent unscrupulous DMEPOS suppliers from enrolling or maintaining their enrollment in the Medicare program. To this end, we have implemented the following administrative changes and are seeking comments on mandated DMEPOS surety bonding requirements.

As part of our administrative change, we revised the contract with the National Supplier Clearinghouse (NSC) in FY 2008 and are currently recompeting this contract through full and open competition. The revised contract requires that the NSC conduct

and increase the number of on-site visits to ensure that DMEPOS suppliers are in compliance with the provisions in § 424.57. We are also expanding the funding for NSC operations to support the increased number of site visits. These expanded measures will help to ensure that only legitimate DMEPOS suppliers are enrolled or maintain enrollment in the Medicare program. In addition, we announced plans on June 28, 2007, to implement a 2-year demonstration involving DMEPOS suppliers. The goal of this initiative is to strengthen our ability to detect and prevent fraudulent activity and has focused specifically on DMEPOS suppliers in South Florida and the Los Angeles metropolitan area. Based on the findings of this initiative, we will determine if the administrative processes and procedures used in this demonstration should be expanded to other parts of the country.

On August 1, 2007, we published a proposed rule (72 FR 42001) which would implement section 4312(a) of the Balanced Budget Act of 1997 (BBA) by requiring all Medicare DMEPOS suppliers to furnish CMS with a surety bond. The public comment period for this proposed rule closed on October 1, 2007. As noted previously, we finalized the surety bond provisions in a final rule entitled "Medicare Program; Surety Bond Requirement for Suppliers of Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS)" on January 2, 2009.

Accordingly, while the activities described previously will promote compliance with the existing supplier standards, these activities do not supply CMS and the NSC with the needed authority to deny or revoke billing privileges to those DMEPOS suppliers that pose a significant risk to the program. Therefore, we believe that the provisions of this final rule are essential in expanding upon and strengthening the supplier standards in order to ensure that only legitimate suppliers are enrolled or maintain enrollment in the Medicare program.

The RFA requires agencies to analyze options for regulatory relief for small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and government agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $7.0 to $34.5 million in any 1 year. (For details, see the Small Business Administration's Web site at *http://sba.gov/idc/groups/public/documents/sba_homepage/serv_sstd_tablepdf.pdf* (refer to the 620000 series. There are four categories of provider revenues listed, $7.0, $10.0, $13.5, and $34.5 million or less). Individuals and States are not included in the definition of a small entity.

We are not preparing an analysis for the RFA because we are certifying that this rule will not have a significant economic impact on a substantial number of small entities. We have determined that the RFA is reasonable given that the provisions contained in this final rule are primarily procedural and do not require DMEPOS suppliers to incur additional operating costs. We also believe that the regulatory impact of this final rule is negligible and not calculable. We understand that there may be some additional concerns about costs associated with a minimum square footage requirement; however, we maintain that this final rule would not have an adverse impact on a significant number of small entities because we believe that these suppliers are operating on standard business practices and therefore are already in compliance with these standards. Additionally, we established a limited time exception for those entities that do not meet the minimum square footage requirement and have entered into a long-term lease on or before the publication date of this final rule. Since we believe that a significant number of small entities currently meet each of the revised or new standard, we do not have information available to calculate the economic impact of any individual or combination of proposals would have on small entities. This final rule would merely clarify, expand, and update our current policy in the DMEPOS supplier standards currently covered in § 424.57. Therefore, we anticipate a minimal economic impact, if any, on small entities.

As of March 2008, there were 113,154 individual DMEPOS suppliers. However, due to the affiliation of some DMEPOS suppliers with chains, there were only approximately 65,984 unique billing numbers. We believe that approximately 20 percent of the DMEPOS suppliers are located in rural areas.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds. We are not preparing an analysis for section 1102(b) of the Act because we have determined that this final rule will not have a significant impact on the operations of a substantial number of small rural hospitals. We understand that a large number of DMEPOS suppliers fall into this category, however these provisions are procedural in nature and we expect that legitimate DMEPOS suppliers are already meeting these provisions.

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in expenditure in any 1 year by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million. That threshold is currently approximately $130 million. This rule does not mandate expenditures by State, local, or tribal governments, in the aggregate, or by the private sector of $130 million and therefore no analysis is required.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. Since this regulation does not impose any costs on State or local governments, the requirements of E.O. 13132 are not applicable.

We anticipate that this rule would codify certain procedural policies contained in the Program Integrity Manual (PIM) that DMEPOS suppliers already are supposed to adhere to, and that legitimate DMEPOS suppliers should already be meeting. By establishing the standards in this rule, we are establishing our authority to deny or revoke the Medicare billing privileges of DMEPOS suppliers that have failed to comply with one or more of these supplier standards.

We have considered alternatives to all of the provisions; however, only one of the provisions considered lends itself to other options. Initially, we considered establishing a 40 hour requirement for a DMEPOS supplier's hours of operation since most business are open to the public for a minimum of 40 hours each week.

To reduce the burden associated with this provision, but also to establish a minimum requirement for the hours of operation, we relaxed the initial 40-hour requirement to 30 hours per week because we believe that this is the minimum amount of time that a DMEPOS supplier is required to be open and legitimately operate as a business. We did not consider the alternative of not proceeding with the proposed

provisions because we believe that they are necessary to ensure that only legitimate DMEPOS suppliers are enrolling and maintaining enrollment in the Medicare program.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

**List of Subjects in 42 CFR Part 424**

Emergency medical services, Health facilities, Health professionals, Medicare, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 42 CFR chapter IV as set forth below:

## PART 424—CONDITIONS FOR MEDICARE PAYMENT

■ 1. The authority citation for part 424 continues to read as follows:

**Authority:** Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

## Subpart D—To Whom Payment Is Ordinarily Made

■ 2. Section 424.57 is amended by—
■ A. Adding in paragraph (a) the definition of "direct solicitation" in alphabetical order.
■ B. In paragraph (a) revising the definition of "final adverse action".
■ C. Revising the introductory text of paragraph (c).
■ D. Revising paragraphs (c)(1), (c)(7) through (c)(9), (c)(11), and (e).
■ E. Adding new paragraphs (c)(27) through (c)(30).

The additions and revisions read as follows:

### § 424.57 Special payment rules for items furnished by DMEPOS suppliers and issuance of DMEPOS supplier billing privileges.

(a) * * *

*Direct solicitation* means direct contact, which includes, but is not limited to, telephone, computer, e-mail, instant messaging or in-person contact, by a DMEPOS supplier or its agents to a Medicare beneficiary without his or her consent for the purpose of marketing the DMEPOS supplier's health care products or services or both.

* * * * *

*Final adverse action* means one or more of the following actions:

(i) A Medicare-imposed revocation of any Medicare billing privileges.

(ii) Suspension or revocation of a license to provide health care by any State licensing authority.

(iii) Revocation for failure to meet DMEPOS quality standards.

(iv) A conviction of a Federal or State felony offense (as defined in § 424.535(a)(3)(i) within the last 10 years preceding enrollment, revalidation, or re-enrollment.

(v) An exclusion or debarment from participation in a Federal or State health care program.

* * * * *

(c) *Application certification standards.* The supplier must meet and must certify in its application for billing privileges that it meets and will continue to meet the following standards:

(1) Operates its business and furnishes Medicare-covered items in compliance with the following applicable laws:

(i) Federal regulatory requirements that specify requirements for the provision of DMEPOS and ensure accessibility for the disabled.

(ii) State licensure and regulatory requirements. If a State requires licensure to furnish certain items or services, a DMEPOS supplier—

(A) Must be licensed to provide the item or service;

(B) Must employ the licensed professional on a full-time or part-time basis, except for DMEPOS suppliers who are—

(*1*) Awarded competitive bid contracts using subcontractors to meet this standard; or

(*2*) Allowed by the State to contract licensed services as described in paragraph (c)(1)(ii)(C) of this section.

(C) Must not contract with an individual or other entity to provide the licensed services, unless allowed by the State where the licensed services are being performed; and

(iii) Local zoning requirements.

* * * * *

(7) Maintains a physical facility on an appropriate site. An appropriate site must meet all of the following:

(i) Must meet the following criteria:

(A) Except for State-licensed orthotic and prosthetic personnel providing custom fabricated orthotics or prosthetics in private practice, maintains a practice location that is at least 200 square feet beginning—

(*1*) September 27, 2010 for a prospective DMEPOS supplier;

(*2*) The first day after termination of an expiring lease for an existing DMEPOS supplier with a lease that expires on or after September 27, 2010 and before September 27, 2013; or

(*3*) September 27, 2013, for an existing DMEPOS supplier with a lease that expires on or after September 27, 2013.

(B) Is in a location that is accessible to the public, Medicare beneficiaries, CMS, NSC, and its agents. (The location must not be in a gated community or other area where access is restricted.)

(C) Is accessible and staffed during posted hours of operation.

(D) Maintains a permanent visible sign in plain view and posts hours of operation. If the supplier's place of business is located within a building complex, the sign must be visible at the main entrance of the building or the hours can be posted at the entrance of the supplier.

(E) Except for business records that are stored in centralized location as described in paragraph (c)(7)(ii) of this section, is in a location that contains space for storing business records (including the supplier's delivery, maintenance, and beneficiary communication records).

(F) Is in a location that contains space for retaining the necessary ordering and referring documentation specified in § 424.516(f).

(ii) May be the centralized location for all of the business records and the ordering and referring documentation of a multisite supplier.

(iii) May be a "closed door" business, such as a pharmacy or supplier providing services only to beneficiaries residing in a nursing home, that complies with all applicable Federal, State, and local laws and regulations. "Closed door" businesses must comply with all the requirements in this paragraph.

(8) Permits CMS, the NSC, or agents of CMS or the NSC to conduct on-site inspections to ascertain supplier compliance with the requirements of this section.

(9) Maintains a primary business telephone that is operating at the appropriate site listed under the name of the business locally or toll-free for beneficiaries.

(i) Cellular phones, beepers, or pagers must not be used as the primary business telephone.

(ii) Calls must not be exclusively forwarded from the primary business telephone listed under the name of the business to a cellular phone, beeper, or pager.

(iii) Answering machines, answering services, facsimile machines or combination of these options must not be used exclusively as the primary business telephone during posted operating hours.

* * * * *

(11) Agree not to make a direct solicitation (as defined in § 424.57(a)) of a Medicare beneficiary unless one or more of the following applies:

(i) The individual has given written permission to the supplier or the

ordering physician or non-physician practitioner to contact them concerning the furnishing of a Medicare-covered item that is to be rented or purchased.

(ii) The supplier has furnished a Medicare-covered item to the individual and the supplier is contacting the individual to coordinate the delivery of the item.

(iii) If the contact concerns the furnishing of a Medicare-covered item other than a covered item already furnished to the individual, the supplier has furnished at least one covered item to the individual during the 15-month period preceding the date on which the supplier makes such contact.

* * * * *

(27) Must obtain oxygen from a State-licensed oxygen supplier (applicable only to those suppliers in States that require oxygen licensure.)

(28) Is required to maintain ordering and referring documentation consistent with the provisions found in § 424.516(f)

(29)(i) Except as specified in paragraph (c)(29)(ii) of this section, is prohibited from sharing a practice location with any other Medicare supplier or provider.

(ii) The prohibition specified in paragraph (c)(29)(i) of this section is not applicable at a practice location that meets one of the following:

(A) Where a physician whose services are defined in section 1848(j)(3) of the Act or a nonphysician practitioner, as described in section 1842(b)(18)(C) of the Act, furnishes items to his or her own patient as part of his or her professional service.

(B) Where a physical or occupational therapist whose services are defined in sections 1861(p) and 1861(g) of the Act, furnishes items to his or her own patient as part of his or her professional service.

(C) Where a DMEPOS supplier is co-located with and owned by an enrolled Medicare provider (as described in § 489.2(b) of this chapter). The DMEPOS supplier—

*(1)* Must operate as a separate unit; and

*(2)* Meet all other DMEPOS supplier standards.

(30)(i) Except as specified in paragraph (c)(30)(ii) of this section, is open to the public a minimum of 30 hours per week.

(ii) The provision of paragraph (c)(30)(i) of this section is not applicable at a practice location where a—

(A) Physician whose services are defined in section 1848(j)(3) of the Act furnishes items to his or her own patient(s) as part of his or her professional service;

(B) Licensed non-physician practitioners whose services are defined in sections 1861(p) and 1861(g) of the Act furnishes items to his or her own patient(s) as part of his or her professional service; or

(C) DMEPOS supplier is working with custom made orthotics and prosthetics.

* * * * *

(e) *Failure to meet standards*—(1) *Revocation.* CMS revokes a supplier's billing privileges if it is found not to meet the standards in paragraphs (b) and (c) of this section. Except as otherwise provided in this section, the revocation is effective 30 days after the entity is sent notice of the revocation, as specified in § 405.874 of this subchapter.

(2) *Overpayments associated with final adverse actions.* CMS or a CMS contractor may reopen (in accordance with § 405.980 of this chapter) all Medicare claims paid on or after the date of a final adverse action (as defined in paragraph (a) of this section) in order to establish an overpayment determination.

* * * * *

**Authority:** (Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program).

Dated: August 19, 2010.

**Donald M. Berwick,**

*Administrator, Centers for Medicare & Medicaid Services.*

Approved: August 24, 2010.

**Kathleen Sebelius,**

*Secretary.*

[FR Doc. 2010–21354 Filed 8–26–10; 8:45 am]

**BILLING CODE 4120–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[DA 10–1521; MB Docket No. 10–22, RM–11591].**

### Radio Broadcasting Services; DeBeque, Colorado

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Audio Division grants a Petition for Rule Making issued at the request of Cochise Media Licenses, LLC, requesting the substitution of Channel 247C3 for vacant Channel 275C3 at DeBeque to accommodate the hybrid application, proposing the reallotment of Channel 274C3, Crawford, Colorado, to Channel 275C3 at Battlement Mesa, Colorado, as its first local service. A staff engineering analysis indicates that Channel 247C3 can be allotted to DeBeque consistent with the minimum distance separation requirements of the Rules with a site restriction 13.8 kilometers (8.5 miles) northeast of the community. The reference coordinates are 39–24–45 NL and 108–05–26 WL.

**DATES:** Effective September 30, 2010.

**ADDRESSES:** Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC. 20554.

**FOR FURTHER INFORMATION CONTACT:** Rolanda F. Smith, Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Report and Order,* MB Docket No. 10–22, adopted August 12, 2010, and released August 16, 2010. The *Notice of Proposed Rule Making* proposed the substitution of Channel 247C3 for vacant Channel 275C3 at DeBeque, Colorado. *See* 75 FR 4036, published January 26, 2010. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Information Center, 445 Twelfth Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com.* This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

**List of Subjects in 47 CFR Part 73**

Radio, Radio broadcasting.

■ As stated in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

## PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

**§ 73.202 [Amended]**

■ 2. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by removing Channel 275C3 and adding Channel 247C3 at DeBeque.

Federal Communications Commission.

**Andrew J. Rhodes,**

*Senior Counsel, Allocations Audio Division, Media Bureau.*

[FR Doc. 2010–21430 Filed 8–26–10; 8:45 am]

**BILLING CODE 6712–01–P**

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

### 48 CFR Parts 202, 212, and 234

### Defense Federal Acquisition Regulation Supplement; Acquisition of Commercial Items (2008–D011)

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Interim rule; delay in confirmation as final.

**SUMMARY:** DoD adopted as final, without change, effective August 20, 2010, the interim rule that amended the Defense Federal Acquisition Regulation Supplement (DFARS) to implement sections 805 and 815 of the National Defense Authorization Act for Fiscal Year 2008. Subsequently, public comments on the interim rule were located, which had not been addressed in finalization of the interim rule. These public comments must be addressed in the formulation of a final rule.

**DATES:** The interim rule published at 74 FR 34263 on July 15, 2009, as corrected at 74 FR 35825 on July 21, 2009, remains unconfirmed as final until further notice. When appropriate, Defense Acquisition Regulations System will publish announcement of final adoption in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Ms. Cassandra R. Freeman, Defense Acquisition Regulations System, OUSD (AT&L) DPAP/DARS, 3060 Defense Pentagon, Room 3B855, Washington, DC 20301–3060. Telephone 703–602–8383; facsimile 703–602–0350. Please cite DFARS Case 2008–D011.

**SUPPLEMENTARY INFORMATION:**

### A. Background

DoD published an interim rule at 74 FR 34263 on July 15, 2009, to implement sections 805 and 815 of the National Defense Authorization Act (NDAA) for Fiscal Year 2008 (Pub. L. 110–181). A correction to the interim rule was published at 74 FR 35825 on July 21, 2009, to clarify the types of services to which this rule applies, consistent with subsections (c)(1)(A) and (c)(1)(C)(i) of section 805 of the NDAA for Fiscal Year 2008. Section 805 specified when time-and-materials or labor-hour contracts may be used for commercial item acquisitions.

Upon publication of the final rule in the **Federal Register** at 75 FR 51416 on August 20, 2010, DoD was notified of several public comments that were submitted timely but were not received by DoD or considered in the formulation of the final rule. Therefore, publication of the finalization of the interim rule was premature. At this time, DoD must address the public comments received and consider whether or not there is any impact on the regulations currently in effect. Upon completion of an analysis of the public comments received, DoD will publish another document that will either (1) finalize the interim rule without change, or (2) publish a final rule incorporating the changes resulting from consideration of the public comments. Accordingly, the interim rule published at 74 FR 34263 on July 15, 2009, as corrected at 74 FR 35825 on July 21, 2009, remains in effect until such time as DoD publishes a subsequent document to finalize the interim rule.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

### List of Subjects in 48 CFR Parts 202, 212, and 234

Government procurement.

**Ynette R. Shelkin,**

*Editor, Defense Acquisition Regulations System.*

[FR Doc. 2010–21365 Filed 8–26–10; 8:45 am]

**BILLING CODE 5001–08–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 648

**[Docket No. 100201058—0260—02]**

**RIN 0648–XY22**

### Fisheries of the Northeastern United States; Spiny Dogfish Fishery; Commercial Period 1 Quota Harvested

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; closure of spiny dogfish fishery.

**SUMMARY:** NMFS announces that the spiny dogfish commercial quota available to the coastal states from Maine through Florida for the first semi-annual quota period, May 1, 2010 — October 31, 2010, has been harvested. Therefore, effective 0001 hours, August 27, 2010, federally permitted spiny dogfish vessels may not fish for, possess, transfer, or land spiny dogfish until November 1, 2010, when the Period 2 quota becomes available. Regulations governing the spiny dogfish fishery require publication of this notification to advise the coastal states from Maine through Florida that the quota has been harvested and to advise vessel permit holders and dealer permit holders that no Federal commercial quota is available for landing spiny dogfish in these states. This action is necessary to prevent the fishery from exceeding its Period 1 quota and to allow for effective management of this stock.

**DATES:** Quota Period 1 for the spiny dogfish fishery is closed effective at 0001 hr local time, August 27, 2010, through 2400 hr local time October 31, 2010. Effective August 27, 2010, federally permitted dealers are also advised that they may not purchase spiny dogfish from federally permitted spiny dogfish vessels.

**FOR FURTHER INFORMATION CONTACT:** Lindsey Feldman at (978) 675–2179, or *Lindsey.Feldman@noaa.gov*.

**SUPPLEMENTARY INFORMATION:**

Regulations governing the spiny dogfish fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota, which is allocated into two quota periods based upon percentages specified in the fishery management plan. The fishery is managed from Maine through Florida, as described in § 648.230.

The initial total commercial quota for spiny dogfish for the 2010 fishing year is 15 million lb (6,803.89 mt) (74 FR 36012, June 24, 2010). The commercial quota is allocated into two periods (May 1 through October 31, and November 1 through April 30). Vessel possession limits are set at 3,000 lb (1.36 mt) for both Quota Periods 1 and 2. Quota Period 1 is allocated 8,685,000 lb (3,943.45 mt), and Quota Period 2 is allocated 6,315,000 lb (2,864.44 mt) of the commercial quota. The total quota cannot be exceeded, so landings in excess of the amount allocated to Period

1 have the effect of reducing the quota available to the fishery during Period 2.

The Administrator, Northeast Region, NMFS (Regional Administrator) monitors the commercial spiny dogfish quota for each quota period and, based upon dealer reports, state data, and other available information, determines when the total commercial quota will be harvested. NMFS is required to publish a notification in the **Federal Register** advising and notify commercial vessels and dealer permit holders that, effective upon a specific date, the Federal spiny dogfish commercial quota has been harvested and no Federal commercial quota is available for landing spiny dogfish for the remainder of that quota period.

Section 648.4(b) provides that Federal spiny dogfish permit holders agree, as a condition of the permit, not to land spiny dogfish in any state after NMFS has published notification in the **Federal Register** that the commercial quota has been harvested and that no commercial quota for the spiny dogfish fishery is available. Therefore, effective 0001 hr local time, August 27, 2010, landings of spiny dogfish in coastal states from Maine through Florida by vessels holding commercial Federal fisheries permits will be prohibited through October 31, 2010, 2400 hr local time. The 2010 Period 2 quota will be available for commercial spiny dogfish harvest on November 1, 2010. Effective August 27, 2010, federally permitted dealers are also advised that they may not purchase spiny dogfish from vessels issued Federal spiny dogfish permits that land in coastal states from Maine through Florida.

## Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA (AA), finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest. This action closes the spiny dogfish fishery until November 1, 2010, under current regulations. The regulations at § 648.231 require such action to ensure that spiny dogfish vessels do not exceed the 2010 Period 1 quota. Data indicating the spiny dogfish fleet will have landed the 2010 Period 1 quota have only recently become available. If implementation of this closure is delayed to solicit prior public comment, the quota for Period 1 will be exceeded, thereby undermining the conservation objectives of the FMP. The AA further finds, pursuant to 5 U.S.C. 553(d)(3), good cause to waive the 30-day delayed effectiveness period for the reasons stated above.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: August 23, 2010.

**Carrie Selberg,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2010–21382 Filed 8–24–10; 4:15 pm]

**BILLING CODE 3510–22–S**

# Proposed Rules

Federal Register
Vol. 75, No. 166
Friday, August 27, 2010

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 TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2010–0850; Directorate Identifier 2010–NM–076–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Model A300 Series 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. 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:

In accordance with design regulation, the THSA [trimmable horizontal stabilizer actuator] has a failsafe design. Its upper attachment to the aeroplane has two load paths, a Primary Load Path (PLP) and a Secondary Load Path (SLP), which is only engaged in case of PLP failure. Following the design intent, engagement of the SLP leads to jam the THSA, indicating the failure of the PLP.

Tests carried out under the loads-measured during representative flights have demonstrated that, when the SLP is engaged, it does not systematically jam the THSA. In addition, laboratory tests have confirmed that the SLP will only withstand the loads for a limited period of time.

This condition of PLP failure during an extended period of time, if not detected and corrected, would lead to the rupture of the THSA upper attachment and consequent THSA loss of command, resulting in reduced control of the aeroplane.

* * * * *

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 October 12, 2010.

**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–2010–0850; Directorate Identifier 2010–NM–076–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 have lengthened the 30-day comment period for proposed ADs that address MCAI originated by aviation authorities of other countries to provide adequate time for interested parties to submit comments. The comment period for these proposed ADs is now typically 45 days, which is consistent with the comment period for domestic transport ADs.

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

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2010–0019, dated February 5, 2010 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

In accordance with design regulation, the THSA [trimmable horizontal stabilizer actuator] has a failsafe design. Its upper attachment to the aeroplane has two load paths, a Primary Load Path (PLP) and a Secondary Load Path (SLP), which is only engaged in case of PLP failure. Following the design intent, engagement of the SLP leads to jam the THSA, indicating the failure of the PLP.

Tests carried out under the loads-measured during representative flights have demonstrated that, when the SLP is engaged, it does not systematically jam the THSA. In addition, laboratory tests have confirmed that the SLP will only withstand the loads for a limited period of time.

This condition of PLP failure during an extended period of time, if not detected and corrected, would lead to the rupture of the THSA upper attachment and consequent THSA loss of command, resulting in reduced control of the aeroplane.

For the reasons stated above, this AD requires repetitive [detailed] inspections to detect if damage exists to the THSA upper

attachment and if the SLP has been engaged and corrective actions, depending on findings.

The corrective actions include contacting Airbus for instructions and doing those instructions. You may obtain further information by examining the MCAI in the AD docket.

**Relevant Service Information**

Airbus has issued Mandatory Service Bulletin A300–27–0203, including Appendix 01, dated June 8, 2009. 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 also estimate that it would take about 2 work-hours per product to comply with the 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 $850, or $170 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 adding the following new AD:

**Airbus:** Docket No. FAA–2010–0850; Directorate Identifier 2010–NM–076–AD.

**Comments Due Date**

(a) We must receive comments by October 12, 2010.

**Affected ADs**

(b) None.

**Applicability**

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

**Subject**

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

**Reason**

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

In accordance with design regulation, the THSA [trimmable horizontal stabilizer actuator] has a failsafe design. Its upper attachment to the aeroplane has two load paths, a Primary Load Path (PLP) and a Secondary Load Path (SLP), which is only engaged in case of PLP failure. Following the design intent, engagement of the SLP leads to jam the THSA, indicating the failure of the PLP.

Tests carried out under the loads-measured during representative flights have demonstrated that, when the SLP is engaged, it does not systematically jam the THSA. In addition, laboratory tests have confirmed that the SLP will only withstand the loads for a limited period of time.

This condition of PLP failure during an extended period of time, if not detected and corrected, would lead to the rupture of the THSA upper attachment and consequent THSA loss of command, resulting in reduced control of the aeroplane.

* * * * *

**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.

**Actions**

(g) Within 2,500 flight hours after the effective date of this AD, do a detailed visual inspection for metallic particles, cracks, scratches, and missing materials of the THSA upper attachment and screw shaft, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A300–27–0203, dated June 8, 2009. Repeat the inspection thereafter at intervals not to exceed 2,500 flight hours.

(h) If during any inspection required by paragraph (g) of this AD, any metallic particle, crack, scratch, or missing material is found, before further flight, contact Airbus to obtain approved corrective action instructions, and accomplish those instructions accordingly.

(i) Doing the corrective actions in paragraph (h) of this AD is not a terminating action for the repetitive inspection required by paragraph (g) of this AD.

**FAA AD Differences**

**Note 1:** This AD differs from the MCAI and/or service information as follows: No differences.

**Other FAA AD Provisions**

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

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane Directorate, 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: 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. Before using any approved AMOC on any airplane to which the AMOC applies, notify your principal maintenance inspector (PMI) or principal avionics inspector (PAI), as appropriate, or lacking a principal inspector, your local Flight Standards 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.

(3) Reporting Requirements: For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

**Related Information**

(k) Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2010–0019, dated February 5, 2010; and Airbus Mandatory Service Bulletin A300–27–0203, dated June 8, 2009; for related information.

Issued in Renton, Washington, on August 20, 2010.

**Jeffrey E. Duven,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2010–21419 Filed 8–26–10; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2010–0685; Airspace Docket No. 10–ASO–27]**

## Proposed Establishment of Class E Airspace; Bamberg, SC

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to establish Class E Airspace at Bamberg, SC, to accommodate the additional airspace needed for the Standard Instrument Approach Procedures (SIAPs) developed for Bamberg County Airport. This action would enhance the safety and airspace management of Instrument Flight Rules (IFR) operations at the airport.

**DATES:** 0901 UTC. Comments must be received on or before October 12, 2010.

**ADDRESSES:** Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001; *Telephone:* 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2010–0685; Airspace Docket No. 10–ASO–27, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Melinda Giddens, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5610.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

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

Communications should identify both docket numbers (FAA Docket No. FAA–2010–0685; Airspace Docket No. 10–ASO–27) and be submitted in triplicate to the Docket Management System (*see* **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Comments wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2010–0685; Airspace Docket No. 10–ASO–27." The postcard will be date/time stamped and returned to the commenter.

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

### Availability of NPRMs

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

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (*see* the **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

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

### The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to establish Class E airspace at Bamberg, SC to provide controlled airspace required to support the SIAPs developed for Bamberg County Airport. Class E airspace extending upward from 700 feet above the surface would be

established for the safety and management of IFR operations.

Class E airspace designations are published in Paragraph 6005 of FAA order 7400.9T, signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

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

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

**Lists of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (Air).

**The Proposed Amendment**

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

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

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

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

**§ 71.1 [Amended]**

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9T, Airspace Designations and Reporting Points, signed August 27, 2009, effective September 15, 2009, is amended as follows:

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

* * * * *

**ASO SC E5 Bamberg, SC [NEW]**

Bamberg County Airport, SC
(Lat. 33°18′16″ N., long. 81°06′30″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Bamberg County Airport.

Issued in College Park, Georgia, on August 12, 2010.

**Mark D. Ward,**

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

[FR Doc. 2010–21215 Filed 8–26–10; 8:45 am]

**BILLING CODE 4910–13–P**

## FEDERAL TRADE COMMISSION

### 16 CFR Part 698

**RIN 3084-AA94**

## Summary of Rights and Notices of Duties Under the Fair Credit Reporting Act

**AGENCY:** Federal Trade Commission

**ACTION:** Proposed rule; request for comment.

**SUMMARY:** Pursuant to its responsibilities under the Fair Credit Reporting Act, the Federal Trade Commission (Commission or FTC) is publishing for public comment revised versions of three documents: a summary of consumer rights, a notice of responsibilities for persons that furnish information to consumer reporting agencies, and a notice of responsibilities for persons that obtain consumer reports from consumer reporting agencies. The Commission is proposing the current revisions to incorporate changes in rights and obligations created by several new rules issued pursuant to the Fair and Accurate Credit Transactions Act of 2003. The Commission is also proposing revisions to improve the clarity and usefulness of the documents for consumers, furnishers, and users.

**DATES:** Comments must be received on or before September 21, 2010.

**ADDRESSES:** Interested parties are invited to submit written comments electronically or in paper form by following the instructions in the **SUPPLEMENTARY INFORMATION** section below. Comments in electronic form should be submitted by using the following weblink: (*https://ftcpublic.commentworks.com/ftc/fcrarevisednotices*) (and following the instructions on the web-based form). Comments filed in paper form should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex M), 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, in the manner detailed in the **SUPPLEMENTARY INFORMATION** section below.

**FOR FURTHER INFORMATION CONTACT:** Pavneet Singh, Attorney, Division of Privacy and Identity Protection, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580, (202) 326-2252.

**SUPPLEMENTARY INFORMATION:**

### I. Background

Under section 609(c) of the Fair Credit Reporting Act (FCRA), consumer reporting agencies (CRAs) are required to include a summary of consumer rights with every consumer report they provide to consumers.[1] The Commission is required to provide a model summary of rights (Summary of Rights) to be used for this purpose. In addition, section 607(d)(2) of the FCRA requires the Commission to prescribe the content of notices that CRAs must provide to those who furnish information to them (Furnisher Notice) and to those who obtain consumer reports from them (User Notice).[2]

The Commission originally issued these three documents in 1997.[3] It issued revised versions in 2004[4] to reflect changes made to the FCRA by the Fair and Accurate Credit Transactions Act of 2003 (FACT Act).[5] Since then, the Commission and other financial regulators have finalized new rules under the FACT Act. The Commission is now proposing a newly revised Summary of Rights, User Notice, and

[1] 15 U.S.C. 1681g(c). Under section 609(a) of the FCRA, 15 U.S.C. 1681g(a), CRAs are required to disclose to consumers the information in their files upon request. CRAs generally refer to these disclosures as "file disclosures" and provide them in a different format than the consumer reports they provide to third parties. For purposes of this notice, the term "consumer report" includes a "file disclosure" from a CRA to a consumer.

[2] 15 U.S.C. 1681e(d).

[3] 62 FR 35586 (1997).

[4] 69 FR 69776 (2004).

[5] Pub. L. 108-159, 117 Stat. 1952 (2003).

Furnisher Notice to reflect these new rules, as explained further below.[6] The proposed revised versions are also intended to improve the clarity and usefulness of the documents for consumers, furnishers, and users. For comparison, the 2004 versions of these notices can be found at (*www.ftc.gov/opa/2004/11/facta.shtm*).

## II. Summary of the Proposed Revised Notices

### *A. Summary of Rights (Appendix F to 16 CFR 698)*

Section 609(c) of the FCRA requires the Commission to issue a model Summary of Rights, which must include an explanation of (1) the consumer's right to obtain his or her consumer report; (2) the frequency and circumstances under which a consumer may receive free consumer reports under the FCRA; (3) the right of a consumer to dispute incorrect or outdated information in his or her consumer report; and (4) the right of a consumer to obtain a credit score.[7]

With respect to a consumer's right to dispute information in his or her consumer report, on July 1, 2009, the Commission and other federal regulatory agencies issued the Furnisher Direct Dispute Rule, which took effect on July 1, 2010. Prior to the effective date of this Rule, under the FCRA, consumers had a right to dispute the accuracy of information in their consumer reports only by filing a dispute with a CRA. Under the Furnisher Direct Dispute Rule, consumers may dispute the accuracy of information in their consumer report directly with the furnisher of that information as well as the CRA. The proposed revised Summary of Rights reflects this additional dispute right. Because it is difficult to inform consumers fully of their dispute rights in a summary fashion, the proposed revised Summary of Rights also directs consumers to the Commission's website for more information about disputing consumer report errors.[8]

In addition, the proposed revised Summary of Rights reflects changes to improve the clarity and readability of the document. The changes include reordering some of the information provided, as well as making formatting changes and minor wording changes to certain sections.

Finally, in order to keep the Summary of Rights sufficiently brief and to improve its readability, the proposed revised Summary of Rights deletes certain information that the Commission is not required to include. The current Summary of Rights incorporates a list of Federal agencies responsible for enforcing the FCRA, which the CRAs are also required to provide to consumers with their consumer reports. However, the FCRA does not require this list to be included in the Summary of Rights. Accordingly, the Commission proposes not to include this information in the proposed revised Summary of Rights. Instead, the Commission proposes to make available on its website a separate document that lists the Federal agencies responsible for enforcing the FCRA, along with their addresses, phone numbers, and website addresses, which can be updated more easily. CRAs may use this document to satisfy their obligation to provide consumers a list of Federal agencies responsible for enforcing the FCRA.

### *B. Furnisher Notice (Appendix G to 16 CFR 698)*

The proposed revised Furnisher Notice reflects the new duties of furnishers set forth in the Furnisher Direct Dispute Rule described above. It also reflects new duties contained in the Furnisher Accuracy Rule, which became effective on July 1, 2010. The Rule requires furnishers to establish policies and procedures to ensure the accuracy and integrity of the consumer report information they furnish to CRAs, and to consider the guidelines prescribed by the agencies in establishing these policies and procedures. In addition, the proposed revised Furnisher Notice also includes revisions to improve the clarity and readability of the document.[9]

### *C. User Notice (Appendix H to 16 CFR 698)*

The proposed revised User Notice reflects the new duties of users set forth in several of the rules finalized pursuant to the FACT Act. First, effective January 1, 2011, the Risk-Based Pricing Rule will require users of consumer reports to provide risk-based pricing notices in certain circumstances if they extend credit to a particular consumer on less favorable terms than those they offer to others. As an alternative to providing risk-based pricing notices, the Rule permits such users to provide consumers who apply for credit with a free credit score and information about their credit score. Second, if a CRA notifies a user of consumer reports that the address the user provided about a consumer is different from the address in the consumer report, the Address Discrepancy Rule, which became effective on January 1, 2008, requires the user to implement reasonable procedures to verify that the consumer report relates to the correct consumer. Users of consumer reports that verify the address is accurate, and that regularly furnish information to the CRA, have additional responsibilities under the Rule. Finally, the Medical Information Rules, which became effective on April 1, 2006, prescribe the circumstances under which creditors may obtain, use, and share medical information. The proposed revised User Notice has been revised to reflect all of these obligations, as well as to improve the clarity and readability of the document.[10]

## III. Request for Comments

The Commission invites comment on all aspects of the proposed revised Summary of Rights, Furnisher Notice, and User Notice. The Commission also invites comment from all interested parties on the following issues:

*Summary of Rights (Appendix F)*

- Has the existing Summary of Rights been effective in informing consumers about their rights under the FCRA?
- Has the Commission included all of the rights that should be included in the model summary?
- Has the Commission clearly and sufficiently described a consumer's ability to dispute inaccurate consumer report information with both the furnisher of the information and with the CRA? Is it useful to provide a reference to the FTC's website for additional information about disputing such errors?
- Is it appropriate to provide information about the Federal agencies responsible for enforcing the FCRA and the contact information for these agencies in a separate document, which

[6] At this time, the Commission is not issuing a revised version of the identity theft rights summary required by section 609(d) of the FCRA. The Commission is currently undertaking a survey of identity theft victims who contacted the FTC and expects that when completed, the results of that survey may influence any future revisions of the identity theft rights summary. *See* 73 FR 37457 (2009).

[7] Section 609(c) also requires that CRAs notify consumers that they may have additional rights under state law and that the FCRA does not require accurate, current derogatory information to be removed from consumers' files. Thus, the Commission has also included this information in its Summary of Rights.

[8] The Commission is concurrently updating its consumer education materials on disputing errors in credit reports to reflect consumers' new right to dispute inaccurate information directly with furnishers.

[9] These revisions include deleting citation references to the relevant sections of the FCRA from the text of the Notice and placing them in endnotes to make the document easier to read.

[10] As with the Furnisher Notice, these revisions include deleting citation references to the relevant sections of the FCRA from the text of the User Notice and placing them in endnotes.

will be made available on the FTC's website?

● Are there areas where the understandability of the proposed revised Summary of Rights could be improved? Are there any sections for which the language does not accurately convey the substance of the provision? If so, how could such sections be improved?

● The proposed revised Summary of Rights uses the term "credit report" to describe a consumer report under the FCRA because the Commission believes it is the term with which consumers are most familiar. However, as explained in the proposed revised Summary of Rights, consumers may obtain reports that contain non-credit information, such as rental or medical history information. Should an additional or alternate term be used to describe these types of reports? Would it be more effective and is it feasible to create a separate model Summary of Rights to send to consumers who request reports that contain non-credit information?

*Furnisher Notice (Appendix G)*

● Is the proposed revised Furnisher Notice accurate and easy to understand? In what ways could it be improved?

● The Commission expects that the Furnisher Notice will be sent to a wide range of entities with varying degrees of legal sophistication. Are the duties set forth in the proposed notice clear and understandable? Could the description of the duties be improved?

● Does the deletion of the citations to the relevant sections of the FCRA from the text to the endnotes improve the readability of the document? Or are the citations necessary for furnishers to locate and understand their statutory obligations?

*User Notice (Appendix H)*

● The proposed revised User Notice discusses the principal portions of the FCRA that impose obligations upon those who receive consumer reports. Should additional information be included in the notice?

● The Commission expects that the User Notice will be sent to a wide range of users with varying degrees of legal sophistication. Are the duties set forth in the proposed notice clear and easy to understand? Could the description of the duties be improved?

● Does the deletion of the citations to the relevant sections of the FCRA from the text to the endnotes improve the readability of the document? Or are the citations necessary for users to locate and understand their statutory obligations?

Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to "FACTA Notices, Project No. P105408," to facilitate the organization of comments. Please note that your comment – including your name and your state – will be placed on the public record of this proceeding, including on the publicly accessible FTC website, at (*http://www.ftc.gov/os/publiccomments.shtm*).

Because comments will be made public, they should not include any sensitive personal information, such as any individual'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. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include "trade 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 Federal Trade Commission Act ("FTC Act"), 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing matter for which confidential treatment is requested must be filed in paper form, must be clearly labeled "Confidential," and must comply with FTC Rule 4.9(c).[11]

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted using the following weblink: (*https://ftcpublic.commentworks.com/ftc/fcrarevisednotices*) (and following the instructions on the web-based form). To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the weblink (*https://ftcpublic.commentworks.com/ftc/fcrarevisednotices*). If this Notice appears at (*http://www.regulations.gov/search/Regs/home.html#home*), you may also file an electronic comment through that website. The Commission will consider all comments that regulations.gov forwards to it. You may also visit the FTC Website at (*http://www.ftc.gov*) to read the Notice and the news release describing it.

A comment filed in paper form should include the "FACTA Notices, Project No. P105408" reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary, Room H-135 (Annex M), 600 Pennsylvania Avenue, NW, Washington, D.C. 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

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, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at (*http://www.ftc.gov/os/publiccomments.shtm*). As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at (*http://www.ftc.gov/ftc/privacy.htm*).

## IV. Communications by Outside Parties to the Commissioners or Their Advisors

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding from any outside party to any Commissioner or Commissioner's advisor will be placed on the public record.[12]

## V. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501-3521, the Commission reviewed the summary of rights and the furnisher and user notices for compliance with the PRA when it issued them in 1997 and when it revised them in 2004. At both times, the Commission concluded that the summary and notices consisted of information that is supplied by the Federal government. Accordingly, the Commission determined that these notices do not constitute a "collection of information" as this term is defined in the regulations implementing the PRA,

[11] The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

[12] *See* 16 CFR 1.26(b)(5).

nor do the financial resources expended in relation to the distribution of these documents constitute a paperwork burden. *See* 5 CFR 1320.3(c)(2). The Commission has reviewed the proposed changes to the current summary and notices. The Commission has concluded, consistent with its analyses in 1997 and 2004, that the proposed summary and notices do not fall within the definition of "collection of information" covered by the PRA because they are "[t]he public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public * * *." 5 CFR 1320.3(c)(2).

**VI. Regulatory Flexibility Act**

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601—612, requires that the Commission provide an Initial Regulatory Flexibility Analysis (IRFA) with any action that may constitute a rule unless the Commission certifies that the action will not have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 603—605. The Commission concludes that the proposed revised Summary of Rights, Furnisher Notice, and User Notice will not have a significant economic impact on a substantial number of small entities, as discussed below. Accordingly, this document serves as notice to the Small Business Administration of the agency's certification of no effect. To ensure the accuracy of this certification, however, the Commission requests comment on whether the proposed revised summary or notices will have a significant impact on a substantial number of small entities, including specific information on the number of entities that will be covered by the proposed rules, the number of these entities that are small, and the average annual burden for each entity. To assist commenters, the Commission has prepared the following analysis:

*A. Description of the Reasons That Action by the Agency Is Being Taken*

The agency has undertaken this proceeding to implement provisions of the FCRA. Specifically, section 609(c) of the FCRA requires the Commission to prepare the Summary of Rights for consumers and section 607(d) requires the Commission to issue the Furnisher Notice and User Notice. All of these documents will be distributed by CRAs.

*B. The Proposal's Objectives and Legal Basis*

The objective of the Commission's action is the issuance of a proposed revised Summary of Rights, Furnisher Notice, and User Notice to educate consumers, furnishers of information to CRAs, and users of information from CRAs as to their rights or duties under the FCRA. As noted earlier, the legal bases for the proposed summary and notices are sections 609(c) and 607(d) of the FCRA, respectively.

*C. Small Entities to Which the Proposed Rule Will Apply*

The proposed revised Summary of Rights, Furnisher Notice, and User Notice are to be distributed by CRAs. The consumer reporting industry is composed primarily of "nationwide" CRAs and "nationwide specialty" CRAs, as defined in FCRA sections 603(p) and 603(w), respectively. The Commission believes that the nationwide and nationwide specialty CRAs will be responsible for much of the distribution of the summary and notices. The Commission believes that none of the nationwide CRAs is a "small" entity.[13] There are, however, small CRAs associated with the nationwide CRAs, and there are small, independent CRAs. Based on the membership of the major CRA trade associations, the Commission believes that the total universe of entities potentially covered by the requirement to distribute the summary and notices is between 600 and 1000. The Commission does not know how many of these entities are "small." The Commission invites comments on the number of "small" entities that will be affected by its proposal.

*D. Projected Reporting, Recordkeeping, and Other Compliance Requirements*

The proposed rule would impose no specific reporting or recordkeeping requirements. CRAs will be required, however, to distribute the prescribed summary and notices. The Summary of Rights will be distributed with each consumer report provided to consumers by CRAs, and will be distributed to large numbers of consumers each year. The CRAs will need to distribute the revised Furnisher Notice and User Notice on a one-time basis to all of the entities that furnish information to a CRA or use information obtained from a CRA, even if they were previously sent a prior version of the notices. However, the Commission does not believe that this requirement will increase in any significant way the burdens already imposed by the FCRA on CRAs. Because the Commission is providing the language for the summary and notices, businesses need not incur legal or other professional costs to develop any new written material. The cost of training employees, if any, should be minimal. Moreover, when the Furnisher Notice and User Notice are distributed electronically, the Commission believes the distribution costs will be negligible.

*E. Duplicative, Overlapping, or Conflicting Federal Rules*

The Commission has not identified any other federal statutes, rules, or policies that would duplicate, overlap, or conflict with the proposed summary or notices. The Commission invites comment and information on this issue.

*F. Significant Alternatives to the Proposed Rule*

In some situations, the Commission has considered adopting a delayed effective date for small entities subject to new regulation in order to provide them with additional time to come into compliance. In this case, however, the Commission proposes not to delay the effective date because small entities will be given the texts of the proposed summary and notices to be distributed and will not incur additional costs in developing them.

The Commission seeks comment and information with regard to (1) the existence of small business entities for which distribution of the required Summary of Rights, Furnisher Notices, and User Notices would have a significant economic impact; and (2) suggested alternative methods of compliance that, consistent with the statutory requirements, would reduce the economic impact of the requirements of this proceeding on these entities. If the comments filed in response to this notice identify small entities that are significantly affected, as well as alternative methods of compliance that would reduce the economic impact on such entities, the Commission will consider the feasibility of such alternatives.

**List of Subjects in 16 CFR Part 698**

Fair Credit Reporting Act, Consumer reports, Consumer reporting agencies, Credit, Trade practices.

Accordingly, pursuant to 15 U.S.C. 1681e and 1681g, the Federal Trade Commission hereby proposes to amend Part 698, chapter 1, title 16, Code of Federal Regulations, as follows:

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

**Authority:** 15 U.S.C. 1681e, 1681g, 1681s, and 1681j; 117 Stat. 1952; Pub. L. 108–159,

[13] CRAs subject to the Commission's jurisdiction with annual receipts of $7 million or less are considered small businesses. A list of the SBA's size standards for all industries can be found at (*http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sstd_tablepdf.pdf*) (last visited June 25, 2010).

sections 151, 153, 211(c) and (d), 213, and 311.

2. Revise Appendices F through H to read as follows:

## APPENDIX F TO PART 698–GENERAL SUMMARY OF CONSUMER RIGHTS

The prescribed form for this summary is a disclosure that is substantially similar to the Commission's model summary with all information clearly and prominently displayed. A separate list of federal regulators is available at the Commission's website at (*www.ftc.gov/credit*). A summary should accurately reflect changes to those items that may change over time (e.g., dollar amounts or telephone numbers) to remain in compliance. Translations of this summary will be in compliance with the Commission's model, provided that the translation is accurate and that it is provided in a language used by the recipient consumer.

BILLING CODE 6750–01–S

*Para informacion en español, visite www.ftc.gov/informesdecredito o llame gratuitamente al 1-877-382-4357.*

# Your Rights Under the Fair Credit Reporting Act

If you've ever applied for a credit card, a loan or insurance, there's a file about you called a credit report. Your credit report has information on where you have lived, whether you pay your bills on time and how much you owe to creditors, and whether you've been sued or filed for bankruptcy. Consumer reporting companies maintain files about you and sell the information in them to creditors, insurers, employers and other businesses that, in turn, use the information to evaluate your applications for credit, insurance, employment or a lease.

The federal Fair Credit Reporting Act (FCRA) gives you the right to:

- **GET** your credit report
- **GET** your credit score
- **FIX** mistakes in your credit report
- **STOP** pre-approved offers of credit

## → GET YOUR CREDIT REPORT

- You can get a free credit report every 12 months from each of the three nationwide consumer reporting companies — Equifax, Experian and TransUnion. To order, visit **www.annualcreditreport.com** or call **1-877-322-8228**.
- You can contact any consumer reporting company to get an additional free credit report if:
  - you are the victim of fraud;
  - you are on public assistance; or
  - you are unemployed but expect to apply for employment within 60 days.
- You can get a free credit report if someone has taken action against you, such as denying credit, because of information in your credit report. You should get a notice that includes information about how to get your free report so you can make sure the information used to take action against you is accurate.
- You can get a free report every 12 months from nationwide specialty consumer reporting companies that sell a specific type of information about you, like your check-writing, rental, insurance or medical history.
- You can always buy a copy of your report from any consumer reporting company.

## → GET YOUR CREDIT SCORE

- Your credit score is a number that reflects the information in your credit report. It can affect whether you get a loan and how much you will have to pay for the loan. You can order a credit score from consumer reporting companies that create or distribute scores. You may have to pay for your credit score.

## → FIX MISTAKES IN YOUR CREDIT REPORT

- Contact the consumer reporting company that provided the report and ask for an investigation.
- Write a letter to the company that provided the information about you (such as your credit card company), tell them about the mistake, and ask them to correct it.
- Inaccurate, incomplete, or unverifiable information must be corrected or deleted, usually within 30 days.
- Accurate negative information stays in your credit report for seven years as long as it can be verified, even if you have paid the debt. Bankruptcies can be reported for 10 years; criminal convictions can be reported indefinitely.
- For more information about how to fix mistakes in your credit report, visit **www.ftc.gov/credit**.

## → STOP PRE-APPROVED OFFERS OF CREDIT

- Companies may use your credit report to send you "pre-approved" offers of credit or insurance that you did not ask for. You may choose to stop these offers by calling **1-888-5-OPTOUT (1-888-567-8688)**. You may have to provide your Social Security Number to ensure proper identification.
- Put your phone number on the national Do-Not-Call registry to stop most telephone sales calls. To register, visit **www.ftc.gov/donotcall** or call **1-888-382-1222**.

## ADDITIONAL RIGHTS:

- You must agree in writing before a consumer reporting company can give out information in your credit report to your employer or to a potential employer. For more information about credit reports and employment, visit **www.ftc.gov/credit**.
- You have a right to sue in federal or state court for certain violations of the FCRA.
- Identity theft victims and active duty military personnel have additional rights. For more information, visit **www.ftc.gov/idtheft**.
- State law may give you other rights; contact your state or local consumer protection agency or your state Attorney General for information (**www.naag.org**).

**APPENDIX G TO PART 698–NOTICE OF FURNISHER RESPONSIBILITIES**

The prescribed form for this disclosure is a separate document that is substantially similar to the Commission's model notice with all information clearly and prominently displayed. Consumer reporting agencies may limit the disclosure to only those items that they know are relevant to the furnisher that will receive the notice.

## NOTICE TO FURNISHERS OF INFORMATION TO CONSUMER REPORTING AGENCIES: YOUR OBLIGATIONS UNDER THE FAIR CREDIT REPORTING ACT

The federal Fair Credit Reporting Act (FCRA)[1] protects the privacy and accuracy of information in a consumer report. If you provide information about someone to a consumer reporting agency (CRA), the FCRA considers you a "furnisher" of information and spells out your responsibilities. The text of the FCRA is set forth in full at the Federal Trade Commission's website at www.ftc.gov/credit.[2] In addition, rules and guidelines of the FTC and federal financial regulators issued pursuant to the FCRA may also apply.[3] State law may impose additional responsibilities.

Here is a summary of your responsibilities as a furnisher:

### TO PROVIDE ACCURATE INFORMATION

**You must establish and implement reasonable written policies and procedures to ensure the accuracy and integrity of the consumer information you provide to a CRA.** The policies and procedures must be appropriate to the nature, size, complexity and scope of your activities. In establishing your policies and procedures, you must consult and consider the guidelines issued by the FTC or, if you are a bank, thrift, or national credit union, your financial regulator. In general, you'll need to (1) identify practices or activities that can compromise the accuracy or integrity of information you provide to CRAs; and (2) evaluate the effectiveness of your existing policies, procedures and mechanisms to address these practices or activities and make changes if warranted. You must review your policies and procedures periodically and update them as necessary.

**You must not provide to a CRA information that you know – or have reason to know – is inaccurate**. However, you are not subject to this requirement if you clearly and conspicuously specify a mailing address that consumers can use to let you know that their information is inaccurate. If a consumer tells you their information is inaccurate, and it is inaccurate, you must not furnish it.

**If a consumer disputes the accuracy or completeness of information you provided to a CRA, you must not report it to a CRA without noting the dispute.**

**If you report information about a delinquent account that's placed for collection, charged to profit or loss, or subject to a similar action**, you must notify the CRA of the month and year the delinquency began. This will ensure that CRAs use the correct date when computing how long negative information can be kept in a consumer's file.

**If you regularly furnish information to CRAs, you have additional duties to ensure accuracy:**

**You must promptly correct and update inaccurate information** when a consumer or a CRA notifies you that you have provided inaccurate information. In addition, if you independently learn that you have provided inaccurate information, you must correct and update that information.

**You must notify the CRAs when a consumer voluntarily closes a credit account.** Unless it is clearly disclosed that the account was closed by the consumer – not the creditor – users of consumer reports may interpret a closed account as a sign of bad credit.

**TO INVESTIGATE DISPUTES**

**If a consumer notifies you in writing that you provided inaccurate information about them to a CRA, you must:**

- review all relevant information provided by the consumer and conduct a reasonable investigation. This requirement does not apply if the dispute should be directed to the CRA (for example, if it involves information derived from public records, or requests for a consumer report), if the dispute comes from a credit repair organization, or if the consumer's claim is frivolous. However, if you determine that the consumer's claim is frivolous, you must notify the consumer of that determination within five business days;

- report the results of your investigation to the consumer in a timely way; and

- promptly report the correct information to CRAs if the information is inaccurate.

**If a CRA notifies you that a consumer disputes the accuracy or completeness of information you provided, you must:**

- review all relevant information provided by the CRA, including information provided by the consumer, and conduct a reasonable investigation;

- report the results of your investigation to the CRA that referred the dispute in a timely way;

- report the results of your investigation to all nationwide CRAs to which you provided the information, if the investigation establishes that the information was incomplete or inaccurate; and

- promptly modify or delete the information in your files, or block it from being reported if the investigation finds the item to be inaccurate, incomplete or unverifiable.

**IN THE EVENT OF IDENTITY THEFT**

**If a CRA notifies you that information you have provided is the result of identity theft,** you must have reasonable procedures to respond and to ensure that you do not furnish that information again. If the information relates to a debt, you may not sell, transfer or place that debt for collection, except in limited circumstances.

**If a consumer submits an identity theft report directly to you stating that information you have is wrong because of identity theft,** you must not furnish that information to any CRA unless you know or are told by the consumer that the information is correct. You may specify an address for receiving such reports.

**SPECIFIC TYPES OF FURNISHERS HAVE ADDITIONAL RESPONSIBILITIES UNDER THE FCRA**

**If you are a financial institution that extends credit and regularly furnishes information to a nationwide CRA,** you must provide consumers with written notice if you provide negative information to such a CRA.[4]

**If your primary business is providing medical services, products or devices,** you (or your agent or assignee) must notify all the CRAs to which you furnish information that you are a medical information furnisher for purposes of the FCRA. This notice allows CRAs to protect the information you provide from unlawful disclosure.

**This notice is only a summary of your responsibilities under the FCRA. You must comply with all applicable provisions of the FCRA and the appropriate rules of the FTC and the federal financial regulators, including those issued after this notice was prescribed in 2010. You should become familiar with these laws and may want to consult with a lawyer to ensure your compliance. Failure to comply with the FCRA can result in state or federal government enforcement actions, as well as private lawsuits. The FTC's Web site, www.ftc.gov/credit, has more information about the FCRA, including publications for businesses, information about the FTC's and other regulators' jurisdiction, and the full text of the FCRA.**

**Endnotes**

1. 15 U.S.C. 1681-1681x.

2. These responsibilities are found primarily in Section 623 of the FCRA, 15 U.S.C. 1681s-2.

3. These rules and guidelines are available at: 16 CFR 660; 12 CFR 41; 12 CFR 222; 12 CFR 334; 12 CFR 571; 12 CFR 717.

4. The Federal Reserve Board has prescribed model disclosures at 12 CFR 222, App. B.

**APPENDIX H TO PART 698–NOTICE OF USER RESPONSIBILITIES**

The prescribed form for this disclosure is a separate document that is substantially similar to the Commission's notice with all information clearly and prominently displayed. Consumer reporting agencies may limit the disclosure to only those items that they know are relevant to the user that will receive the notice.

**NOTICE TO USERS OF CONSUMER REPORTS: YOUR OBLIGATIONS UNDER THE FAIR CREDIT REPORTING ACT**

The federal Fair Credit Reporting Act (FCRA)[1] protects the privacy and accuracy of the information in a consumer report. If you use these reports, the FCRA charges you with some important responsibilities. The text of the FCRA is set forth in full at the Federal Trade Commission's website at www.ftc.gov/credit. In addition, rules and guidelines of the FTC and financial regulators issued pursuant to the FCRA may also be applicable; a list of these is available at the end of this notice. State law may impose additional responsibilities. If you provide information to a consumer reporting agency (CRA), you have additional obligations and will receive a separate notice from the CRA describing your duties as a furnisher of information.

Here is a summary of your responsibilities as a user of consumer reports:

**OBTAINING CONSUMER REPORTS**

**You can obtain a consumer report only if you have a "permissible purpose."** Under the FCRA, permissible purposes are:

- to extend credit in response to an application or to review or collect on a customer's credit account
- to hire or promote an employee, if the employee has given consent in writing
- to provide insurance in response to a consumer application
- in connection with a business transaction initiated by a consumer, when there is a legitimate need
- as ordered by a court or a federal grand jury subpoena
- as instructed by a consumer in writing
- for government officials:
  - to determine a consumer's eligibility for a license or other benefit, where the law requires you to consider the consumer's financial responsibility or status;
  - in connection with child support payments;
  - in connection with government-sponsored individually-billed travel charge cards; or
  - in preparation for or in connection with the resolution or liquidation of a failed financial institution by the Federal Deposit Insurance Corporation or the National Credit Union Administration

- for current insurers or potential investors or servicers:
- in a valuation or assessment of the credit or prepayment risks associated with an existing credit obligation

**You must certify why you are requesting the report and that you will not use it for any other purpose.**

**USING INFORMATION IN A CONSUMER REPORT**

**You must notify consumers if you take an adverse action against them based on information in their report**. An adverse action is one with a negative impact – for example, denial or cancellation of credit or insurance, or denial of employment or promotion.

**If you take an adverse action based either in whole or in part on information in a consumer report**, you must notify the consumer, in writing, orally or electronically, and include:

- the name, address and telephone number of the CRA that supplied the report. If it is one of the three nationwide CRAs – TransUnion, Experian, or Equifax – you must include its toll-free telephone number;
- a statement that the CRA that supplied the report did not decide to take the adverse action and that it cannot give the specific reasons for the adverse action; and
- a notice of the consumer's right to a free report from the CRA if they ask for it within 60 days, and the right to dispute the accuracy or completeness of any information the CRA provided.

**If you deny credit – or increase its cost – for personal, family, or household purposes based either in whole or in part on information about a consumer from a source other than a CRA,** you must tell the consumer about the right to know the nature of the information you used to take the adverse action as long as the consumer asks for it in writing within 60 days. For example, you may have gotten the information from a reference – like a landlord or employer – that the consumer listed on an application for credit. If the consumer asks in writing about the nature of the information you used to make your decision, you have to respond within a reasonable time. If the adverse action is based on information from an entity affiliated with you by common ownership or control, you have to respond within 30 days.

**If you use a consumer report to determine the cost of credit,** you may be required to provide a "risk-based pricing notice." If the terms of the offer of credit are less favorable than

the terms available to a substantial portion of the consumers to whom you extend credit (such as offering credit with a higher APR), you generally must give the consumer a "risk-based pricing notice." As an alternative to providing risk-based pricing notices, you may provide all consumers who apply for credit with a free credit score and information about their score.

**If you use credit scores to make or arrange loans secured by certain residential real property,** you must provide consumers with their credit score for free, along with a "Notice to the Home Loan Applicant."[2] If you also choose to provide consumers with a notice of their credit score as an alternative to the "risk-based pricing notice" as described above, you generally must combine these credit score notices into a single notice.

**If you see a "fraud alert" or "active duty military alert" on a consumer report, you may not extend credit, unless you take reasonable steps to verify the applicant's identity.** For a consumer report with an "initial" fraud or active duty alert, you must have reasonable policies or procedures in place to verify the applicant's identity or you must contact the consumer who placed the alert at a telephone number in the fraud alert. When consumer reports have "extended" fraud or active duty alerts, you cannot extend credit unless you have called the consumer who placed the alert at the telephone number provided.

**If a nationwide CRA says the address you provide about a consumer is not the same as the address in the consumer report, you must follow reasonable procedures to verify that the consumer report relates to the right consumer.** Reasonable procedures could include comparing the information in the consumer report with information (1) in your own files, (2) obtained by third party sources, or (3) that you get directly from the consumer. If you have confirmed that the address the consumer provided is accurate, and you regularly furnish information to the CRA, you may have additional obligations.

**You must take reasonable precautions when you dispose of consumer report information.** Reasonable measures include:

- burning or shredding papers that have consumer report information;
- destroying or erasing electronic files or media with consumer report information so the information can't be read or reconstructed; and
- hiring a reputable document destruction contractor to dispose of relevant material.

**If you receive medical information,** there are limits on how you can use it. For example, you may not use it to take someone's health, condition or history, type of treatment, or prognosis into account in determining eligibility for credit. But you may use it to make such a determination if the information is the kind routinely used to do that – for example, information related to medical debts or expenses. You may not share medical information except when the disclosure is necessary to determine eligibility or is otherwise allowed by law, and you may not share someone's medical information among affiliates, except under specific circumstances.

**FOR EMPLOYERS**

**Before you order a consumer report about a current or potential employee**, you must:

- give the consumer a written notice that a report may be used (the notice should not deal with any other subject);
- get the consumer's written permission to ask a CRA for the report; and
- certify to the CRA that you have given the consumer notice, that you have gotten the consumer's permission, that you will not use the information in violation of any federal or state equal opportunity law or regulation, and that you will provide the consumer with a copy of the report and a summary of their FCRA rights before you take any adverse action based on the consumer report.

**Before you take an adverse action**, you must provide a copy of the consumer report to the consumer, as well as the summary of rights and notice of the adverse action.

**If you are an employer in the trucking industry**, special rules apply if the only interaction between you and the consumer is by mail, telephone or computer. In these cases, the current or potential employee may give consent orally or electronically, and you may provide adverse action notices orally, in writing or electronically. The consumer may contact you for a copy of any report you use to make a decision.

**If you intend to use an investigative consumer report** – where personal interviews are the source of information about someone's character, general reputation, personal characteristics and mode of living – you must:

- give written notice to the consumer that you may request or have requested an investigative consumer report, and include a statement that the consumer has a right to request additional disclosures of the nature and scope of the investigation and a summary of their rights (the CRA that conducts the investigation provides the summary);
- certify to the CRA that you have made the disclosure and that you will make additional disclosures about the nature and scope of the investigation if the subject asks; and
- mail or deliver the additional disclosures to the consumer within five days of a request.

If you suspect misconduct by an employee, including violations of any laws or of your written rules or policies, the report of your investigation is not treated as a consumer report, as long as you do not share it with anyone except the employee, a self-regulatory agency, a governmental organization, or as otherwise required by law. If you take an adverse action as a result of your investigation, you must provide the employee with a summary of the inquiry.

**FOR THOSE WHO USE "PRESCREENED" LISTS:**

If you use limited consumer report information to make unsolicited "prescreened" offers of credit or insurance, you must:

- establish the criteria you will use both to make the offer and to grant credit or insurance before you make the offer;
- maintain the criteria on file for three years from the date the offer is made; and
- provide a clear and conspicuous statement on each written solicitation that:
  - information in a consumer report was used in connection with the transaction;
  - the consumer received the offer because they met the criteria for credit worthiness or insurability used to screen for the offer;
  - the consumer may not get credit or insurance if you determine that they don't meet your pre-established criteria or furnish the required collateral; and
  - the recipient may choose not to receive prescreened offers in the future by contacting the CRA at an address or toll-free number established for this purpose, and that to opt out of offers from all the nationwide CRAs, the toll-free number is 1-888-5-OPT-OUT.

The FTC has requirements for the format, type, size and manner of this statement in its "Pre-Screen Opt-Out Notice" Rule.

**FOR RESELLERS:**

**If you obtain a consumer report for resale**, you must:

- disclose the identity of the end-user to the CRA;
- tell the CRA each permissible purpose for which the report will be furnished to the end-user; and
- establish and follow reasonable procedures to ensure that (1) reports are resold for permissible purposes only, including procedures to obtain the identity of all end-users and their certifications of each purpose for which the reports will be used; and (2) the reports will not be used for any other purpose. Resellers must make reasonable efforts to verify this information before selling a report.

**If a consumer disputes the accuracy of information in a consumer report you prepared**, you must determine who is responsible within five business days of receiving the notice of dispute. If you are responsible for the mistake, you must correct or delete the information. If you aren't, you must send the dispute to the source CRA. When that CRA notifies you of the results of an investigation, you must convey the information to the consumer

immediately.

**If you receive fraud alerts or active duty alerts from another CRA**, you must include them in your reports.

**Here are the citations for certain rules that apply to users of consumer reports:**

| | |
|---|---|
| Risk-Based Pricing Notices Rule | 16 CFR 640.1 - 640.6, 698; 12 CFR 222.70 - 222.75 |
| Address Discrepancy Rule | 16 CFR 681.1; 12 CFR 41.82; 12 CFR 222.82; 12 CFR 334.82; 12 CFR 571.82; 12 CFR 717.82 |
| Medical Information Rules | 12 CFR 41.30 - 41.32; 12 CFR 571.30 -571.32; 12 CFR 222.30 - 222.32, 232.1 - 232.4; 12 CFR 334.30 - 334.32; 12 CFR 717.30 - 717.32 |
| Pre-Screen Opt-Out Notice Rule | 16 CFR 642.1 - 642.4, 698 |

**This notice is only a summary of your responsibilities under the FCRA. You must comply with all applicable provisions of the FCRA and the appropriate rules of the FTC and the federal financial regulators, including those issued after this notice was prescribed in 2010. You should become familiar with the laws and may want to consult with a lawyer to ensure your compliance. Failure to comply with the FCRA can result in state or federal government enforcement actions, as well as private lawsuits. In addition, anyone who knowingly and willfully obtains a consumer report under false pretenses may face criminal prosecution. The FTC's Web site, www.ftc.gov/credit, has more information about the FCRA, including publications for businesses, information about the FTC's and other regulators' jurisdiction, and the full text of the FCRA.**

**Endnotes**

1. 15 U.S.C. 1681-1681x.

2. The text of this notice can be found in Section 609 of the FCRA, 15 U.S.C. 1681g.

By direction of the Commission.

**Donald S. Clark,**

*Secretary*

[FR Doc. 2010–21202 Filed 8–26–10; 7:35 am]

**BILLING CODE 6750–01–C**

## DEPARTMENT OF LABOR

### Employment and Training Administration

### 20 CFR Part 672

**RIN 1205–AB49**

### YouthBuild Program

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice of proposed rulemaking with request for comments.

**SUMMARY:** The Employment and Training Administration (ETA) of the U.S. Department of Labor (Department) is issuing this Notice of Proposed Rulemaking (NPRM) to implement the YouthBuild Transfer Act of 2006 (Transfer Act), which establishes the YouthBuild program in the Department under subtitle D of Title I of the Workforce Investment Act of 1998 (WIA) as amended. The proposed rule clarifies the requirements of the Transfer Act for YouthBuild program providers and participants. The proposed rule would set standards under which YouthBuild program providers would carry out the goals of the program, which are to assist at-risk youth in obtaining a High School diploma or GED and acquiring occupational skills training that leads to employment through the construction/rehabilitation of housing for low-income or homeless individuals and families in the community.

**DATES:** Interested persons are invited to submit comments on this proposed rule. To ensure consideration, comments must be received on or before October 26, 2010.

**ADDRESSES:** You may submit comments, identified by Regulatory Information Number (RIN) 1205–AB49, by any one of the following methods:

*Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the Web site instructions for submitting comments.

*Mail and hand delivery/courier:* Written comments, disk, and CD–ROM submissions may be mailed to Thomas M. Dowd, Administrator, Office of Policy Development and Research, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–5641, Washington, DC 20210.

The Department will not accept e-mailed or faxed comments.

*Instructions:* Label all submissions with RIN 1205–AB49.

Please submit your comment by only one method. Please be advised that the Department will post all comments received on *http://www.regulations.gov* without making any change to the comments, or redacting any information. The *http://www.regulations.gov* Web site is the Federal e-rulemaking portal and all comments posted there are available and accessible to the public. Therefore, the Department recommends that commenters safeguard any personal information such as Social Security Numbers, personal addresses, telephone numbers, and e-mail addresses included in their comments as such information may become easily available to the public via the *http://www.regulations.gov* Web site. It is the responsibility of the commenter to safeguard any such personal information.

Also, please note that due to security concerns, postal mail delivery in Washington, DC may be delayed. Therefore, the Department encourages the public to submit comments on *http://www.regulations.gov.*

*Docket:* All comments on this proposed rule will be available on the *http://www.regulations.gov* Web site and can be found using RIN 1205–AB49. The Department also will make all the comments it receives available for public inspection by appointment during normal business hours at the above address. If you need assistance to review the comments, the Department will provide you with appropriate aids such as readers or print magnifiers. The Department will make copies of the rule available, upon request, in large print, Braille and electronic file on computer disk. The Department will consider providing the rule in other formats upon request. To schedule an appointment to review the comments and/or obtain the rule in an alternative format, contact the Office of Policy Development and Research at (202) 693–3700 (this is not a toll-free number). You may also contact this office at the address listed.

**FOR FURTHER INFORMATION CONTACT:** Thomas M. Dowd, Administrator, Office of Policy Development and Research, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–5641, Washington, DC 20210; telephone (202) 693–3700 (this is not a toll-free number).

Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

**SUPPLEMENTARY INFORMATION:**

The Preamble of this proposed rule is organized as follows:



## I. Background

On September 22, 2006, the YouthBuild Transfer Act, Public Law 109–281 (Transfer Act) was signed into law. The Transfer Act authorizes grants for job training and educational activities for at-risk youth who, as part of their training, help construct or rehabilitate housing for homeless individuals and families and low-income families in their respective communities. Participants receive a combination of classroom training, job skills development, and on-site training in the construction trades.

The White House Task Force for Disadvantaged Youth recommended transferring the administration of the YouthBuild program, also known as "Hope for Youth", from the U.S. Department of Housing and Urban Development (HUD) to the Department. *The White House Task Force for Disadvantaged Youth Final Report.* Pg. 4, October 2003.

The transfer allows for greater coordination of the YouthBuild program with Job Corps, WIA Youth Programs, the workforce investment system, including local workforce investment boards (WIBs), One-Stop Career Centers, and their partner programs (for example, Federal, State, and local education agencies), while at the same time retaining many of the same affordable housing goals as under the HUD program. The Transfer Act transfers the authority for the YouthBuild program from the Cranston-Gonzalez National Affordable Housing Act (49 U.S.C. 12899 *et seq.*) (Cranston-Gonzales Act) to subtitle D of Title I of WIA and it makes modifications and changes to the programs that focus on increasing the skilled workforce available for the construction trades.

In addition to transferring the administration of the program from HUD to the Department, the Transfer Act expands the activities authorized under the YouthBuild program to include many activities authorized under the WIA Title I youth formula program. The transfer maintains all the goals of the YouthBuild program as

originally developed under HUD, but shifts the emphasis to education and skills training for at-risk youth participants. The Department will continue to support the development of affordable housing which was a goal of the HUD program. The Transfer Act incorporates technical modifications to the YouthBuild program to make it consistent with WIA's job training, education, and employment goals. Moreover, the Transfer Act authorizes education and workforce investment activities such as occupational skills training, internships, and job shadowing, as well as community service and peer-centered activities. In addition, the Transfer Act authorizes the Department to use performance indicators developed for Federal youth employment and training programs to enhance the accountability of YouthBuild programs.

Although the construction and rehabilitation of affordable housing continues to be a major component of the YouthBuild training program, the Department's main focus is to prepare at-risk youth for employment. Therefore, the Department has increased the emphasis on the education and occupational skill training provided by YouthBuild programs. Specifically, the occupational skill training offered in YouthBuild programs must begin upon program enrollment and be tied to the award of an industry recognized credential; i.e., what someone receives after successful completion of the National Center for Construction Education and Research' program, the Home Builder's Institute's (HBI) HPACT curriculum, or the Building Trades Multi-Craft Core curriculum.

The Transfer Act also places emphasis on coordinating training with registered apprenticeship programs, which will allow participants to enter such programs upon exiting YouthBuild. Additionally, the Transfer Act permits the use of some YouthBuild funds to pay for supervision and training costs to allow participants to develop skills and obtain work experience in the rehabilitation or construction of community buildings and other public facilities. The Transfer Act authorizes these and other new activities to better assist at-risk youth in preparing for employment.

The Department has administered the YouthBuild program, including making grants, for more than three years since the passage of the Transfer Act. In drafting these regulations, the Department relies on the knowledge gained from administering these grants, along with its experience gained in developing the WIA Youth Program.

The Transfer Act retains the out-of-school and age requirements that were in the Cranston-Gonzalez Act for YouthBuild, targeting eligible youth who are school dropouts and are between the ages of 16 and 24 years old. The Transfer Act further provides that at least 75 percent of participants must be school drop-outs who are members of low-income families, youth in foster care, youth offenders, youths with a disability, children of an incarcerated parent, or migrant youths. In addition, to ensure that other at-risk youths have access to the program, the Transfer Act includes a 25 percent eligibility exception. This exception permits secondary schools to refer students to a YouthBuild program that offers a secondary school diploma if the program is determined to be a better fit for the youth. The exception also allows youth who have a diploma or General Education Development (GED) degree but test as basic skills deficient to participate in a YouthBuild program.

## II. Section-by-Section Review of the Proposed Rule

*Subpart A—Purpose and Definitions*

What is YouthBuild? (§ 672.100)

This section describes the YouthBuild program. YouthBuild is a workforce development program that provides employment, education, leadership development, and training opportunities to disadvantaged youth. The program also benefits the larger community because it provides new and rehabilitated affordable housing.

The program recruits youth between the ages of 16 and 24. The youth are school dropouts and are either: A member of a low-income family, a youth in foster care, a youth offender, a youth who is an individual with a disability, a child of an incarcerated parent, or a migrant youth. In addition, to ensure that other at-risk youths have access to the program, the Transfer Act includes a 25 percent eligibility exception. Program participants are given the chance to earn their high school diploma or pass their GED tests, to participate in the occupational skills training, and are provided with the opportunity to pursue post-secondary education and training, including registered apprenticeship programs.

The program creates a sense of self-worth for its participants by providing skills training in the construction industry and highlighting the important role that each individual can have on community development and engagement. In addition, youth can witness their success and contributions through the rehabilitation and construction of affordable housing for homeless individuals and families and low-income families.

What are the purposes of the YouthBuild program? (§ 672.105)

This section describes the purposes of the YouthBuild program. The overarching goal of the YouthBuild program is to offer disadvantaged youth the opportunity to obtain education and useful employment skills to enter the labor market. Construction encompasses this goal, and serves as a platform to provide skills training and education to YouthBuild participants.

In addition to the goal listed above, another essential element of the YouthBuild program is the provision of counseling and assistance in obtaining post-secondary education and/or employment and training placements that allow youth to further their education and training. Further, youth also have the ability to participate in leadership development and community service activities. The program seeks to increase the number of affordable housing units available to alleviate the rate of homelessness in communities with YouthBuild programs. Another goal of YouthBuild is to foster the development of leadership skills and a commitment to community improvement among youth in low-income communities. Through these opportunities, youth can contribute to their communities both through workforce participation and housing development.

What definitions apply to this part? (§ 672.110)

The definitions that are listed in this section are specific to the YouthBuild program. As an amendment to the Workforce Investment Act, other definitions that apply to the YouthBuild Program are defined under sec. 101 of WIA, 29 U.S.C. 2801 and at 20 CFR part 660.

*Alternative School:* To determine the educational status and therefore eligibility of a youth to participate in YouthBuild, the term "alternative school" means a school or program that is set up by a State, school district, or other community-based entity to serve young people who are not succeeding in a traditional public school environment. An "alternative school" must be recognized by the authorizing entity designated by the State. The school must award a high school diploma. "Alternative schools" must be affiliated with YouthBuild programs in order to qualify as part of a "sequential service strategy."

*Community or Other Public Facility:* The term "community or other public facility" means those facilities which are publicly owned and publicly used for the benefit of the community. Examples include public use buildings such as recreation centers, libraries, public park shelters, or public schools. This term may also encompass facilities used by the program but only if the facility is available for public entry and use.

*Core Construction:* The term "core construction" means activities that are directly related to the construction or rehabilitation of residential, community, or other public facilities. These activities include, but are not limited to, job skills that can be found under the Standard Occupational Classification System (SOC) major group 47, Construction and Extraction Occupations, in codes 47–1011 through 47–4099. These activities may also include, but are not limited to construction skills that may be required by green building and weatherization industries but are not yet standardized. A full list of the SOC's can be found at the Department Bureau of Labor Statistics (BLS) Web site, *http://www.bls.gov/soc.*

*Eligible Entity:* The term "eligible entity" describes the types of organizations that are permitted to apply for a YouthBuild grant. The definition of "eligible entity" was provided in the YouthBuild Transfer Act.

*Homeless Individual:* The definition of "homeless individual" comes from the McKinney-Vento Homeless Assistance Act. 42 U.S.C. 11302. This term is defined in the YouthBuild Transfer Act.

*Housing Development Agency:* The term "housing development agency" is defined in the YouthBuild Transfer Act.

*Income:* The definition of "income" comes from the United States Housing Act of 1937. 42 U.S.C. 1437a(b). Under § 3(b) of the YouthBuild Transfer Act (29 U.S.C. 2918(a)), the determination of income is made in accordance with guidance provided by the Secretary of Labor (Secretary), in consultation with the Secretary of Agriculture.

*Indian; Indian Tribe:* The definitions of "Indian" and "Indian tribe" are taken from the Indian Self-Determination and Education Assistance Act. 25 U.S.C. 450b. These terms are defined in the YouthBuild Transfer Act.

*Individual of Limited English Proficiency:* The definition of an "individual of limited English proficiency" means an eligible participant who meets the criteria derived from the Adult Education and Family Literacy Act. 20 U.S.C. 9202(10). This term is defined in the YouthBuild Transfer Act.

*Low-Income Family:* The definition of the term "low-income family" is taken from the United States Housing Act of 1937. 42 U.S.C. 1437a(b)(2). As defined, a "low-income family" is: A family whose income does not exceed 80 percent of the median income for the area unless the Secretary determines that a higher or lower ceiling is warranted. This term is defined in the YouthBuild Transfer Act. Under HUD's YouthBuild program, one of the eligibility criteria for participants was that the individual must be a very low-income individual or a member of a "very low-income family." However, the YouthBuild Transfer Act requires only that an individual be a member of a "low-income family" or fall into one of the new categories prescribed by the Transfer Act. The definition of "low-income family" in the proposed rule subsumes the definition of "very low-income family" in HUD's YouthBuild regulations and broadens the pool of eligible participants. This definition applies not only to the eligibility of participants but also to the requirement that any residential units constructed or rehabilitated using YouthBuild funds must be used to house homeless individuals and families or low-income families. Further, as defined by 42 U.S.C. 1437a(b)(2)(3), the term families includes families consisting of one person.

*Migrant Youth:* The term "migrant youth" means a youth who, or a youth who is the dependent of someone who, during the previous 12 months has:

(a) Worked at least 25 days in agricultural labor that is characterized by chronic unemployment or underemployment;

(b) Made at least $800 from agricultural labor that is characterized by chronic unemployment or underemployment, if at least 50 percent of his or her income came from such agricultural labor;

(c) Was employed at least 50 percent of his or her total employment in agricultural labor that is characterized by chronic unemployment or underemployment; or

(d) Was employed in agricultural labor that requires travel to a jobsite such that the worker is unable to return to a permanent place of residence within the same day.

This definition is adapted from guidance for determining eligibility of migrant and seasonal farmworkers for the National Farmworker Jobs Program in Department of Labor, Farmworker Bulletin 00–02, NFJP Eligibility Policy Guidance (2000).

*Needs-Based Stipend:* "needs-based stipends" are additional payments (beyond regular stipends for program participation) that are based on defined needs that enable a youth to participate in the program. To provide "needs-based stipends", the grantee must have a written policy in place, which defines: (a) Eligibility; (b) the amounts; and (c) the required documentation and criteria for payments. This policy must be applied consistently to all program participants.

*Occupational Skills Training:* "Occupational skills training" means an organized program of study that provides specific vocational skills that lead to proficiency in performing actual tasks and technical functions required by certain occupational fields at entry, intermediate, or advanced levels. The occupational skills training offered in YouthBuild programs must begin upon program enrollment and tied to the award of an industry-recognized credential.

*Partnership:* The term "partnership" means an agreement that involves a Memorandum of Understanding (MOU) or letter of commitment submitted by each organization and applicant, as defined in the YouthBuild Transfer Act, that plan on working together as partners in a YouthBuild program. Each partner must have a clearly defined role. These roles must be verified through a letter of commitment, not just a letter of support, or MOU submitted by each partner. The letter of commitment or MOU must detail the role the partner will play in the YouthBuild Program, including specific responsibilities and resources committed, if appropriate. These letters or MOU's must clearly indicate the partnering organization's unique contribution and commitment to the YouthBuild Program. This term is not in the YouthBuild Transfer Act but was added to the regulations. An applicant's ability to enter into partnerships with education and training providers, employers, the workforce investment system, the juvenile justice system and faith-based and community organizations will be a criteria in selecting grantees.

*Registered Apprenticeship Program:* The term "registered apprenticeship program" is defined in the YouthBuild Transfer Act and means a plan containing all terms and conditions for the qualification, recruitment, selection, employment and training of apprentices, as required under 29 CFR parts 29 and 30, including such matters as the requirement for a written apprenticeship agreement. To the extent that 29 CFR part 30 is amended, such amendments shall apply to the

determination of what is a "registered apprenticeship program".

*Sequential Service Strategy:* The term "sequential service strategy" defines the educational and occupational skills training plan developed for individuals who have dropped out of high school and want to enroll in a YouthBuild program. The plan is designed so that the individual first enrolls in an alternative school, and, after receiving a year or more of educational services, enrolls in a YouthBuild program. A youth will only be eligible for the YouthBuild program under the sequential service strategy if the alternative school is affiliated with a YouthBuild program.

The Office of Inspector General suggested that a definition be provided for "sequential service strategy" either through guidance or in the regulations after its Audit of the YouthBuild Recovery grants. The reason for their suggestion was that grantees should be provided guidance on the meaning of provisions in both the American Recovery and Reinvestment Act, Public Law 111–5 (2009) and the 2009 Omnibus Appropriations Act, Public Law 111–8 (2009) that broaden the WIA YouthBuild school dropout provision for Program Years 2008 and 2009. We agree and, therefore, have added definitions to clarify the terms "alternative school" and "sequential service strategy" as used in those statutory provisions.

*Transitional Housing:* The term "transitional housing" is defined in the YouthBuild Transfer Act.

*Youth in Foster Care:* The term "youth in foster care" means youth currently in foster care or youth who have ever been in foster care. The YouthBuild Transfer Act uses the term "youth in foster care (including youth aging out of foster care)." The U.S. Department of Health and Human Services (HHS) has recommended that the term be changed to youth who have ever been in foster care. We accept this new definition as we believe it is consistent with the statutory definition and is clearer and explains how the program uses the term.

*Youth Who is an Individual with a Disability:* The term Youth who is an Individual with a Disability means an individual between the ages 16–24 who is an individual with a disability as defined by Section 101 of the Workforce Investment Act or a student receiving special education and related services under the Individuals with Disabilities Education Act (IDEA).

*Subpart B—Funding and Grant Applications*

How are YouthBuild grants funded and administered? (§ 672.200)

This section describes how YouthBuild grants are funded and administered. The YouthBuild program is funded through appropriations authorized under 29 U.S.C. 2918a(h). YouthBuild will be administered as a national program with grants awarded through a competitive selection process, similar to the YouthBuild "implementation grants" formerly administered by HUD. It is noteworthy that the authority to issue "planning grants," which was formerly authorized under the Cranston-Gonzalez Act, was not retained in the Transfer Act as Congress considered planning grants no longer necessary to administer the current program.

How does an eligible entity apply for grant funds to operate a YouthBuild program? (§ 672.205)

This section describes in general terms the process the Department will use to select grantees. We propose to select grantees through a competitive process. The directions for applying for grants will be issued in a Solicitation for Grant Applications (SGA) which will describe the eligibility requirements and rating criteria for the competition.

Essentially, all of the grant application requirements to operate a YouthBuild program have been retained, but several new requirements are now added by the Transfer Act and these regulations. Among the new requirements, an applicant is required to provide labor market information for the local market area where the grant will be used and to provide projections on career opportunities in local industries, such as the construction industry. In addition, an applicant's statement of qualifications must describe its relationships with the workforce investment system and with employers. HUD required a description of the manner in which eligible youth will be recruited and selected as YouthBuild participants, including arrangements with required partners. Newly added to the list as a requirement, is a description of the arrangements that will be made with the local workforce board, One-Stop operators, and faith-based organizations to recruit YouthBuild participants. HUD only required such a description for community-based organizations. Other new requirements are that applicants describe how they will meet common performance measures for youth programs, identify the role of employers in the program, and describe their ability to grant industry-recognized skills-based certifications. All of these requirements will be described in the SGA through which grantees are selected.

How are eligible entities selected to receive grant funds? (§ 672.210)

This section describes the selection criteria for selecting grantees. The selection criteria that the Secretary may use to make grant determinations have been expanded from HUD's selection criteria. The new factors, which are specified in the Transfer Act and are in addition to existing criteria, include the applicant's focus on preparing youth for postsecondary education or careers in demand occupations; the extent to which the applicant will coordinate with the workforce investment system, employers, and educational institutions in conducting their YouthBuild activities; the applicant's ability to serve different regions, including rural areas and States without prior YouthBuild programs. The weights given to these criteria will be specified in the SGA. Additionally, in the event additional funds become available, ETA reserves the right to use such funds to select additional grantees from applications submitted in response to a SGA.

The Department has added to the selection criteria one factor not listed in the Transfer Act. Applicants will be evaluated on their ability to attract partners. Examples of partners are educational and training providers, employers, the workforce investment system, the juvenile justice system, disability service providers, and faith-based organizations as partners. While the selection criteria already emphasize the applicants' ability to coordinate with these groups, a partnership is a more formal commitment in which the applicant and its partner agree to work together, signified by a memorandum of understanding or letter of commitment indicating the partnering organization's unique contribution and commitment to the YouthBuild Program. The complexity of the YouthBuild program requires that entities engage in meaningful partnerships throughout their community to ensure the success of the participants as they transition from the program into post-secondary employment or education as well as ensure the successful construction or rehabilitation of affordable housing.

How are eligible entities notified of approval for grant funds? (§ 672.215)

The Secretary, to the extent practicable, must notify each applicant of the approval or disapproval of its

grant application not later than 5 months after the date of the receipt of the application. This is a change from the 4-month notification timeframe under the HUD program and reflects differences in the grant award process at the Department.

Grants will be awarded for a 3-year period of performance. This includes 2 years of core program operations (education, workforce investment skills training, and other activities such as youth leadership development) plus at least 9 months of follow-up support services and tracking of participant outcomes. In the event additional funds become available, ETA reserves the right to use such funds to select additional grantees from applications submitted in response to the SGA.

*Subpart C—Program Requirements*

Who is an eligible participant? (§ 672.300)

This section sets out the participant eligibility requirements. The requirements that at least 75 percent of participants must be between the ages of 16 and 24 years on the date of enrollment and must be school dropouts are continued under the YouthBuild Transfer Act. Later statutes provided that a YouthBuild program may serve an individual who has dropped out of school and reenrolled in an alternative school, if that reenrollment is part of a sequential service strategy.

Previously, under the HUD regulations, an eligible participant was also required to be a very low-income individual or a member of a very low-income family using the definition of income, adjusted for certain exclusions as determined by the United States Housing Act of 1937. The Department proposes to revise the previous requirement by now requiring that a participant be a member of a low-income family using the definition of income, adjusted for certain exclusions as determined by the United States Housing Act of 1937. As specified in the Transfer Act, an eligible participant may also be a youth in foster care, a youth offender (including any youth between the ages of 16 and 24 who has been convicted through either a juvenile or adult criminal justice system), a youth who is an individual with a disability, a child of an incarcerated parent, or a migrant youth.

Also continuing under the YouthBuild Transfer Act is the exception provision that no more than 25 percent of the participants may be individuals who do not meet the general income or educational needs requirement, providing that they are academically deficient in one of two areas. The first area is that high school graduates or those who already have a GED but who are "basic skills deficient" may participate in the program under this exception. The term basic skills deficient has the same definition as it does in section 101 of WIA. It is "an individual that has English reading, writing, or computing skills at or below the 8th grade level on a generally accepted standardized test or a comparable score on a criterion-referenced test." The second area of the exception refers to youth who are still enrolled in a secondary school and are referred by that school to participate in a YouthBuild program that leads to the attainment of a secondary school diploma.

Are there special rules that apply to veterans? (§ 672.305)

The priority of service provisions for qualified persons under Department of Labor regulations at 20 CFR part 1010 apply to the YouthBuild program as a Department of Labor job training program. Accordingly, youth who are eligible participants for the YouthBuild programs, and are also covered persons under 20 CFR part 1010, must receive priority of service. The special rule for determining low-income status for veterans which is found at 20 CFR 667.225 also applies.

What eligible activities may be funded under the YouthBuild program? (§ 672.310)

The HUD regulations included provisions for education and job training activities, including work experience and skills training, as eligible activities under YouthBuild grants. The Transfer Act outlines new education and workforce investment activities permitted under the YouthBuild program such as postsecondary education services and activities, including tutoring, study skills training and dropout prevention activities; other paid and unpaid work experiences, including internships and job shadowing; and alternative secondary school services, occupational skills training, and counseling services and related activities, such as comprehensive guidance and counseling on drug and alcohol abuse and referral. Grantees have discretion on which of these activities to offer and may also offer additional activities. However, as explained in § 672.320, the Department requires that every grantee offer as part of its program the activities listed in § 672.310(b)(1): Work experience and skills training in housing rehabilitation and construction.

With the transfer of the YouthBuild program to the Department, there is wider access to workforce-related programs administered by the Department. Therefore, the Department proposes to place an emphasis on coordinating training with registered apprenticeship programs, which will allow participants to enter such programs after exiting YouthBuild. YouthBuild programs are permitted to use some funds to pay for supervision and training costs to allow participants to develop skills and obtain work experience through the rehabilitation or construction of community or other public facilities. As a result, by expanding the use of funds for participant services related to the rehabilitation or construction of community or public facilities, job training and career opportunities for YouthBuild participants will be enhanced.

What timeframes apply to participation? (§ 672.315)

The participation parameters for individuals participating in a YouthBuild program are unchanged under the Transfer Act. Participants must be offered full-time participation for a period of at least 6 months and not more than 24 months.

What timeframes must be devoted to education and workforce investment or other activities? (§ 672.320)

The Department proposes to require YouthBuild grantees to structure programs so that participants in the program are offered specific educational and related services and activities during at least 50 percent of their participation time and workforce investment activities during at least 40 percent of the remaining time. The latter is a new requirement under the Transfer Act. Only the requirement that 50 percent of participant time be for educational activities had existed under the HUD program.

The remaining 10 percent can be used for educational, construction-related occupational skills training, and/or leadership development as well as community service activities. Grantees should establish a program structure that is used consistently throughout the program cycle.

Within these timeframes, YouthBuild grantees can generally determine which educational, workforce or other activities to offer participants. However, the Department has determined that the work experience and skills training in rehabilitation and construction set out in § 672.310(b)(1) are an essential part of the YouthBuild program and that every

YouthBuild grantee must include such activities as part of its workforce activities. YouthBuild was designed as a program that provides disadvantaged youth with both education and skills in occupations in demand while fostering a commitment to community development and expanding the supply of affordable housing to homeless individuals or families or low-income families. The White House Task Force for Disadvantaged Youth Final Report emphasized that, at its core, YouthBuild is an employment and training program and, as the Report recommended, the Transfer Act transferred authority for YouthBuild to the Department of Labor to provide greater coordination with existing workforce programs.

To fully achieve the intent of the Transfer Act, the Department has interpreted the Act to require that work experience and skills training in housing construction and rehabilitation be part of every YouthBuild program. However, this may present a challenge for YouthBuild programs in placing participants in the construction industry when demand for construction workers in a local area is low, as it is in the current economic landscape. In addition, many youth can benefit from the YouthBuild program, but are not interested ultimately in entering construction careers. Many current grantees have expressed an interest in expanding their program training beyond construction for these reasons. Therefore, we are seeking comments on whether YouthBuild should continue to focus on construction skills training or if the skills training should be expanded to other industry areas.

What timeframes apply for follow-up services? (§ 672.325)

The Department proposes to require YouthBuild grantees to provide follow-up services for a period of not less than 3 quarters after exit (nine months) and not to exceed 12 months after exit. Follow-up services are services that help YouthBuild participants transition successfully from the program into education and/or employment. This specificity is added to the regulations because of the recognition that youth exiting the program may require additional services in order to maintain the positive gains they achieved while enrolled. Follow-up services include supportive services and may also include, but are not limited, activities such as counseling services, job search assistance, and checking-in on participants after they have left the program. Additionally, programs are required to report on participants who have exited the program for 3 quarters after exit to ensure their successful transition into employment or education and to collect data on the performance indicators required by the Department. In accordance with the Department's instructions, individual YouthBuild programs determine participant exit dates based on participant completion of the program requirements for educational and workforce investment activities or other activities.

*Subpart D—Performance Indicators*

What are the performance indicators for YouthBuild grants? (§ 672.400)

All YouthBuild grantees must report on the three youth common performance indicators currently used to assess performance in the WIA Formula Youth Program. These indicators as described in Departmental guidance (TEGL No. 17–05) are placement in employment or education, attainment of a degree or certificate, and literacy and numeracy gains. These performance indicators will help the Department to identify early potential for successful outcomes from grantees and sets forth one set of indicators to be used for both reporting purposes and WIA section 136 performance accountability purposes. They will also allow grantees to better serve the eligible populations under this program.

The Secretary may require grantees to track other performance indicators, including short-term performance indicators such as enrollment rate, number of initial job placements, number obtained High-School Diploma or GED, and provide this data to the Department in quarterly performance reports required under § 672.410. The Department will provide the details of the performance indicators in administrative guidance.

What are the required levels of performance for the performance indicators? (§ 672.405)

Each YouthBuild grantee must meet certain levels of performance established by the Department for each of the common performance measures described in § 672.400. In determining annual performance levels for the YouthBuild program, the Department reviews previous year's performance and also compares performance levels with similar WIA youth workforce development programs.

The levels of performance established must, at a minimum:

(a) Be expressed in an objective, quantifiable, and measurable form; and

(b) Lead to continuous improvement in performance.

Expected national levels of performance for each of the common performance indicators, and any other performance indicators, will be established at a later date and provided in separately issued guidance. Generally, these other performance indicators are established, short-term indicators specified in the SGA or individual grant agreement and comprised of individual YouthBuild program data used by the Department to gauge individual program progress toward performance outcomes. Performance level expectations are based on available YouthBuild data and data from similar WIA Youth programs. The expected national levels of performance will take into account the extent to which the levels promote continuous improvement in performance.

What are the reporting requirements for YouthBuild grantees? (§ 672.410)

The Department proposes to require that each grantee receiving funds under this program must provide three quarterly reports to the Department:

(a) The Quarterly Performance Report (QPR);

(b) The quarterly narrative progress report; and

(c) The financial report.

Also, the Department may require a grantee to provide additional reports, as part of a grant agreement. These additional reports will assist the Department in the effective administration of YouthBuild.

The QPR will be generated by a Web-based system programmed exclusively for YouthBuild grantees to use. This Web-based system is a tool used to capture agency-specific processes and data that occur throughout the grant's lifecycle and helps the Department and the grantee with the various reporting requirements specified in § 672.410. This system will be the main system of data entry for all grantees, including all case management information, which the grantee will use to produce the QPR for submission to the Department. The QPR and narrative reports must be submitted electronically each quarter via this Web-based system. The financial report also will be submitted electronically via the Web-based system in accordance with reporting instructions issued by ETA. Grantees will be trained in all necessary reporting systems during the initial award phase.

What are the due dates for quarterly reporting? (§ 672.415)

The QPR and narrative reports are due no later than 45 days after the end of each quarter unless otherwise specified in reporting instructions. A final financial report is required 90 days after

the expiration of a funding period or the termination of grant support.

*Subpart E—Administrative Rules, Costs and Limitations*

What administrative regulations apply to the YouthBuild program? (§ 672.500)

This proposed section incorporates the administrative requirements of WIA that are applicable to YouthBuild grants, which include requirements relating to fiscal and administrative rules, audit, allowable costs/cost principles, debarment and suspension, a drug-free workplace, restrictions on lobbying, treatment of individuals with disabilities, and nondiscrimination.

The nondiscrimination regulations incorporated by this section, 29 CFR part 37, broadly prohibit all forms of discrimination for WIA Title I programs, which include YouthBuild. 29 CFR 37.5 states that "[n]o individual in the United States may, on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in any WIA Title I-financially assisted program or activity, be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any WIA Title I-funded program or activity." The regulations also require that grantees provide reasonable accommodations to youth who are individuals with disabilities. 29 CFR 37.8. For grantees unsure of how to best accommodate youth who are individuals with disabilities in their program, the Department recommends that the grantees consult with the Job Accommodation Network, a free service of the Department's Office of Disability Employment Policy that provides employers with technical assistance on accommodating different disabilities.

In addition to prohibiting discrimination, YouthBuild grantees have positive requirements to ensure equal opportunity and prevent discrimination in their programs. YouthBuild grantees are required by 29 CFR 37.29 through 37.32 to disseminate an equal opportunity policy. YouthBuild grantees must also ensure that they provide universal access to their programs, including advertising the program in a manner that targets various populations, sending notices about openings in programs to community service groups that serve various populations, and consulting with community service groups on ways to improve outreach and service to various populations. 29 CFR 39.42.

YouthBuild grantees are also required to comply with all generally applicable laws and implementing regulations that apply to the grantees or their participants, including, for example, for participants who are Youth Who are Individuals with Disabilities and participate in secondary education programs, the administrative provisions of the Individuals with Disabilities Improvement Act, 34 CFR 300.320 through 34 CFR 300.324, which require that grantees provide Youth Who are Individuals with Disabilities who enter the program with an appropriate transition plan corresponding to their individual needs.

How may grantees provide services under the YouthBuild program? (§ 672.505)

This proposed section restates the provisions of the Transfer Act which authorize grantees to provide services directly or to enter into sub-grants, contracts, or other arrangements with various public and private entities to provide services under the YouthBuild program.

What cost limits apply to the use of YouthBuild program funds? (§ 672.510)

This proposed section restates the provisions of the YouthBuild Transfer Act which set the administrative cost limit at 15 percent of the grant award and the cost of supervision and training for participants in the rehabilitation or construction of community and other public facilities to no more than 10 percent of the grant award. 29 U.S.C. 2918a(c)(2)(C) and (D).

What are the cost-sharing or matching requirements of the YouthBuild program? (§ 672.515)

The YouthBuild Transfer Act authorizes the Department to require the grantee to make available to the program additional resources from its own resources or from other sources such as businesses, non-profit organizations, or non-Federal public entities that can provide funds or in-kind services. Cost-sharing or match requirements will be addressed in the grant agreement, and described in the SGA. However, a few match requirements are addressed in particular in this section.

Construction materials may be counted toward meeting the required non-Federal match share under the YouthBuild program. The value of buildings acquired for the YouthBuild is an allowable cost-share or match cost to the extent that the building is used for training. The value of land acquired for the YouthBuild program is not an allowable cost-sharing or match cost.

This proposed section also incorporates the cost-sharing and matching provisions set forth in the Uniform Administrative Requirements, which define composition, use, and valuation of required match contributions. Although it is addressed in the Uniform Administrative requirements, because it is such a common question, the regulations restate the prohibition at 29 CFR 95.23(a)(5) and 97.24(b), against Federal funds being used as part of the cost-sharing or match amount proposed by a prospective applicant.

What are considered to be leveraged funds? (§ 672.520)

This proposed section addresses the use of additional monies, known as leveraged funds, to support grant activities. Leveraged funds include costs that could be an allowable match but are in excess of the match requirement or costs that do not meet the cost-sharing and match requirements set forth in the Uniform Administrative Requirements. To be considered leveraged funds, they must be otherwise allowable costs under the cost principles which have been used by the grantee to support grant activity. For example, another Federal grant used by the grantee or sub-grantee to support otherwise allowable activities under the YouthBuild program could not be counted toward the match requirement but would be considered a leveraged fund.

The amount, commitment, nature and quality of the leveraged funds described in the grant application will be a factor in evaluating grants in the SGA. Grantees will also be required to report the use of such funds through their financial report and quarterly narrative report.

How are the costs associated with real property treated in the YouthBuild program? (§ 672.525)

This proposed section specifies which costs associated with real property are allowable and unallowable under the YouthBuild program. The costs associated with the acquisition of buildings to be rehabilitated for training purposes are allowable under the same proportionate share conditions that apply under the match provision at § 672.515, but only with prior grant officer approval. The costs related to construction and/or rehabilitation associated with the training of participants are allowable. The costs associated with the acquisition of land are not allowable.

What participant costs are allowable under the YouthBuild program? (§ 672.530)

Payments to participants for work-related and non-work-related YouthBuild Activities, supportive services, needs-based stipends, and additional benefits are allowable participant costs. A needs-based stipend is not a regular stipend, which is paid to participants in lieu of wages while they are in training. Needs-based stipends are additional payments (beyond regular stipends for program participation) that are based on defined needs to enable youth to participate in the YouthBuild program. To provide "needs-based stipends", the grantee must have a written policy in place, which defines: (a) Eligibility; (b) the amounts; and (c) the required documentation and criteria for payments. This policy must be applied consistently to all program participants.

What effect do payments to YouthBuild participants have on eligibility for other Federal needs-based benefits? (§ 672.535)

Under WIA regulations at 20 CFR 667.272(c), allowances, earnings, and payments to individuals participating in programs under Title I of WIA are not considered as income for purposes of determining eligibility for and the amount of income transfer and in-kind aid furnished under any Federal or Federally-assisted program based on need other than as provided under the Social Security Act (42 U.S.C. 301). The Department wants to assure grantees and participants that their participation in the YouthBuild program should not disqualify them from participating in other Federally-sponsored needs-based programs that are available to them.

What program income requirements apply to the YouthBuild program? (§ 672.540)

This proposed section provides that the program income provisions of the Uniform Administrative Requirements apply to the YouthBuild program. In addition, this proposed section specifies that the revenue from the sale or rental of buildings rehabilitated or constructed under the YouthBuild program to homeless individuals and families or low-income families, as specified in section 672.615, is not considered program income. Grantees are encouraged to use such revenue for the long-term sustainability of the YouthBuild effort.

Are YouthBuild programs subject to the Davis-Bacon Act labor standards? (§ 672.545)

Davis-Bacon labor standards apply to Federal construction contracts and many Federally-assisted construction projects under the provisions of the Davis-Bacon Act and numerous related Acts that authorize Federal assistance for construction. YouthBuild programs and grantees are subject to Davis-Bacon labor standards in certain circumstances. The Department has determined that YouthBuild participants are subject to Davis-Bacon labor standards when they perform Davis-Bacon-covered laborer or mechanic work on Federal or Federally-assisted projects that are subject to Davis-Bacon labor standards. When a YouthBuild participant works on a project subject to Davis-Bacon labor standards, the Davis-Bacon labor standards, including prevailing wage requirements, apply to the hours worked on the site of the work.

This may present a challenge to YouthBuild programs that view these types of construction projects as valuable training sites for their youth since many contractors may be reluctant to pay prevailing wage rates for youth trainees who are in the process of learning and developing their skill set. The regulations implementing the Davis-Bacon Act contain a provision that allows for Department-certified training programs to pay less than the applicable prevailing wage rate to trainees. As stipulated by 29 CFR 5.5(a)(4)(ii), "trainees" are not permitted to be paid less than the predetermined rate for the work performed unless they are employed under and individually registered in a program which has received prior approval, evidenced by a formal certification by the U.S. Department of Labor, Employment and Training Administration.

What are the recordkeeping requirements for YouthBuild programs? (§ 672.550)

This proposed section sets forth the requirements for maintaining records under the YouthBuild program, including requirements for records related to the use of buildings constructed or rehabilitated with YouthBuild funds which will be specified in the grant agreement. Grantees must follow the recordkeeping requirements in the Uniform Administrative Regulations, codified at 29 CFR 95.53 and 29 CFR 97.42, as appropriate.

Grantees must maintain such additional records as specified in the grant agreement related to the use of buildings constructed or rehabilitated with YouthBuild funds. Recordkeeping requirements vary for different classes of records.

*Subpart F—Additional Agency Requirements*

What are the safety requirements for the YouthBuild program? (§ 672.600)

On November 14, 2006, the Department published, at 71 FR 66349, a **Federal Register** notice requesting public comments and announcing public meetings on the design of YouthBuild grants. The notice sought public input and observations on the optimum number of years and amount of grant awards, ways to ensure grantees meet educational and employment outcomes, how capacity building grants can be strengthened, and ways to improve any other aspect of the program. The Department received four comments relating to safety issues in response to the **Federal Register** notice, including comments from the National Institute for Occupational Safety and Health (NIOSH), the Department's Occupational Safety and Health Administration (OSHA), the University of California at Berkeley Labor Occupational Health Program, and the University of North Carolina Injury Prevention Research Center. The NIOSH comments emphasized the dangers of youth working in construction and noted that youth fatalities in construction are related to noncompliance with child labor laws and occupational safety and health regulations. The NIOSH comments referenced a review of OSHA investigations of fatally injured teenage construction workers between 1984 and 1998 which found that approximately half of the 76 investigations of deaths to youth under 18 involved apparent violations of child labor laws.[1] The NIOSH comments also referenced a survey in North Carolina of youth ages 16 and 17 working in construction that found that 84 percent of the youth had performed at least one task clearly prohibited by child labor laws, while 47 percent had performed three or more tasks prohibited by child labor laws.[2]

NIOSH recommended that the Department comprehensively integrate worker safety and associated training into the YouthBuild program by

[1] Sarua A, Philips P, Lillquist D, Sesek R, "Fatal Injuries to Construction Workers in the U.S.," *American Journal of Industrial Medicine,* 2003.

[2] Runyon CW, Dal Santo J, Schulman M, Lipscomb HJ, Harris TA, "Work Hazards and Workplace Safety Violations Experienced by Adolescent Construction Workers," *Archives of Pediatric and Adolescent Medicine,* 2006.

incorporating the following requirements in the program:

(a) Comprehensive, documented training on construction safety for youth working on YouthBuild projects, including requirements for youth to demonstrate knowledge and proficiency in hazard identification, abatement, and safe work practices;

(b) Compliance with Federal and State child labor laws and occupational safety and health regulations;

(c) Written, jobsite specific, safety plans overseen by an on-site supervisor with the knowledge, skills, and authority to correct safety and health hazards and enforce the site-specific safety plan;

(d) Provision of necessary personal protective equipment to youth working on YouthBuild projects; and

(e) Reporting of all injuries and illnesses to youth working on YouthBuild projects, along with documentation on remedial measures to prevent future similar injuries and help ensure that YouthBuild is a model program that takes active steps for participant safety and health.

The comments from OSHA similarly stressed the importance of safety training and identification of worksite hazards. OSHA's comments recommended that YouthBuild grantees should demonstrate an effective, comprehensive occupational safety and health management system that includes four basic elements:

(a) Management leads the way in emphasizing safety;

(b) The worksite is continuously analyzed to identify existing and potential hazards;

(c) Methods to prevent or control existing hazards are put in place; and

(d) Managers, supervisors, and participants are trained in safety practices, including new-hire training and ongoing weekly or daily safety training.

The comments from the University of California and the University of North Carolina both strongly recommended that YouthBuild grantees be subject to the hazardous orders in the child labor regulations.

Based upon the concerns raised by these commenters, the Department is proposing to require that YouthBuild grantees not only comply with Federal and State health and safety standards, including the hazardous orders in the child labor regulations, but also provide: comprehensive safety training for youth working on YouthBuild construction projects; have written, jobsite specific, safety plans overseen by an on-site supervisor with authority to enforce safety procedure; provide necessary personal protective equipment to youth working on YouthBuild projects; and submit injury incident reports to the Department. The intent of these proposed regulations is to protect the health and safety of YouthBuild participants on YouthBuild work sites, and to ensure that YouthBuild grantees comply with child labor laws.

YouthBuild grantees must adhere to all safety guidelines, laws and regulations required by all Federal, State and local laws which include the Department's OSHA regulations, as well as the Department's Wage and Hour Division's (WHD) child labor regulations. Among other things, these provisions prohibit youth ages 16 and 17 from working in identified hazardous occupations. Occupations prohibited for 16 and 17 year-olds under these "hazardous orders" relating to construction include, but are not limited to, operating circular saws, working on or about roofs, performing demolition work, excavating and trenching, operating a fork lift or a hoist, and driving a motor vehicle on the job.

What are the reporting requirements for youth safety? (§ 672.605)

The Department places high priority on the safety of YouthBuild participants. The comments by NIOSH about the design of the YouthBuild program specifically recommend that the Department require the "reporting of all injuries and illnesses to youth working on YouthBuild projects, along with documentation on remedial measures to prevent future similar injuries and help ensure that YouthBuild is a model program that takes active steps for participant safety and health."

By requiring grantees to complete and file injury incident reports for accidents incurred by youth while working on YouthBuild projects, the Department will be able to determine whether youth are being properly trained under safe conditions while participating in the YouthBuild program.

The working conditions of YouthBuild participants are subject to Federal and State health and safety standards under 20 CFR 667.274. Such standards include requirements under 29 CFR part 1904 that employers in the construction industry and other non-exempt industries record occupational injuries and illnesses and keep these reports on file for 5 years. These reports include individual incident reports, a log of injuries, and an annual summary of incidents. In addition, YouthBuild grantees must send a copy of the incident reports to the Department within 7 days of the incident. Requiring YouthBuild grantees to submit incident reports of occupational injuries and illnesses to the Department will serve to emphasize to grantees and their staff the importance of safety. The Department will be able to use the incident reports to respond in a timely manner to require corrective actions at particular sites. Corrective actions may include any of the following: requiring grantees to modify or improve safety training; alert all YouthBuild sites of hazards identified in incident reports; and, in some cases, to sanction or close sites in which a flagrant safety violation or pattern of violations has resulted in a serious accident.

What environmental protection laws apply to the YouthBuild program? (§ 672.610)

All YouthBuild worksites are expected to be in compliance with all applicable Federal, State, and local environmental protection laws, as YouthBuild participants spend a large portion of their training time on YouthBuild worksites.

It should be noted that the regulations implementing HUD's YouthBuild program contained environmental procedures which governed HUD's determination of whether any environmental thresholds in the agency's National Environmental Policy Act (NEPA) regulations would be exceeded as a result of funding the "lease, acquisition, rehabilitation, or new construction of real property that is proposed for housing project development." 24 CFR 585.307(a). However, HUD's environmental procedures expressly did not apply to "HUD's approval of grants where the applicant proposes to use YouthBuild funds solely to cover any costs for classroom and/or on-the-job construction training and supportive services." *Id.*

The Department considers the construction and rehabilitation-related activities authorized under the Transfer Act to be on-the-job training, rather than construction or rehabilitation, which is consistent with HUD's previous administration of the program. As a result, the Department has chosen not to include specific environmental procedures for the YouthBuild program in this proposed regulation. However, the absence of environmental procedures does not affect the Department's on-going obligation to comply with NEPA and the Department's NEPA regulations at 29 CFR part 11. Therefore, grantees are expected to be familiar and comply with NEPA, State, and local environmental regulations.

What requirements apply to YouthBuild housing? (§ 672.615)

One of the priorities of the YouthBuild program is to provide transitional and affordable housing to homeless individuals and families. The Transfer Act made the changes to the housing requirements that would allow the Department to focus on the workforce aspect of the YouthBuild program and at the same time maintain the integrity of the housing initiative. The Transfer Act maintains some basic rental and homeownership restrictions, which are similar to the major restrictions specified in the Cranston-Gonzalez Act (42 U.S.C. 12899d); however, many of the more extensive restrictions were eliminated. The Transfer Act does stipulate that YouthBuild residential properties must be available solely for rental by, or sale to, homeless individuals and families or low-income families, and/or for use as transitional or permanent housing for homeless individuals and families transitioning to independent living. The Department has interpreted this stipulation to require that YouthBuild residential properties be inhabited by homeless individuals and families or low-income families. Therefore, in addition to constructing or rehabilitating housing to sell or rent to new low-income family tenants, YouthBuild grantees may rehabilitate residences already occupied by low-income families.

As administrator of the YouthBuild program, it is the Department's responsibility to ensure that YouthBuild funds are only used for the housing purposes stipulated in the Transfer Act. Additionally, we are concerned with minimizing the enforcement burden on grantees in order to emphasize the training and employment purposes of the programs. In order to accomplish these goals, a new requirement is being proposed in order to create a self-enforcing mechanism to ensure compliance with the YouthBuild housing limitations. The HUD regulations required the restrictions be in place for 10 years and that if the property was sold before the termination of the time period, any conveyance document require that the new owner abide by the restrictions. The Department's new requirement is that grantees ensure that a restrictive covenant be recorded with the appropriate local office or agency against the property limiting the use of residential units constructed or rehabilitated using YouthBuild funds to housing for homeless individuals and families and low-income families.

The restrictive covenant must also include the additional conditions that apply to housing in § 672.615(b)–(c). It should be noted that a grantee and/or property owner may choose to include additional stipulations to the restrictive covenant, depending on their standard business practices.

This restrictive covenant must be recorded at the time of the issuance of the occupancy permit. The duration of the covenant is a minimum of 10 years from the issuance of the occupancy permit, unless a longer time period has been established by the grantee. In the event that the covenant has not expired before any later sale of the property, any conveyance document must contain the covenant for the time remaining. Grantees will be required to provide verification to the Department that a restrictive covenant has been recorded, through the submission of a copy of the deed with the restrictive covenant before the end of the grant period.

The covenant requirement applies to all newly constructed or rehabilitated residential units funded with YouthBuild funds when they are for sale or rent. When a grantee rehabilitates the home of a low-income homeowner, there is no sale or rental and therefore the homeowner is not required to record a restrictive covenant.

All grantees or property owner must make a good faith effort to rent the property to homeless individuals and families or low-income families. Grantees or property owners must not terminate the tenancy or refuse to renew the lease of a tenant occupying a residential rental housing unit constructed or rehabilitated using YouthBuild funds except for serious or repeated violations of the terms and conditions of the lease, for violation of applicable Federal, State or local laws, or for good cause. Except for dangerous or egregious situations involving the tenant, any termination or refusal to renew the lease must be preceded by not less than a 30-day written notice to the tenant specifying the grounds for the action.

Grantees and/or property owners who are rehabilitating or constructing houses for the purposes of transitional or permanent housing for homeless individuals and families and low-income families under the YouthBuild program will be required to ensure that the housing is safe and sanitary. The housing must also meet any applicable State and local housing codes and licensing requirements in the jurisdiction in which the housing is located. Transitional housing is a necessary factor in community improvement and development. The Department believes that this provision of transitional housing will not only help individuals establish ties to the community but also encourage their participation in the local labor market.

The YouthBuild program is designed to provide workforce training and education through the rehabilitation and construction of low-income housing for the community. This section balances the Department's duty to focus on training and education in order to prepare a skilled workforce with its duty to ensure that the housing provided by each grantee will remain available for the purposes of low-income occupancy for a specified length of time.

## III. Administrative Information

*Regulatory Flexibility Analysis, Executive Order 13272, Small Business Regulatory Enforcement Fairness Act*

The Regulatory Flexibility Act (RFA) at 5 U.S.C. 603(a) requires agencies to prepare and make available for public comment an initial regulatory flexibility analysis which will describe the impact of the proposed rule on small entities. Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities. Furthermore, under the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801 (SBREFA), an agency is required to produce compliance guidance for small entities if the rule has a significant economic impact on a substantial number of small entities. The RFA defines small entities as small business concerns, small not-for-profit enterprises, or small governmental jurisdictions. The proposed rule directly affects all YouthBuild grantees, of which there are currently 226. About half of these are small entities (generally non-profit, community-based organizations). The Department does not believe that the proposed rule will have a significant economic impact on a substantial number of these small entities. The Department has certified this to the Chief Counsel for Advocacy, Small Business Administration, pursuant to the Regulatory Flexibility Act. Primary issues affected by the proposed rule are discussed below.

The YouthBuild program has existed since 1978. YouthBuild began as a Federal grant program in 1994 and was administered by HUD until 2006 when it was transferred to the Department. YouthBuild operates as a voluntary grant program. While there are matching and leverage requirements,

organizations apply for Federal grant funds. The costs that might be thought to be increased by the proposed rule are participant safety, worksite environmental standards, and a required follow-up time period for YouthBuild enrollees, all of which may be paid for with grant funds.

The proposed rule would require that all applicable National Institute for Occupational Safety and Health (NIOSH) and Occupational Safety and Heath Administration (OSHA) regulations be followed for youth who are on YouthBuild participant construction sites. The NIOSH safety measures are standard requirements for all Federally-funded construction worksites across the United States. The requirements should not add demonstrably to the cost of any YouthBuild program because safety equipment required by NIOSH standards can be purchased using YouthBuild grant funds provided by the Department. Further, the cost of the other requirements—supervisor training, development of safety plans, safety reporting, etc.—can be paid for with grant funds as well.

In addition, the Department is requiring that all Federal environmental standards, including National Environmental Policy Act of 1969 (NEPA), be followed. This is a standard for all Federally-funded construction worksites across the United States and is already established procedure at many YouthBuild work sites. YouthBuild grant funds may be used to ensure compliance with the required environmental standards.

The proposed rule also requires a minimum 9-month follow-up period for enrollees who exit the YouthBuild program. While this is a new requirement in the proposed rule, one of the mandatory program reporting requirements already in place for YouthBuild requires a minimum 9-month follow-up period for participants. As a result, the 9-month follow-up period requirement should already be followed by all YouthBuild programs and will not add to the existing program costs.

Finally, the YouthBuild program will have a beneficial economic impact on small entity program participants. While there are match and leverage requirements under YouthBuild, the grantees are applying to receive additional resources to carry out their purposes for the benefit of participants.

Accordingly, the Department certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities. The Department explicitly invites comments from members of the public who believe there will be a significant economic impact on small entities.

*Paperwork Reduction Act*

One of the purposes of the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.,* is to minimize the paperwork burden on affected entities. The PRA requires certain actions before an agency can adopt or revise the collection of information, including publishing a summary of the collection of information and a brief description of the need for and proposed use of the information.

The collection of data described in this proposed rule contains requirements to implement reporting and recordkeeping requirements for the YouthBuild program. This reporting structure features standardized data collection for program participants, and quarterly narrative and Management Information System (MIS) performance report formats. All data collection and reporting will be done by YouthBuild grantees.

These requirements were previously reviewed and approved for use by the Office of Management and Budget (OMB) under 44 U.S.C. 3507 and 5 CFR part 1320, and assigned OMB control number 1205–0464 under the provisions of the PRA. YouthBuild grantees will collect and report selected standardized information on customers in YouthBuild programs for the purposes of general program oversight, evaluation, and performance assessment. ETA will provide all grantees with a YouthBuild management information system (MIS) to use for collecting participant data and for preparing and submitting the required quarterly reports. The Department has determined that this proposed rule contains no new information collection requirements.

The Department estimates that the public reporting burden for this collection of information will amount to 16,280 hours. This total includes all paperwork in regard to this proposed rule over the course of one program year for all grantees nationwide.

*Executive Order 12866*

Executive Order 12866 requires that for each "significant regulatory action" proposed by the Department, the Department conduct an assessment of the proposed regulatory action and provide OMB with the proposed regulation and the requisite assessment prior to publishing the regulation. A significant regulatory action is defined to include an action that will have an annual effect on the economy of $100 million or more, as well as an action that raises a novel legal or policy issue.

The regulatory requirements defined and implemented by this proposed rule for this grant program will not have an annual effect on the economy of $100 million or more but do raise novel policy issues. With the transfer of the program from HUD to the Department, there have been changes from what was required under the "Hope for Youth", the original YouthBuild program located in the Cranston-Gonzalez National Affordable Housing Act of 1992. Primarily, the transfer allowed for a change of focus from a purely housing initiative to one more focused on job and skills training and low-income housing creation. Therefore this proposed rule has been submitted to OMB for review.

*Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531) directs agencies to assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector. This NPRM has no "Federal mandate," which is defined in 2 U.S.C. 658(6) to include either a "Federal intergovernmental mandate" or a "Federal private sector mandate." A Federal mandate is any provision in a regulation that imposes an enforceable duty upon State, local, or tribal governments, or imposes a duty upon the private sector which is not voluntary. The YouthBuild program is a grant program. Grantee participation in YouthBuild is voluntary. Furthermore, this proposed rule does not include any Federal mandate that may result in increased expenditure by State, local, and tribal governments in the aggregate of more than $100 million, or increased expenditures by the private sector of more than $100 million.

*Executive Order—12630 Government Actions and Interference with Constitutionally Protected Property Rights*

The YouthBuild Transfer Act requires that housing rehabilitated or constructed with YouthBuild grant funds be for the purposes of housing homeless individuals and families or low-income families. In order for the Department to ensure that the YouthBuild program is administered in compliance with the legislation, each grantee must ensure that the owner of the property where YouthBuild funds are spent to construct or rehabilitate residential units records a restrictive covenant on the property, limiting the use of the units to housing for homeless individuals and families and low-

income families. Such a restrictive covenant will not result in a taking without just compensation. This is a contractually-based restriction and therefore property owners are compensated for any limitations on the use of their land. Property owners enter into these contracts creating the restriction voluntarily and they receive consideration in the form of services from the YouthBuild program to build or rehabilitate their housing for the burden on their property. Subsequent purchasers will have notice of the covenant and will be able to determine purchase price with knowledge of the limitations on the use of the property. Furthermore, the restrictive covenant will expire 10 years from the date of issuance of occupancy permit, giving flexibility to the grantee and/or property owner within a reasonable time period. The Department is committed to upholding the integrity of the YouthBuild program in all its aspects and believes that a restrictive covenant is the best way to meet the purpose of the legislation with regard to housing for homeless individuals and families and low-income families.

*Executive Order 12988—Civil Justice*

This proposed regulation has been drafted and reviewed in accordance with Executive Order 12988, Civil Justice Reform, and will not unduly burden the Federal court system. The proposed regulation has been written so as to minimize litigation and provide a clear legal standard for affected conduct and has been reviewed carefully to eliminate drafting errors and ambiguities.

*Executive Order 13045*

Executive Order 13045 concerns the protection of children from environmental health risks and safety risks. This proposed rule has no impact on the environmental health or safety of children

*Executive Order 13175*

Executive Order 13175 addresses the unique relationship between the Federal Government and Indian Tribal governments. The order requires Federal agencies to take certain actions when regulations have "Tribal implications." Required actions include consulting with Tribal governments prior to promulgating a regulation with Tribal implications and preparing a Tribal impact statement. The order defines regulations as having Tribal implications when they have substantial direct effects 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.

This proposed rule addresses a voluntary grant program, YouthBuild, which is administered by the Department. We conclude that this proposed rule does not directly affect one or more Indian Tribes, the relationship between the Federal Government and Indian Tribes, or the distribution of power and responsibilities between the Federal Government and Indian Tribes.

*Environmental Impact Assessment*

The Department has reviewed this proposed rule in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), the regulations of the Council on Environmental Quality (40 CFR part 1500), and the Department's NEPA procedures (29 CFR part 11). The proposed rule will not have a significant impact on the quality of the human environment, and, thus, the Department has not prepared an environmental assessment or an environmental impact statement.

*Assessment of Federal Regulations and Policies on Families*

Section 654 of the Treasury and General Government Appropriations Act, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (Pub. L. 105–277, 112 Stat. 2681), requires the Department to assess the impact of this proposed rule on family well-being. A rule that is determined to have a negative effect on families must be supported with an adequate rationale.

The Department has assessed this proposed rule and determines that it will not have a negative effect on families. Indeed, we maintain that this proposed rule will strengthen families by providing low-income housing and occupational training for low-income families and others.

*Executive Order 13211*

This proposed rule is not subject to Executive Order 13211, because it will not have a significant adverse effect on the supply, distribution, or use of energy.

*Privacy Act of 1974*

The Privacy Act of 1974 is implicated when a regulation: (1) Requires either collection of information that the agency will retrieve by an individual's name or other personal identifier or would create a program where the agency's program records will be retrieved by an individual's name or personal identifier; and (2) involves computerized matching of records from a Privacy Act System of Records with any other records.

This regulation is not affected by the Privacy Act of 1974 as it does not require the collection of information by the Department of an individual's name or other personal identifier or involves computerized matching of records from a Privacy Act System of Records with any other records.

*Plain Language*

The Department drafted this proposed rule in plain language.

**List of Subjects in 20 CFR Part 672**

Apprenticeship, Construction, Education, High growth, Homeless, Housing, Labor, Low-income, Safety, Training, Transitional housing, and Youth.

For the reasons discussed in the preamble, the Department proposes to add 20 CFR part 672 to read as follows:

## PART 672—PROVISIONS GOVERNING THE YOUTHBUILD PROGRAM

### Subpart A—Purpose and Definitions

Sec.



### Subpart B—Funding and Grant Applications



### Subpart C—Program Requirements



### Subpart D—Performance Indicators

**Authority:** 29 U.S.C. 2918a.

## Subpart A—Purpose and Definitions

### § 672.100 What is YouthBuild?

YouthBuild is a workforce development program that provides employment, education, leadership development, and training opportunities to disadvantaged and low-income youth between the ages of 16 and 24, who are secondary school drop outs and are either a member of a low-income family, a foster care youth, a youth offender, a youth with a disability, a child of an incarcerated parent, or a migrant youth. Program participants receive education services that may lead to either a high school diploma or General Education Development (GED). Further, they receive occupational skills training and are encouraged to pursue a post-secondary education or additional training, including registered apprenticeship programs. The program is designed to create a skilled workforce either in the construction industry, through the rehabilitation and construction of housing for homeless individuals and families and low-income families, as well as public facilities, or in other high wage, high-demand jobs. The program also benefits the larger community because it provides more new and rehabilitated affordable housing.

### § 672.105 What are the purposes of the YouthBuild program?

(a) The overarching goal of the YouthBuild program is to enable disadvantaged and low-income youth the opportunity to obtain education and employment skills necessary to achieve economic self-sufficiency. Additionally, the YouthBuild program has as goals:

(1) Promote leadership skills development and community service activities. YouthBuild programs will foster the development of leadership skills and a commitment to community improvement among youth in low-income communities.

(2) Enable youth to further their education and training. YouthBuild programs will provide counseling and assistance in obtaining post-secondary education and/or employment and training placements that allow youth to further their education and training.

(3) Reduce the rate of homelessness in communities with YouthBuild programs. The program seeks to increase the number of affordable housing units available to decrease the number of homeless individuals and families in their communities.

(b) Through these newfound educational and occupational opportunities, youth participants will provide a valuable contribution to their communities. The YouthBuild program will add skilled workers to the workforce by educating and training youth who might have otherwise succumbed to the negative influences within their environments.

### § 672.110 What definitions apply to this part?

*Alternative school:* The term "*alternative school*" means a school or program that is set up by a State, school district, or other community-based entity to serve young people who are not succeeding in a traditional public school environment. An "alternative school" must be recognized by the authorizing entity designated by the State, must award a high school diploma and, must be affiliated with YouthBuild programs in order to qualify as part of a "sequential service strategy."

*Community or other public facility:* The term "community or other public facility" means those facilities which are publicly owned and publicly used for the benefit of the community. This term may also encompass facilities used by the program but only if the facility is available for public entry and use.

*Core construction:* The term "*core construction*" means activities that are directly related to the construction or rehabilitation of residential, community, or other public facilities. These activities include, but are not limited to, job skills that can be found under the Standard Occupational Classification System (SOC) major group 47, Construction and Extraction Occupations, in codes 47–1011 through 47–4099. These activities may also include, but are not limited to construction skills that may be required by green building and weatherization industries but are not yet standardized. A full list of the SOC's can be found at the Bureau of Labor Statistics (BLS) Web site, *http://www.bls.gov/soc.*

*Eligible entity:* The term "*eligible entity*" means a public or private nonprofit agency or organization (including a consortium of such agencies or organizations), including—

(1) A community-based organization;

(2) A faith-based organization;

(3) An entity carrying out activities under this Title, such as a local school board;

(4) A community action agency;

(5) A State or local housing development agency;

(6) An Indian tribe or other agency primarily serving Indians;

(7) A community development corporation;

(8) A State or local youth service or conservation corps; and

(9) Any other entity eligible to provide education or employment training under a Federal program (other than the program carried out under this part).

*Homeless individual:* As defined in 42 U.S.C. 11302 of the McKinney-Vento Homeless Assistance Act, a "*homeless individual*" is:

(1) An individual who lacks a fixed, regular, and adequate night time residence; and

(2) An individual who has a primary night time residence that is—

(i) A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill);

(ii) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(iii) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

*Housing development agency:* The term "*housing development agency*" means any agency of a Federal, State or local government, or any private nonprofit organization, that is engaged in providing housing for homeless individuals or low-income families.

*Income:* As defined in 42 U.S.C. 1437a(b), "*income*" is: Income from all sources of each member of the household, as determined in accordance with the criteria prescribed by the Secretary of Labor, in consultation with the Secretary of Agriculture, except that any amounts not actually received by the family and any amounts which would be eligible for exclusion under sec. 1382b(a)(7) of the United States Housing Act of 1937, may not be considered as income under this paragraph.

*Indian; Indian tribe:* As defined in 25 U.S.C. 450b of sec. 4 of the Indian Self-Determination and Education Assistance Act, the term "*Indian*" is a person who is a member of an Indian tribe; and the term "*Indian tribe*" is any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) (43 U.S.C. 1601 *et seq.*), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

*Individual of limited english proficiency:* As defined in 20 U.S.C. 9202(10), an "*individual of limited English proficiency*" is: An adult or out-of-school youth who has limited ability in speaking, reading, writing, or understanding the English language, and:

(1) Whose native language is a language other than English; or

(2) Who lives in a family or community environment where a language other than English is the dominant language.

*Low-Income Family:* As defined in 42 U.S.C. 1437a(b)(2), a "*low-income family*" is: A family whose income does not exceed 80 percent of the median income for the area, as determined by the Secretary of Labor with adjustments for smaller and larger families, except that the Secretary of Labor may establish income ceilings higher or lower than 80 per centum of the median for the area if the Secretary of Labor finds that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes. Further, as defined by 42 U.S.C. 1437a(b)(2)(3), the term families includes families consisting of one person.

*Migrant youth:* The term "*migrant youth*" means a youth, or a youth who is the dependent of someone who, during the previous 12 months has:

(1) Worked at least 25 days in agricultural labor that is characterized by chronic unemployment or underemployment;

(2) Made at least $800 from agricultural labor that is characterized by chronic unemployment or underemployment, if at least 50 percent of his or her income came from such agricultural labor;

(3) Was employed at least 50 percent of his or her total employment in agricultural labor that is characterized by chronic unemployment or underemployment; or

(4) Was employed in agricultural labor that requires travel to a jobsite such that the farmworker is unable to return to a permanent place of residence within the same day.

*Needs-based stipend:* The term "*Needs-based stipends*" means additional payments (beyond regular stipends for program participation) that are based on defined needs that enable youth to participate in the program. To provide need-based stipends the grantee must have a written policy in place, which defines: Eligibility; the amounts; and the required documentation and criteria for payments. This policy must be applied consistently to all program participants.

*Occupational skills training:* The term "*Occupational skills training*" means an organized program of study that provides specific vocational skills that lead to proficiency in performing actual tasks and technical functions required by certain occupational fields at entry, intermediate, or advanced levels. The occupational skills training offered in YouthBuild programs must begin upon program enrollment and be tied to the award of an industry recognized credential.

*Partnership:* The term "*partnership*" means an agreement that involves a Memorandum of Understanding (MOU) or letter of commitment submitted by each organization and applicant, as defined in the YouthBuild Transfer Act, that plan on working together as partners in a YouthBuild program. Each partner must have a clearly defined role. These roles must be verified through a letter of commitment, not just a letter of support, or MOU submitted by each partner. The letter of commitment or MOU must detail the role the partner will play in the YouthBuild Program, including specific responsibilities and resources committed, if appropriate. These letters or MOU's must clearly indicate the partnering organization's unique contribution and commitment to the YouthBuild Program.

*Public housing agency:* As defined in 42 U.S.C. 1437a(b), a "*public housing agency*" is: Any State, county, municipality or other government entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing.

*Registered apprenticeship program:* The term "*registered apprenticeship program*" means:

(1) Registered under the Act of August 16, 1937 (commonly known as the "National Apprenticeship Act"; 50 Stat. 664, chapter 663; 20 U.S.C. 50 *et seq.*); and

(2) A program with a plan containing all terms and conditions for the qualification, recruitment, selection, employment and training of apprentices, as required under 29 CFR parts 29 and 30, including such matters as the requirement for a written apprenticeship agreement.

(3) To the extent that 29 CFR part 30 is amended, such amendments apply to the "registered apprenticeship program" for Youthbuild.

*Sequential service strategy:* The term "*sequential service strategy*" means the educational and occupational skills training plan developed for individuals who have dropped out of high school and want to enroll in a YouthBuild program. The plan is designed so that the individual sequentially enrolls in an alternative school, and after receiving a year or more of educational services, enrolls in the YouthBuild program.

*Transitional housing:* The term "*transitional housing*" means housing provided for the purpose of facilitating the movement of homeless individuals to independent living within a reasonable amount of time. The term includes housing primarily designed to serve deinstitutionalized homeless individuals and other homeless individuals who are individuals with disabilities or are members of families with children.

*Youth in foster care:* The term "*youth in foster care*" means youth currently in foster care or youth who have ever been in foster care.

*Youth who is an individual with a disability:* The term youth who is an individual with a disability means a youth with any disability (as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)) or a student receiving special education and related services under the Individuals with Disabilities Education Act (IDEA).

## Subpart B—Funding and Grant Applications

### § 672.200 How are YouthBuild grants funded and administered?

The Secretary uses funds authorized for appropriation under sec. 173A of the

Workforce Investment Act (WIA) to administer YouthBuild as a national program under Title I, Subtitle D of the Act. YouthBuild grants are awarded to eligible entities, as defined in § 672.110, through a competitive selection process described in § 672.205.

**§ 672.205 How does an eligible entity apply for grant funds to operate a YouthBuild program?**

The Secretary announces the availability of grant funds through a Solicitation for Grant Applications (SGA). The SGA contains instructions for what is required in the grant application, describes eligibility requirements, the rating criteria that will be used in reviewing grant applications, and special reporting requirements to operate a YouthBuild project.

**§ 672.210 How are eligible entities selected to receive grant funds?**

In order to receive funds under the YouthBuild program, an eligible entity applying for funds (applicant) must meet selection criteria established by the Secretary which include:

(a) The qualifications or potential capabilities of an applicant;

(b) An applicant's potential to develop a successful YouthBuild program;

(c) The need for an applicant's proposed program, as determined by the degree of economic distress of the community from which participants would be recruited (measured by indicators such as poverty, youth unemployment, and the number of individuals who have dropped out of secondary school) and of the community in which the housing and public facilities proposed to be rehabilitated or constructed are located (measured by indicators such as incidence of homelessness, shortage of affordable housing, and poverty);

(d) The commitment of an applicant to provide skills training, leadership development, and education to participants;

(e) The focus of a proposed program on preparing youth for postsecondary education and training opportunities or in-demand occupations in the construction industry;

(f) The extent of an applicant's coordination of activities to be carried out through the proposed program with:

(1) Local boards, One-Stop Career Center operators, and One-Stop partners participating in the operation of the One-Stop delivery system involved, or the extent of the applicant's good faith efforts, as determined by the Secretary, in achieving such coordination;

(2) Public education, criminal justice, housing and community development, national service, or postsecondary education or other systems that relate to the goals of the proposed program; and

(3) Employers in the local area.

(g) The extent to which a proposed program provides for inclusion of tenants who were previously homeless individuals or families in the rental of housing provided through the program;

(h) The commitment of additional resources to the proposed program (in addition to the funds made available through the grant) by:

(1) An applicant;

(2) Recipients of other Federal, State, or local housing and community development assistance who will sponsor any part of the rehabilitation, construction, operation and maintenance, or other housing and community development activities undertaken as part of the proposed program; or

(3) Entities carrying out other Federal, State, or local activities or activities conducted by Indian tribes, including vocational education programs, adult and language instruction educational programs, and job training using funds provided under WIA,

(i) An applicant's ability to enter partnerships with:

(1) Education and training providers including:

(i) The kindergarten through twelfth grade educational system;

(ii) Adult education programs;

(iii) Community and technical colleges;

(iv) Four-year colleges and universities;

(v) Registered apprenticeship programs; and

(vi) Other training entities.

(2) Employers, including professional organizations and associations. An applicant will be evaluated on the extent to which employers participate in:

(i) Defining the program strategy and goals;

(ii) Identifying needed skills and competencies;

(iii) Designing training approaches and curricula;

(iv) Contributing financial support; and

(v) Hiring qualified YouthBuild graduates.

(3) The workforce investment system which may include:

(i) State and local workforce investment boards;

(ii) State workforce agencies; and

(iii) One-Stop Career Centers and their cooperating partners.

(4) The juvenile justice system, and the extent to which it provides:

(i) Support and guidance for YouthBuild participants with court involvement; and

(ii) Assists in the reporting of recidivism rates among YouthBuild participants.

(5) Faith-based and community organizations, and the extent to which they provide a variety of grant services such as:

(i) Case management;

(ii) Mentoring;

(iii) English as a Second Language courses; and

(iv) Other comprehensive supportive services, when appropriate.

(j) The applicant's potential to serve different regions, including rural areas and States that may not have previously received grants for YouthBuild programs; and

(k) Such other factors as the Secretary determines to be appropriate for purposes of evaluating an applicant's potential to carry out the proposed program in an effective and efficient manner.

(l) The weight to be given to these factors will be described in the SGA issued under § 672.205.

**§ 672.215 How are eligible entities notified of approval for grant funds?**

The Secretary will, to the extent practicable, notify each eligible entity applying for funds no later than 5 months from the date the application is received, whether the application is approved or disapproved. In the event additional funds become available, ETA reserves the right to use such funds to select additional grantees from applications submitted in response to an SGA.

## Subpart C—Program Requirements

**§ 672.300 Who is an eligible participant?**

(a) Except as provided in paragraph (b) of this section, an individual is eligible to participate in a YouthBuild program if such individual is:

(1) Not less than age 16 and not more than age 24 on the date of enrollment; and

(2) A school dropout or an individual who has dropped out of school and reenrolled in an alternative school, if that reenrollment is part of a sequential service strategy; and

(3) Is one or more of the following:

(i) A member of a low-income family as defined in § 672.110;

(ii) A youth in foster care;

(iii) A youth offender;

(iv) A youth who is an individual with a disability;

(v) The child of a current or formerly incarcerated parent; or

(vi) A migrant youth as defined in § 672.110.

(b) *Exceptions.* Not more than 25 percent of the participants in a program, under this section, may be individuals who do not meet the requirements of paragraph (a)(2) or (a)(3) of this section, if such individuals:

(1) Are basic skills deficient as defined in section 101(4) of WIA, even if they have their high school diploma, GED credential, or other State recognized equivalent; or

(2) Have been referred by a local secondary school for participation in a YouthBuild program leading to the attainment of a secondary school diploma. Referrals from secondary schools to YouthBuild programs that provide only a GED degree are not allowed.

#### § 672.305 Are there special rules that apply to veterans?

Special rules for determining income for veterans are found in 20 CFR 667.255 and for the priority of service provisions for qualified persons are found in 20 CFR part 1010. Those special rules apply to covered persons who are eligible to participate in the YouthBuild program.

#### § 672.310 What eligible activities may be funded under the YouthBuild program?

Grantees may provide one or more of the following education and workforce investment and other activities to YouthBuild participants—

(a) Eligible education activities include:

(1) Services and activities designed to meet the educational needs of participants, including:

(i) Basic skills instruction and remedial education;

(ii) Language instruction educational programs for individuals with limited English proficiency;

(iii) Secondary education services and activities, including tutoring, study skills training, and dropout prevention activities, designed to lead to the attainment of a secondary school diploma, GED credential, or other State-recognized equivalent (including recognized alternative standards for individuals with disabilities);

(iv) Counseling and assistance in obtaining post-secondary education and required financial aid; and

(v) Alternative secondary school services.

(2) Counseling services and related activities, such as comprehensive guidance and counseling on drug and alcohol abuse and referral to appropriate treatment;

(3) Activities designed to develop employment and leadership skills, which may include community service and peer-centered activities encouraging responsibility and other positive social behaviors, and activities related to youth policy committees that participate in decision-making related to the program; and

(4) Supportive services, as defined under Title I of WIA Section 101(46), and provision of need-based stipends, as defined in § 672.110.

(b) Eligible workforce investment activities include:

(1) Work experience and skills training (coordinated, to the maximum extent feasible, with registered apprenticeship programs) in housing rehabilitation and construction activities described in paragraphs (c)(1) and (c)(2) of this section;

(2) Occupational skills training;

(3) Other paid and unpaid work experiences, including internships and job shadowing; and

(4) Job search assistance.

(c) Other eligible activities include:

(1) Supervision and training for participants in the rehabilitation or construction of housing, including residential housing for homeless individuals and families or low-income families, or transitional housing for homeless individuals and families.

(2) Supervision and training for participants in the rehabilitation or construction of community or other public facilities, except that, as provided in § 672.505(b), not more than 10 percent of the funds awarded for each grant may be used for such supervision and training;

(3) Ongoing training and technical assistance for staff of grant recipients that is related to developing and carrying out the YouthBuild program;

(4) Payment of a portion of the administrative costs of the program as provided in § 672.505(a);

(5) Adult mentoring;

(6) Provision of wages, stipends, or additional benefits to participants in the program as provided in § 672.530; and

(7) Follow-up services as provided in § 672.325.

#### § 672.315 What timeframes apply to participation?

An eligible individual selected for participation in the program must be offered full-time participation in the program for not less than 6 months and not more than 24 months.

#### § 672.320 What timeframes must be devoted to education and workforce investment or other activities?

YouthBuild grantees must structure programs so that participants in the program are offered:

(a) Eligible education activities, as specified in § 672.310(a), during at least 50 percent of the time during which they participate in the program; and

(b) Eligible workforce investment activities such as those specified in § 672.310(b) during at least 40 percent of the time during which they participate in the program. Grantees must provide the eligible workforce investment activities described in § 672.310(b)(1) as part of their program of eligible workforce investment activities.

(c) The remaining 10 percent of the time of participation can be used for the activities described in paragraphs (a) and (b) of this section and/or for leadership development and community service activities.

#### § 672.325 What timeframes apply for follow-up services?

Follow-up services must be provided to YouthBuild participants for a period of not less than 9 months but no more than 12 months after participants exit a YouthBuild program. These are services that assist participants in obtaining or retaining employment, or applying for and transitioning to post-secondary education or training.

### Subpart D—Performance Indicators

#### § 672.400 What are the performance indicators for YouthBuild grants?

(a) The performance indicators for YouthBuild grants are:

(1) Placement in employment or education;

(2) Attainment of a degree or certificate;

(3) Literacy and numeracy gains; and

(4) Such other indicators of performance as may be required by the Secretary.

(b) The Department will provide the details of the performance indicators in administrative guidance.

#### § 672.405 What are the required levels of performance for the performance indicators?

(a) Expected levels of performance for each of the common performance indicators are national standards that will be established at a later date and will be provided in separately issued guidance. Short-term or other performance indicators will be established at a later date and will be provided in separately issued guidance or as part of the SGA or grant agreement. Performance level expectations are based on available YouthBuild data and data from similar WIA Youth programs and may change between grant competitions. The expected national levels of performance will take into account the extent to which the levels

promote continuous improvement in performance.

(b) The levels of performance established must, at a minimum:

(1) Be expressed in an objective, quantifiable, and measurable form; and

(2) Indicate continuous improvement in performance.

**§ 672.410 What are the reporting requirements for YouthBuild grantees?**

Each grantee must provide such reports as are required by the Secretary in separately issued guidance, including:

(a) The Quarterly Performance Report;

(b) The quarterly narrative progress report;

(c) The financial report; and

(d) Such other reports as may be required by the grant agreement.

**§ 672.415 What are the due dates for quarterly reporting?**

Each grantee must provide quarterly reports such that:

(a) Quarterly reports are due no later than 45 days after the end of the reporting quarter, unless otherwise specified in the reporting guidance issued under § 672.410; and

(b) A final financial report is required 90 days after the expiration of a funding period or the termination of grant support.

## Subpart E—Administrative Rules, Costs and Limitations

**§ 672.500 What administrative regulations apply to the YouthBuild program?**

(a) The regulations found in this part.

(b) The general administrative requirements found in 20 CFR part 667, except those which apply only to the WIA Title I–B program and those which have been modified by this section.

(c) The Department's regulations on government-wide requirements, which include:

(1) The regulations codifying the Office of Management and Budget's Government wide grants requirements: Circular A–110 (relocated to 2 CFR part 215) and Circular A–102 at 29 CFR parts 95 and 97, as applicable;

(2) The Department's regulations at 29 CFR part 37, which implement the nondiscrimination provisions of WIA section 188;

(3) The Department's regulations at 29 CFR parts 93, 94 and 98 relating to, and restrictions on lobbying, drug free workplace, and debarment and suspension;

(4) The audit requirements of the OMB Circular A–133 stated at 29 CFR part 99, as required by 29 CFR 96.11, 95.26 and 97.26, as applicable.

**§ 672.505 How may grantees provide services under the YouthBuild program?**

Each recipient of a grant under the YouthBuild program may provide the services and activities described in these regulations either directly or through subgrants, contracts, or other arrangements with local educational agencies, postsecondary educational institutions, State or local housing development agencies, other public agencies, including agencies of Indian tribes, or private organizations.

**§ 672.510 What cost limits apply to the use of YouthBuild program funds?**

(a) Administrative costs for programs operated under YouthBuild are limited to no more than 15 percent of the grant award. The definition of administrative costs can be found in 20 CFR 667.220.

(b) The cost of supervision and training for participants involved in the rehabilitation or construction of community and other public facilities is limited to no more than 10 percent of the grant award.

**§ 672.515 What are the cost-sharing or matching requirements of the YouthBuild program?**

(a) The cost-sharing or matching requirements applicable to a YouthBuild grant will be addressed in the grant agreement.

(b) The value of construction materials used in the YouthBuild program is an allowable cost for the purposes of the required non-Federal share or match.

(c) The value of land acquired for the YouthBuild program is not an allowable cost-sharing or match.

(d) Federal funds may not be used as cost-sharing or match resources except as provided by Federal law.

(e) The value of buildings acquired for the YouthBuild program is an allowable match, provided that the following conditions apply:

(1) The purchase cost of buildings used solely for training purposes is allowable; and

(2) For buildings used for training and other purposes, the allowable amount is determined based on the proportionate share of the purchase price related to direct training activities.

(f) Grantees must follow the requirements of 29 CFR 95.23 or 29 CFR 97.24 in the accounting, valuation, and reporting of the required non-Federal share.

**§ 672.520 What are considered to be leveraged funds?**

(a) Leveraged funds used to support allowable YouthBuild program activities consist of payments made for allowable costs funded by both non-YouthBuild Federal, and non-Federal, resources which include:

(1) Costs which meet the criteria for cost-sharing or match in § 672.515 and are in excess of the amount of cost-sharing or match resources required;

(2) Costs which would meet the criteria in § 672.515 except that they are paid for with other Federal resources; and

(3) Costs which benefit the grant program and are otherwise allowable under the cost principles but are not allowable under the grant because of some statutory, regulatory, or grant provision, whether paid for with Federal or non-Federal resources.

(b) The use of leveraged funds must be reported in accordance with Departmental instructions.

**§ 672.525 How are the costs associated with real property treated in the YouthBuild program?**

(a) As provided in paragraphs (b) and (c) of this section, the costs of the following activities associated with real property are allowable solely for the purpose of training YouthBuild participants:

(1) Rehabilitation of existing structures for use by homeless individuals and families or low-income families or for use as transitional housing.

(2) Construction of buildings for use by homeless individuals and families or low-income families or for use as transitional housing.

(3) Construction or rehabilitation of community or other public facilities, except, as provided in § 672.510(b), only 10% of the grant award is allowable for such construction and rehabilitation.

(b) The costs for acquisition of buildings that are used for activities described in paragraph (a) of this section are allowable with prior grant officer approval and only under the following conditions:

(1) Purchase cost of buildings used solely for training purposes is allowable; and

(2) For buildings used for training and other purposes, the allowable amount is determined based on the proportionate share of the purchase cost related to direct training.

(c) The following costs are allowable to the extent allocable to training YouthBuild participants in the construction and rehabilitation activities specified in paragraph (a) of this section:

(1) Trainees' tools and clothing;

(2) On-site trainee supervisors;

(3) Construction management;

(4) Relocation of buildings; and

(5) Clearance and demolition.

(d) Architectural fees, or a proportionate share thereof, are allowable when such fees can be related to items such as architectural plans or blueprints on which participants will be trained.

(e) The following costs are unallowable:

(1) The costs of acquisition for land.

(2) Brokerage fees.

**§ 672.530 What participant costs are allowable under the YouthBuild program?**

Allowable participant costs include:

(a) The costs of payments to participants engaged in eligible work-related YouthBuild activities.

(b) The costs of payments provided to participants engaged in non-work-related YouthBuild activities.

(c) The costs of Needs-based stipends

(d) The costs of supportive services.

(e) The costs of providing additional benefits to participants, which may include:

(1) Tuition assistance for obtaining college education credits

(2) Scholarships to an Apprenticeship, Technical, or Secondary Education program; and

(3) Sponsored health programs.

**§ 672.535 What effect do payments to YouthBuild participants have on eligibility for other Federal need-based benefits?**

Under 20 CFR 667.272(c), allowances, earnings, and payments to individuals participating in programs under Title I of WIA are not considered as income for purposes of determining eligibility for and the amount of income transfer and in-kind aid furnished under any Federal or Federally-assisted program based on need other than as provided under the Social Security Act (42 U.S.C. 301).

**§ 672.540 What program income requirements apply under the YouthBuild program?**

(a) Except as provided in paragraph (b) of this section, program income requirements, as specified in the applicable Uniform Administrative Requirements at 29 CFR 95.24 and 97.25, apply to YouthBuild grants.

(b) Revenue from the sale or rental of buildings rehabilitated or constructed under the YouthBuild program to homeless individuals and families and low-income families is not considered program income. Grantees are encouraged to use such revenue for the long-term sustainability of the YouthBuild effort.

**§ 672.545 Are YouthBuild programs subject to the Davis-Bacon Act labor standards?**

(a) YouthBuild programs and grantees are subject to Davis-Bacon labor standards requirements in certain circumstances. In those instances where a grantee is subject to Davis-Bacon requirements, the grantee must follow applicable requirements in the Department's regulations at 29 CFR parts 1, 3, and 5, including the requirements contained in the Davis-Bacon contract provisions set forth in 29 CFR 5.5.

(b) YouthBuild participants are subject to Davis-Bacon Act labor standards when they perform Davis-Bacon-covered laborer or mechanic work on Federal or Federally-assisted projects that are subject to the Davis-Bacon Act labor standards. The Davis-Bacon prevailing wage requirements apply to hours worked on the site of the work.

(1) YouthBuild participants may be classified as "trainees" on Davis-Bacon contracts only when they are employed in and are individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The Davis-Bacon contract clauses set forth in 29 CFR 5.5(a)(4)(ii) provide further rules and requirements regarding the use of trainees on Davis-Bacon covered contracts.

(2) YouthBuild participants who are not registered and participating in a training program approved by the Employment and Training Administration must be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed.

**§ 672.550 What are the recordkeeping requirements for YouthBuild programs?**

(a) Grantees must follow the recordkeeping requirements specified in the Uniform Administrative Regulations, at 29 CFR 95.53 and 29 CFR 97.42, as appropriate.

(b) Grantees must maintain such additional records related to the use of buildings constructed or rehabilitated with YouthBuild funds as specified in the grant agreement or in the Department's guidance.

## Subpart F—Additional Requirements

**§ 672.600 What are the safety requirements for the YouthBuild program?**

(a) The working conditions of YouthBuild participants are subject to health and safety standards under 20 CFR 667.274. Such health and safety standards include "hazardous orders" governing child labor under 29 CFR part 570 prohibiting youth ages 16 and 17 from working in identified hazardous occupations.

(b) YouthBuild grantees are required to:

(1) Provide comprehensive safety training for youth working on YouthBuild construction projects;

(2) Have written, jobsite specific, safety plans overseen by an on-site supervisor with authority to enforce safety procedures;

(3) Provide necessary personal protective equipment to youth working on YouthBuild projects; and

(4) Submit required injury incident reports.

**§ 672.605 What are the reporting requirements for youth safety?**

YouthBuild grantees must ensure that YouthBuild program sites comply with the Occupational Safety and Health Administration's (OSHA) reporting requirements in 29 CFR part 1904. The YouthBuild grantee is responsible for sending a copy of OSHA's injury incident report form, to U.S. Department of Labor, Employment and Training Administration within 7 days of any reportable injury suffered by a YouthBuild participant. The injury incident report form is available from OSHA and can be downloaded at *http://www.osha.gov/recordkeeping/RKforms.html.* Reportable injuries include those that result in death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid, or loss of consciousness.

**§ 672.610 What environmental protection laws apply to the YouthBuild program?**

YouthBuild Program grantees are required, where applicable, to comply with all environmental protection statutes and regulations.

**§ 672.615 What requirements apply to YouthBuild housing?**

(a) YouthBuild grantees must ensure that all residential housing units located on the property which are constructed or rehabilitated using YouthBuild funds must be available solely for:

(1) Sale to homeless individuals and families or low-income families;

(2) Rental by homeless individuals and families or low-income families;

(3) Use as transitional or permanent housing for the purpose of assisting in the movement of homeless individuals and families to independent living; or

(4) Rehabilitation of homes for low-income homeowners.

(b) For rentals of residential units located on the property which are constructed or rehabilitated using YouthBuild funds:

(1) The property must maintain at least a 90 percent level of occupancy for low-income families. The income test will be conducted only at the time of entry for each available unit or rehabilitation of occupant-owned home. If the grantee cannot find a qualifying tenant to lease the unit, the unit may be leased to a family whose income is above the income threshold to qualify as a low-income family but below the median income for the area. Leases for tenants with higher incomes will be limited to one or two years. The leases provided to tenants with higher incomes will not be subject to the termination clause that is described in paragraph (b)(2) of this section.

(2) The property owner must not terminate the tenancy or refuse to renew the lease of a tenant occupying a residential rental housing unit constructed or rehabilitated using YouthBuild funds except for serious or repeated violations of the terms and conditions of the lease, for violation of applicable Federal, State or local laws, or for good cause. Any termination or refusal to renew the lease must be preceded by not less than a 30-day written notice to the tenant specifying the grounds for the action. The property owner may waive the written notice requirement for termination in dangerous or egregious situations involving the tenant.

(c) All transitional or permanent housing for homeless individuals or families or low-income families must be safe and sanitary. The housing must meet all applicable State and local housing codes and licensing requirements in the jurisdiction in which the housing is located.

(d) For sales or rentals of residential housing units constructed or rehabilitated using YouthBuild funds, YouthBuild grantees must ensure that owners of the property record a restrictive covenant at the time that an occupancy permit is issued against such property which includes the use restrictions set forth in paragraphs (a), (b) and (c) of this section and incorporates the following definitions at § 672.110: Homeless Individual; Low-Income Housing; and Transitional Housing. The term of the restrictive covenant must be at least 10 years from the time of the issuance of the occupancy permit, unless a time period of more than 10 years has been established by the grantee. Any additional stipulations imposed by a grantee or property owner should be clearly stated in the covenant.

(e) Any conveyance document prepared in the 10-year period of the restrictive covenant must inform the buyer of the property that all residential housing units constructed or rehabilitated using YouthBuild funds are subject to the restrictions set forth in paragraphs (a), (b), (c), and (d) of this section.

Signed at Washington, DC, this 19th day of August 2010.

**Jane Oates,**

*Assistant Secretary, Employment and Training Administration.*

[FR Doc. 2010–21097 Filed 8–26–10; 8:45 am]

**BILLING CODE 4510–FT–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### 24 CFR Part 401

**[Docket No. FR–5304–P–01]**

**RIN 2502–AI75**

## Multifamily Housing Reform and Affordability Act: Projects Eligible for a Restructuring Plan; When Eligibility Is Determined

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** HUD seeks public comment on HUD's determination of the point in time at which an assisted project covered by the Multifamily and Assisted Housing Reform and Affordability Act is eligible for restructuring. Additionally, HUD proposes to amend its regulation, which provides a cross-reference to the statutory list of the types of projects that are eligible for mortgage restructuring, to incorporate that list into the regulation. HUD is initiating this rulemaking in accordance with a court decision.

**DATES:** *Comments Due Date:* October 26, 2010.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposed rule to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Room 10276, Washington, DC 20410–0500. Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW., Room 10276, Washington, DC 20410–0500.

2. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at *http://www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the *http://www.regulations.gov* Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

**Note:** To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule.

*No Facsimile Comments.* Facsimile (FAX) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the Federal Information Relay Service, toll free, at 800–877–8339. Copies of all comments submitted are available for inspection and downloading at *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Theodore Toon, Deputy Assistant Secretary, Office of Affordable Housing Preservation (OAHP), Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6230, Washington, DC 20024, telephone number 202–708–0001 (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

**SUPPLEMENTARY INFORMATION:**

### I. Background

The Multifamily Assisted Housing Reform and Affordability Act (42 U.S.C. 1437f note) (MAHRA) introduced a Mark-to-Market program designed to preserve housing affordability, while

reducing the long-term costs of Federal assistance. Section 514 of MAHRA provides for mortgage restructuring and rental adjustment via an Operating Cost Adjustment Factor (OCAF). Section 524 of MAHRA deals specifically with renewals of project-based Section 8 assistance without mortgage restructuring. Section 512(2) of MAHRA requires that an eligible multifamily housing project be subject to one of eight different types of rental assistance contracts and further requires that (i) project rents be above-market and (ii) the project be subject to FHA-insured or HUD-held financing. Essentially, these eligible projects are: (1) Those with rents that on average exceed the rents of comparable properties in the same market area; (2) multifamily properties consisting of more than four dwelling units; (3) financed by a mortgage held or insured by HUD; and (4) covered in whole or part by a contract for assistance under one of several specified programs. These specified programs include current and former programs authorized under the following authorities: (1) Section 8 of the U.S. Housing Act of 1937 (42 U.S.C. 1437f); (2) section 23 of the U.S. Housing Act of 1937 as in effect before January 1, 1975 (the Section 23 Leased Housing program, found at section 103 of the Housing and Urban Development Act of 1965 (Pub. L. 89–117, approved August 10, 1965), which was the predecessor to the current Section 8 program); (3) Rent Supplements under 12 U.S.C. 1701s; and (4) the Section 8 program following its conversion from the Rent Supplement program.

On September 11, 1998, HUD issued an interim rule implementing the Mark-to-Market program in 24 CFR parts 401 and 402 (63 FR 48943). HUD accepted public comments on this interim rule as a basis for future rulemaking on this subject. HUD issued a subsequent final rule on March 22, 2000 (65 FR 15485), primarily to make regulatory changes regarding procedures other than the renewal procedures in section 524 of MAHRA, which were left to future rulemaking. On January 12, 2006, HUD issued a final rule, amending its regulations in 24 CFR parts 401 and 402 (71 FR 2120).

The regulatory definition of an eligible project was originally codified at 24 CFR 401.100. The version of § 401.100 published in the 1998 interim rule was a more succinct and general regulatory provision than that published in the later January 2006 final rule. The variation between the 1998 codification and the later codification of § 401.100 was due in part to the fact that a portion of the regulation that became part of § 401.100 was contained in the definition of "eligible project," published as part of the 1998 interim rule (63 FR 48944). As published in the 1998 interim rule, the definition of "eligible project" read:

> *Eligible project* means a project with a mortgage insured or held by HUD, project-based assistance expiring on or after October 1, 1998, and rents for assisted units exceeding comparable market rents; and otherwise meeting the definition of "eligible multifamily housing project" in section 512(2) of MAHRA.

Section 401.100 of the 1998 interim rule read:

> * * * Which projects are eligible for a Restructuring Plan under this part?
>
> General eligibility. A Restructuring Plan may be requested by an owner of an eligible project that:
>
> (a) Has project-based assistance with an expiration date of October 1, 1998, or later;
>
> (b) Has current gross potential rent for the project-based assisted units that exceeds the gross potential rent for the project based assisted units using comparable market rents; and
>
> (c) Is not described in section 514(h) of MAHRA.

A HUD final rule published on March 22, 2000 (65 FR 15480) removed § 401.100 and entirely placed the material in the definition section, combining it with the definition of 'eligible project' in § 401.2(c)). Consequently, the March, 2000 definition of "eligible project" reads as follows:

> Eligible project means a project that:
>
> (1) Has a mortgage insured or held by HUD;
>
> (2) Receives project-based assistance expiring on or after October 1, 1998;
>
> (3) Has current gross potential rent for the project-based assisted units that exceeds the gross potential rent for the project based assisted units using comparable market rents;
>
> (4) Has a first mortgage that has not previously been restructured under this part or under a Reengineering demonstration program;
>
> (5) Is not described in section 514(h) of MAHRA; and
>
> (6) Otherwise meets the definition of "eligible multifamily housing project" in section 512(2) of MAHRA.

As provided in the March 2000 final rule, the list of eligible multifamily housing projects is provided in the regulation by cross reference to the statutory provision, section 512(2) of MAHRA.

The preamble to the March, 2000 final rule stated that further changes to 24 CFR part 402 would be forthcoming based on the public comments on the 1998 interim rule (65 FR 15476). The final rule published on January 12, 2006 made these changes. Additionally, this January 2006 final rule reinstates 24 CFR 401.100 instead of locating the material related to project eligibility entirely in the definition section. Section 401.100(a), rather than cross-referencing section 512(2) of MAHRA, lists the types of eligible projects.

Section 401.100(b) established the point in time at which a project is judged to be eligible or ineligible for restructuring. Both §§ 401.100(a) and 400.100(b) as promulgated in the 2006 final rule included matters that HUD believed were simply interpretive rules not requiring public comment.

However, § 401.100(b) was successfully challenged in the case of *Steinhorst Associates* v. *Preston,* 572 F.Supp.2d 112, 122, 124 (D.D.C. 2008) on the basis that "HUD promulgated the regulation without following notice-and-comment procedures." (*See Steinhorst* at 124.) The District Court vacated § 401.100(b) and remanded it to HUD for further proceedings "consistent with this opinion." (*See* 572 F.Supp.2d at 125). Since the failure to follow notice-and-comment procedures was found by the court to have made the rule defective, the appropriate remedial action for HUD is to propose the rule for notice and public comment.

Accordingly, HUD is proposing 24 CFR 401.100(b) for public comment. Since 24 CFR 401.100(a) has a similar procedural history, even though that section was not challenged in the *Steinhorst* case, HUD is also reopening public comment on § 401.100(a). HUD will consider all public comments and reach a *de novo* determination about the content of these regulatory sections.

## II. Findings and Certifications

### *Environmental Impact*

A Finding of No Significant Impact with respect to the environment was previously made regarding this rule in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) (See 71 FR 2120). The initial finding of no significant impact remains applicable, and is available for public inspection between 8 a.m. and 5 p.m. weekdays in the office of the Regulations Division, Department of Housing and Urban Development, 451 7th Street, SW., Room 10276, Washington, DC 20410–0500.

### *Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and subject to comment rulemaking requirements, unless the

agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule affects only multifamily Section 8 owners. There are very few multifamily Section 8 owners that are small entities. Therefore, this rule would not affect a substantial number of small entities within the meaning of the RFA.

Accordingly, the undersigned certifies that this rule will not have a significant economic impact on a substantial number of small entities. Notwithstanding HUD's determination that this rule will not have a significant effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in the preamble to this rule.

*Executive Order 13132, Federalism*

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This proposed rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

*Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and on the private sector. This proposed rule does not impose any Federal mandates on any State, local, or tribal government, or on the private sector, within the meaning of UMRA.

**List of Subjects in 24 CFR Part 401**

Grant programs—Housing and community development, Housing, Housing assistance payments, Housing standards, Insured loans, Loan programs—Housing and community development, Low and moderate income housing, Mortgage insurance, Mortgages, Rent subsidies, Reporting and recordkeeping requirements.

The Catalogue of Federal Domestic Assistance number for the programs affected by this rule is 14.871.

Accordingly, for the reasons stated in the preamble, HUD proposes to amend 24 CFR part 401 as follows:

## PART 401—MULTIFAMILY HOUSING MORTGAGE AND HOUSING ASSISTANCE RESTRUCTURING PROGRAM (MARK-TO-MARKET)

1. The authority citation for part 401 continues to read as follows:

**Authority:** 12 U.S.C. 1715z–1 and 1735f–19(b); 42 U.S.C. 1437f(c)(8), 1437f(t), 1437f note, and 3535(d).

### Subpart A—General Provisions; Eligibility

2. Revise § 401.100 to read as follows:

**§ 401.100 Which projects are eligible for a restructuring plan under this part?**

(a) *What are the requirements for eligibility*? To be eligible for a Restructuring Plan under this part, a project must:

(1) Have a mortgage insured or held by HUD;

(2) Be covered in whole or in part by a contract for project-based assistance under—

(i) The new construction or substantial rehabilitation program under section 8(b)(2) of the U.S. Housing Act of 1937 as in effect before October 1, 1983;

(ii) The property disposition program under section 8(b) of the U.S. Housing Act of 1937;

(iii) The moderate rehabilitation program under section 8(e)(2) of the United States Housing Act of 1937;

(iv) The loan management assistance program under section 8 of the United States Housing Act of 1937;

(v) Section 23 of the United States Housing Act of 1937 as in effect before January 1, 1975;

(vi) The rent supplement program under section 101 of the Housing and Urban Development Act of 1965;

(vii) Section 8 of the United States Housing Act of 1937, following conversion from assistance under Section 101 of the Housing and Urban Development Act of 1965; or

(viii) Section 8 of the U.S. Housing Act of 1937 as renewed under section 524 of MAHRA;

(3) Have current gross potential rent for the project-based assisted units that exceeds the gross potential rent for the project-based assisted units using comparable market rents;

(4) Have a first mortgage that has not previously been restructured under this part or under HUD's Portfolio Reengineering demonstration authority as defined in § 402.2(c) of this chapter;

(5) Not be a project that is described in section 514(h) of MAHRA; and

(6) Otherwise meet the definition of "eligible multifamily housing project" in section 512(2) of MAHRA or meet the following three criteria:

(i) The project is assisted pursuant to a contract for Section 8 assistance renewed under section 524 of MAHRA;

(ii) It has an owner that consents for the project to be treated as eligible; and

(iii) At the time of its initial renewal under section 524, it met the requirements of section 512(2)(A), (B), and (C) of MAHRA.

(b) *When is eligibility determined*? Eligibility for a Restructuring Plan under paragraph (a) of this section is determined by the status of a project on the earlier of the termination or expiration date of the project-based assistance contract, which includes a contract renewed under section 524 of MAHRA, or the date of the owner's request to HUD for a Restructuring Plan. Eligibility is not affected by a subsequent change in status, such as contract extension under § 401.600 or part 402 of this chapter.

Dated: July 15, 2010.

**David H. Stevens,**

*Assistant Secretary for Housing—Federal Housing Commissioner.*

[FR Doc. 2010–21322 Filed 8–26–10; 8:45 am]

**BILLING CODE 4210–67–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 2

**[EPA–HQ–OAR–2009–0924; FRL–9193–7]**

**RIN 2060–AQ04**

### Supplemental Proposal to the Proposed Confidentiality Determinations for Data Required Under the Mandatory Greenhouse Gas Reporting Rule

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

**ACTION:** Extension of public comment period.

**SUMMARY:** On July 27, 2010, EPA published a Supplemental Proposal that proposed confidentiality determinations for certain data elements contained in proposed revisions to the Mandatory Greenhouse Gas Reporting Rule. In this action, EPA is extending the comment period for the Supplemental Proposal until September 7, 2010.

**DATES:** *Comments.* This document extends the comment period for the Supplemental Proposal to the Proposed Confidentiality Determinations for Data Required under the Mandatory

Greenhouse Gas Reporting Rule (75 FR 43889). Comments must be received on or before September 7, 2010.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2009–0924, by one of the following methods:

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

*E-mail: GHGReportingCBI@epa.gov.*

*Fax:* (202) 566–1741.

*Mail:* Environmental Protection Agency, EPA Docket Center (EPA/DC), Mailcode 6102T, Attention Docket ID No. EPA–HQ–OAR–2009–0924, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

*Hand Delivery:* EPA Docket Center, Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Avenue, NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA–HQ–OAR–2009–0924. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

**FOR FURTHER INFORMATION CONTACT:** Carole Cook, Climate Change Division, Office of Atmospheric Programs (MC–6207J), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 343–9263; fax number: (202) 343–2342; e-mail address: *GHGMRR@epa.gov.* For technical information, contact the Greenhouse Gas Reporting Rule Hotline at: *http://www.epa.gov/climatechange/emissions/ghgrule_contactus.htm.* Alternatively, contact Carole Cook at 202–343–9263.

**SUPPLEMENTARY INFORMATION:** *Additional Information on Submitting Comments:* To expedite review of your comments by Agency staff, you are encouraged to send a separate copy of your comments, in addition to the copy you submit to the official docket, to Carole Cook, U.S. EPA, Office of Atmospheric Programs, Climate Change Division, Mail Code 6207–J, Washington, DC, 20460, telephone (202) 343–9263, e-mail *GHGReportingCBI@epa.gov.*

*Background on Today's Action:* In this action, EPA is extending the public comment period on the July 27, 2010 Supplemental Proposal to the Proposed Confidentiality Determinations for Data Required Under the Mandatory Greenhouse Gas Reporting Rule ("Supplemental CBI Proposal," 75 FR 43889). EPA is extending the comment period for the Supplemental CBI Proposal to September 7, 2010.

On July 7, 2010, EPA published the Proposed Confidentiality Determinations for Data Required Under the Mandatory Greenhouse Gas Reporting Rule and Proposed Amendment to Special Rules Governing Certain Information Obtained Under the Clean Air Act ("CBI Proposal," 75 FR 39094). The comment period for the CBI Proposal ends on September 7, 2010.

On July 27, 2010, EPA published the Supplemental CBI Proposal; the comment period for the Supplemental CBI Proposal would have ended on August 26, 2010.

EPA received comments requesting an extension of the public comment period for the Supplemental CBI Proposal to September 7, 2010. Commenters noted that the CBI Proposal and the Supplemental CBI Proposal both concern the confidentiality of data collected under the Greenhouse Gas Reporting Program. Commenters also noted how comments on the two proposals might be easily consolidated into one document. Therefore, to facilitate submission of public comments, EPA is extending the comment period for the Supplemental CBI Proposal to September 7, 2010 so that the comment period for both actions ends on the same day.

**List of Subjects in 40 CFR Part 2**

Environmental protection, Administrative practice and procedure, Reporting and recordkeeping requirements.

Dated: August 23, 2010.

**Dina Kruger,**

*Acting Director, Office of Atmospheric Programs.*

[FR Doc. 2010–21385 Filed 8–26–10; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R06–OAR–2009–0656; FRL–9193–6]**

### Approval and Promulgation of Implementation Plans; New Mexico; Interstate Transport of Pollution; Revisions to Prevention of Significant Deterioration Regulations

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of New Mexico for the purpose of addressing the "good neighbor" provisions of Clean Air Act (CAA) section 110(a)(2)(D)(i) for the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS or standards) and the 1997 $PM_{2.5}$ NAAQS. This SIP revision addresses the requirement that the State of New Mexico's SIP have adequate provisions to prohibit air emissions from adversely affecting another state's

air quality through interstate transport. In this action, EPA is proposing to approve the New Mexico Interstate Transport SIP provisions that address the requirement of section 110(a)(2)(D)(i)(I) that emissions from New Mexico sources do not interfere with maintenance of the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS in any other state. In addition, EPA is proposing to approve the provisions of this SIP submission that address the requirement of section 110(a)(2)(D)(i)(II) that emissions from New Mexico sources do not interfere with measures required in the SIP of any other state under part C of the CAA to prevent significant deterioration of air quality. For purposes of the 1997 8-hour ozone NAAQS, EPA is also proposing to approve a SIP revision that modifies New Mexico's Prevention of Significant Deterioration (PSD) SIP for the 1997 8-hour ozone NAAQS to include nitrogen oxides ($NO_X$) as an ozone precursor. This action is being taken under section 110 and part C of the Clean Air Act (the Act or CAA).

**DATES:** Comments must be received on or before September 27, 2010.

**ADDRESSES:** Submit your comments, identified by Docket No. EPA–R06–OAR–2009–0656, by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.*
- Follow the online instructions for submitting comments.
- *EPA Region 6* "*Contact Us*" *Web site: http://epa.gov/region6/r6coment.htm.* Please click on "6PD (Multimedia)" and select "Air" before submitting comments.
- *E-mail:* Mr. Guy Donaldson at *donaldson.guy@epa.gov.* Please also send a copy by e-mail to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.
- *Fax:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), at fax number 214–665–7263.
- *Mail:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.
- *Hand or Courier Delivery:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays, and not on legal holidays. Special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket No. EPA–R06–OAR–2009–0656. 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 *www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214–665–7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The state submittal is also available for public inspection during official business hours, by appointment, at the New Mexico Environment Department, Air Quality Bureau, 1190 St. Francis Drive, Santa Fe, New Mexico 87502.

**FOR FURTHER INFORMATION CONTACT:** Emad Shahin, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–6717; fax number (214) 665–7263; e-mail address *shahin.emad@epa.gov.*

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

## Outline



## I. What action is EPA taking?

We are proposing to approve a submission from the State of New Mexico demonstrating that New Mexico has adequately addressed two of the required elements of CAA section 110(a)(2)(D)(i), the elements that require that the State Implementation Plan prohibit air pollutant emissions from sources within a state from interfering with maintenance of the relevant NAAQS in any other state, and from interfering with measures required to prevent significant deterioration of air quality in any other state. We are proposing to determine that emissions from sources in New Mexico do not interfere with the maintenance of the 1997 8-hour ozone NAAQS or of the 1997 $PM_{2.5}$ NAAQS, or with measures required to prevent significant deterioration of air quality, with regards to these ozone or $PM_{2.5}$ NAAQS in any other state. In a separate prior action, we have addressed the element of section 110(a)(2)(D)(i) that pertains to prohibiting air pollutant emissions from within New Mexico from significantly contributing to nonattainment of the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS in any other state (75 FR 33174). The remaining section 110(a)(2)(D)(i) element which pertains to interference with measures required to protect visibility in any other state will be addressed in a future rulemaking.

In conjunction with our proposed finding that emissions from sources in

New Mexico are not interfering with any other state's PSD program, we are also proposing to approve a portion of the SIP revision submitted by the State of New Mexico with rule revisions to regulate NOx emissions in its PSD permit program as a precursor to ozone. At this time, EPA is not taking action on other portions of the SIP revisions submitted by New Mexico together with the PSD revision.[1] EPA intends to act on the other revisions submitted together with the PSD program revisions at a later time.

EPA proposes to approve the foregoing revisions relevant to section 110(a)(2)(D)(i) and the revisions to the PSD program pursuant to section 110 and part C of the CAA.

**II. What is a SIP?**

Section 110(a) of the Clean Air Act (CAA) requires each state to develop a plan that provides for the implementation, maintenance, and enforcement of the national ambient air quality standards (NAAQS). EPA establishes NAAQS under section 109 of the CAA. Currently, the NAAQS address six criteria pollutants: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

The plan developed by a state is referred to as the state implementation plan (SIP). The content of the SIP is specified in section 110 of the CAA, other provisions of the CAA, and applicable regulations. SIPs can be extensive, containing state regulations or other enforceable measures and various types of supporting information, such as emissions inventories, monitoring networks, and modeling demonstrations.

A primary purpose of the SIP is to provide the air pollution regulations, control strategies, and other means or techniques developed by the state to ensure that the ambient air within that state meets the NAAQS. However, another important aspect of the SIP is to ensure that emissions from within the state do not have certain prohibited impacts upon the ambient air in other states through interstate transport of pollutants. This SIP requirement is specified in section 110(a)(2)(D) of the CAA. Pursuant to that provision, each state's SIP must contain provisions adequate to prevent, among other things, emissions that interfere with maintenance of the NAAQS in any other state or interfere with measures required to be included in the SIP of any other state to prevent significant deterioration of air quality in such other state.

States are required to update or revise SIPs under certain circumstances. One such circumstance is EPA's promulgation of a new or revised NAAQS. Each state must submit these revisions to EPA for approval and incorporation into the federally-enforceable SIP.

**III. What is the background for this action?**

On July 18, 1997, EPA promulgated new NAAQS for 8-hour ozone and for fine particulate matter ($PM_{2.5}$). This action is being taken in response to the promulgation of the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS. This action does not address the requirements for the 2006 $PM_{2.5}$ NAAQS or the 2008 8-hour ozone NAAQS; those standards will be addressed in later actions.

Section 110(a)(1) of the CAA requires states to submit SIPs to address a new or revised NAAQS within 3 years after promulgation of such standards, or within such shorter period as EPA may prescribe. Section 110(a)(2) lists the elements that such new SIPs must address, as applicable, including section 110(a)(2)(D)(i), which pertains to interstate transport of certain emissions. On August 15, 2006, EPA issued its "Guidance for State Implementation Plan (SIP) Submissions to Meet Current Outstanding Obligations Under Section 110(a)(2)(D)(i) for the 8–Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards" (2006 Guidance). EPA developed the 2006 Guidance to make recommendations to states for making submissions to meet the requirements of section 110(a)(2)(D)(i) for the 1997 8-hour ozone standards and the 1997 $PM_{2.5}$ standards.

As identified in the 2006 Guidance, the "good neighbor" provisions in section 110(a)(2)(D)(i) require each state to submit a SIP that prohibits emissions that adversely affect another state in the ways contemplated in the statute. Section 110(a)(2)(D)(i) contains four distinct requirements related to the impacts of interstate transport. The SIP must prevent sources in the state from emitting pollutants in amounts which will: (1) Contribute significantly to nonattainment of the NAAQS in other states; (2) interfere with maintenance of the NAAQS in other states; (3) interfere with provisions to prevent significant deterioration of air quality in other states; or (4) interfere with efforts to protect visibility in other states.

On September 17, 2007, EPA received a SIP revision from the State of New Mexico intended to address the requirements of section 110(a)(2)(D)(i) for both the 1997 8-hour ozone standards and the 1997 $PM_{2.5}$ standards. In this rulemaking, EPA is addressing only the requirements that pertain to preventing sources in New Mexico from emitting pollutants that will interfere with maintenance of the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS in other states, or that will interfere with measures required to prevent significant deterioration of air quality in other states with respect to these NAAQS. In its submission, the State of New Mexico indicated that its current SIP is adequate to prevent such interference, and thus argued that no additional emissions controls or other revisions are necessary at this time to alleviate interstate transport for the 1997 8 hour ozone NAAQS or the 1997 $PM_{2.5}$ NAAQS. With this submission, the state would meet the first and second elements of section 110(a)(2)(D)(i).

On August 31, 2009, the New Mexico Environment Department (NMED) also adopted revisions to its PSD SIP in response to revisions required by EPA for the 1997 8-hour ozone NAAQS. EPA received these revisions on September 21, 2009. These submitted PSD revisions included changes to 20.2.74 NMAC (New Mexico Administrative Code) for "Permits—Prevention of Significant Deterioration (PSD)" necessary to address $NO_X$ as a precursor for the 1997 8-hour ozone NAAQS. The submittal contained revisions to Subsections 20.2.74.7 NMAC, Definitions; 20.2.74.502 NMAC, Table 2, Significant Emission Rates inclusion of nitrogen oxides rate for ozone; and 20.2.74.503 NMAC, Table 3, Significant Monitoring Concentrations, Footnote b, inclusion of baseline threshold for nitrogen oxides for requirements in ambient impact analysis.

With EPA's approval of this revision, that includes $NO_X$ as a precursor of the 1997 8-hour ozone NAAQS, New Mexico's PSD SIP will include changes necessary to implement the 1997 8-hour ozone NAAQS within the state as contemplated in the 2006 Guidance for SIP submissions to meet the third element of section 110(a)(2)(D). The submittal also contained revisions to 20.2.2 NMAC, Definitions and 20.2.79 NMAC, Permits—Nonattainment Areas. At this time, EPA is not taking action on these other SIP revisions submitted with the PSD SIP revisions.

[1] As noted later in this action, these revisions are separate from the New Mexico PSD revisions and are to 20.2.2 NMAC, Definitions and 20.2.79 NMAC, Permits-Nonattainment areas.

## IV. What is EPA's evaluation of the State's submission?

### *A. EPA's Evaluation of Interference With Maintenance*

The second element of section 110(a)(2)(D)(i) requires that a state's SIP must prohibit any source or other type of emissions activity in the state from emitting pollutants that would "interfere with maintenance" of the applicable NAAQS in any other state. This term is not defined in the statute. Therefore, EPA has interpreted this term in past regulatory actions, such as the 1998 $NO_X$ SIP Call, in which EPA took action to remediate emissions of $NO_X$ that significantly contributed to nonattainment, or interfered with maintenance of, the then applicable ozone NAAQS through interstate transport of $NO_X$ and the resulting ozone.[2] The $NO_X$ SIP Call was the mechanism through which EPA evaluated whether or not the $NO_X$ emissions from sources in certain states had such prohibited interstate impacts, and if they had such impacts, required the states to adopt substantive SIP revisions to eliminate those $NO_X$ emissions, whether through participation in a regional cap and trade program or by other means.

After promulgation of the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS, EPA again recognized that regional transport was a serious concern throughout the eastern U.S. and therefore developed the 2005 Clean Air Interstate Rule (CAIR) to address emissions of $SO_2$ and $NO_X$ that exacerbate ambient ozone and $PM_{2.5}$ levels in many downwind areas through interstate transport.[3] Within CAIR, EPA likewise interpreted the term "interfere with maintenance" as part of the evaluation of whether or not the emissions of sources in certain states had such impacts on areas that EPA determined would either be in violation of the NAAQS, or would be in jeopardy of violating the NAAQS, in a modeled future year unless action were taken by upwind states to reduce $SO_2$ and $NO_X$ emissions. Through CAIR, EPA again required states that had such interstate impacts to adopt substantive SIP revisions to eliminate the $SO_2$ and $NO_X$ emissions, whether through participation in a regional cap and trade program or by other means.

EPA's 2006 Guidance addressed section 110(a)(2)(D) requirements for the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS. For those states subject to CAIR, EPA indicated that compliance with CAIR would meet the two requirements of section 110(a)(2)(D)(i)(I) for these NAAQS. For states not within the CAIR region, EPA recommended that states evaluate whether or not emissions from their sources would "interfere with maintenance" in other states, following the conceptual approach adopted by EPA in CAIR. After recommending various types of information that could be relevant for the technical analysis to support the SIP submission, such as the amount of emissions and meteorological conditions in the state, EPA further indicated that it would be appropriate for the state to assess impacts of its emissions on other states using considerations comparable to those used by EPA "in evaluating significant contribution to nonattainment in the CAIR."[4] EPA did not make specific recommendations for how states should assess "interfere with maintenance" separately, and discussed the first two elements of section 110(a)(2)(D) together without explicitly differentiating between them.

In 2008, however, the U.S. Court of Appeals for the DC Circuit found that CAIR and the related CAIR federal implementation plans were unlawful.[5] Among other issues, the court held that EPA had not correctly addressed the second element of section 110(a)(2)(D)(i)(I) in CAIR. The court noted that "EPA gave no independent significance to the 'interfere with maintenance' prong of section 110(a)(2)(D)(i)(I) to separately identify upwind sources interfering with downwind maintenance."[6]. EPA's approach, the court reasoned, would leave areas that are "barely meeting attainment" with "no recourse" to address upwind emissions sources.[7] The court therefore concluded that a plain language reading of the statute requires EPA to give independent meaning to the interfere with maintenance requirement of section 110(a)(2)(D) and that the approach used by EPA in CAIR failed to do so.

In addition to affecting CAIR directly, the court's decision in the North Carolina case indirectly affects EPA's recommendations to states in the 2006 Guidance with respect to the interfere with maintenance element of section 110(a)(2)(D) because the agency's guidance suggested that states use an approach comparable to that used by EPA in CAIR. States such as New Mexico have already made SIP submissions that rely upon the recommendations in EPA's 2006 Guidance, and accordingly may not have sufficiently differentiated between the significant contribution to nonattainment and interfere with maintenance elements of the statute. Given the court decision on CAIR in the interim, however, EPA believes that it is necessary to evaluate these state submissions for section 110(a)(2)(D) in such a way as to assure that the interfere with maintenance element of the statute is given independent meaning and is appropriately evaluated using the types of information that EPA recommended in the 2006 Guidance. To accomplish this, EPA believes it is necessary to use an updated approach to address this issue and to supplement the technical analysis provided by the state in order to evaluate the submissions with the respect to the interfere with maintenance element of section 110(a)(2)(D).

EPA has recently proposed a new rule to address interstate transport pursuant to section 110(a)(2)(D), the "Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone" (Transport Rule Proposal), in order to address the judicial remand of CAIR.[8] As part of the Transport Rule Proposal, EPA specifically reexamined the section 110(a)(2)(D) requirement that emissions from sources in a state must not "interfere with maintenance" of the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS in other states. In the proposal, EPA developed an approach to identify areas that it predicts to be close to the level of the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS, and therefore at risk to become nonattainment for these NAAQS unless emissions from sources in other states are appropriately controlled. This approach starts by identifying those specific geographic areas for which further evaluation is appropriate, and differentiates between areas where the concern is with interference with maintenance, rather than with significant contribution to nonattainment.

As described in more detail below, EPA's analysis evaluates data from

[2] *See,* 63 FR 57356 (October 27, 1998). EPA's general approach to section 110(a)(2)(D) was upheld in *Michigan* v. *EPA,* 213 F.3d 663 (DC Cir. 2000), cert denied, 532 U.S. 904 (2001). However, EPA's approach to interference with maintenance in the $NO_X$ SIP Call was not explicitly reviewed by the court. *See*, *North Carolina* v. *EPA,* 531 F.3d 896, 907–09 (DC Cir. 2008).

[3] *See,* 70 FR 25162 (May 12, 2005).

[4] 2006 Guidance at page 5.

[5] *See, North Carolina* v. *EPA,* 531 F.3d 896 (DC Circuit 2008).

[6] *Id.* 531, F.3d at 909.

[7] *Id.*

[8] *See* "Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone," 75 FR 45210 (August 2, 2010).

existing monitors over three overlapping three year periods (*i.e.,* 2003–2005, 2004–2006, and 2005–2007), as well as air quality modeling data, in order to determine which areas are predicted to be violating the 1997 ozone and $PM_{2.5}$ NAAQS in 2012, and which areas are predicted to potentially have a difficulty with maintaining attainment as of that date. In essence, if an area's projected data for 2012 indicates that it would be violating the NAAQS based on the average of these three overlapping periods, then this monitor location is appropriate for comparison for purposes of the significant contribution to nonattainment element of section 110(a)(2)(D). If, however, an area's projected data indicate that it would be violating the NAAQS based on the highest single period, but not over the average of the three periods, then this monitor location is appropriate for comparison for purposes of the interfere with maintenance element of the statute.[9]

By this method, EPA has identified those areas with monitors that are appropriate "maintenance sites" or maintenance "receptors" for evaluating whether the emissions from sources in another state could interfere with maintenance in that particular area. EPA then uses other analytical tools to examine the potential impacts of emissions from upwind states on these maintenance sites in downwind states. EPA believes that this new approach for identifying those areas that are predicted to have maintenance problems is appropriate to evaluate the section 110(a)(2)(D) SIP submission of a state for the interfere with maintenance element.[10] EPA's 2006 Guidance did not provide this specific recommendation to states, but in light of the court's decision on CAIR, EPA will itself follow this approach in acting upon the New Mexico submission.

As explained in the 2006 Guidance, EPA does not believe that section 110(a)(2)(D) SIP submissions from all states necessarily need to follow precisely the same analytical approach of CAIR. In the 2006 Guidance, EPA stated that: "EPA believes that the contents of the SIP submission required by section 110(a)(2)(D) may vary, depending upon the facts and circumstances related to the specific NAAQS. In particular, the data and analytical tools available at the time the State develops and submits a SIP for a new or revised NAAQS necessarily affects the contents of the required submission."[11] EPA also indicated in the 2006 Guidance that it did not anticipate that sources in states outside the geographic area covered by CAIR were significantly contributing to nonattainment, or interfering with maintenance, in other states.[12] As noted in the Transport Rule Proposal, EPA continues to believe that the more widespread and serious transport problems in the eastern United States are analytically distinct.[13] For the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS, EPA believes that nonattainment and maintenance problems in the western United States are relatively local in nature with only limited impacts from interstate transport. In the Transport Rule Proposal, EPA did not calculate interstate ozone or $PM_{2.5}$ contributions to or from Western States.

Accordingly, EPA believes that section 110(a)(2)(D) SIP submissions for states outside the geographic area of the Transport Rule Proposal may be evaluated using a "weight of the evidence" approach that takes into account the available relevant information, such as that recommended by EPA in the 2006 Guidance for states outside the area affected by CAIR. Such information may include, but is not limited to, the amount of emissions in the state relevant to the NAAQS in question, the meteorological conditions in the area, the distance from the state to the nearest monitors in other states that are appropriate receptors, or such other information as may be probative to consider whether sources in the state may interfere with maintenance of the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS in other states. These submissions can rely on modeling when acceptable modeling technical analyses are available, but EPA does not believe that modeling is necessarily required if other available information is sufficient to evaluate the presence or degree of interstate transport in a given situation.

*B. New Mexico Transport SIP*

To meet the requirements of section 110(a)(2)(D), the State of New Mexico made a SIP submission to address interstate transport for the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS. EPA has previously approved this submission for purposes of the significant contribution to nonattainment element of section 110(a)(2)(D).[14] Below, we discuss our evaluation of the state's submission with respect to the interference with maintenance element and the interference with measures required to prevent significant deterioration of air quality element.

a. Interference With Maintenance

The State's submittal focused primarily on whether emissions from New Mexico sources significantly contribute to nonattainment of the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS in other states. Following the 2006 Guidance and consistent with EPA's approach in CAIR, New Mexico did not evaluate whether emissions from New Mexico sources interfere with maintenance of these NAAQS in other states separately from significant contribution to nonattainment in other states. Instead, the state presumed that if New Mexico sources were not significantly contributing to violations of the NAAQS in other states, then no further specific evaluation was necessary for purposes of the interfere with maintenance element of section 110(a)(2)(D). As explained above, however, CAIR was remanded to EPA, in part because the court found that EPA had not correctly addressed whether emissions from sources in a state interfere with maintenance of the standards in other states. Therefore, EPA must evaluate the New Mexico submission in light of the decision of the court.

On July 6, 2010, the EPA Administrator signed a proposed rule in response to the judicial remand of CAIR. The Transport Rule Proposal includes a new approach to determine whether emissions from a state interfere with maintenance of the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS in other states. EPA is using a comparable approach to that of the Transport Rule Proposal in this action in order to determine if emissions from New Mexico sources interfere with maintenance of these NAAQS in other states.

In the Transport Rule Proposal, EPA projected future concentrations of ozone

[9] A memorandum in the docket for this action provides the information EPA used in order to identify monitors that are receptors for evaluation of interference with maintenance for certain states in the western United States. *See,* Memorandum from Brian Timin of EPA's Office of Air Quality Planning and Standards, Air Quality Modeling Group entitled "Documentation of Future Year Ozone and Annual $PM_{2.5}$ Design Values for Western States" (August 2010) (Timin Memo).

[10] To begin this analysis, EPA first identifies all monitors projected to be in nonattainment or, based on historic variability in air quality, projected to have maintenance problems in 2012. The "problem" is that these maintenance areas are at risk not to stay in attainment because they are so close to the level of the 1997 ozone and $PM_{2.5}$ NAAQS that minor variations in weather or emissions could result in violations of the NAAQS in 2012.

[11] 2006 Guidance at 4.

[12] *Id.* at 5.

[13] *See,* Transport Rule Proposal, 75 FR 45210 (August 2, 2010) at page 45227.

[14] *See,* 75 FR 33174 (June 11, 2010).

and $PM_{2.5}$ to identify areas that are expected to be out of attainment with NAAQS or to have difficulty maintaining compliance with the NAAQS in 2012. These areas are referred to as nonattainment and maintenance receptors, respectively. These nonattainment and maintenance receptors are based on projections of future air quality at existing ozone and $PM_{2.5}$ monitoring sites in those locations. EPA then used these sites as the receptors for examining the contributions of emissions from sources located in upwind states to nonattainment and maintenance problems at these monitoring locations. Monitoring data was obtained from EPA's Air Quality System (AQS).

For ozone, EPA evaluated concentrations relevant to the 1997 8-hour ozone NAAQS. The level of the 1997 8-hour ozone NAAQS is 0.08 parts per million (ppm). The 8-hour ozone standard is met if the 3-year average of the annual 4th highest daily maximum 8-hour ozone concentration is less than or equal to 0.08 ppm (*i.e.,* less than 0.085 ppm based on the rounding convention in 40 CFR part 50 Appendix I). This 3-year average is referred to as the "design value."

For $PM_{2.5}$, EPA evaluated concentrations of both the annual $PM_{2.5}$ NAAQS and the 24-hour $PM_{2.5}$ NAAQS. The 1997 annual $PM_{2.5}$ NAAQS is met when the 3-year average of the annual mean concentration is 15.0 micrograms per cubic meter ($\mu g/m^3$) or less. The 3-year average annual mean concentration is computed at each site by averaging the daily Federal Reference Method (FRM) samples by quarter, averaging these quarterly averages to obtain an annual average, and then averaging the three annual averages to get the design value. The 2006 24-hour $PM_{2.5}$ NAAQS is met when the 3-year average of the annual 98th percentile $PM_{2.5}$ concentrations is 35 $\mu g/m^3$ or less. The 1997 24-hour $PM_{2.5}$ NAAQS is met when the 3-year average of the annual 98th percentiles is 65 $\mu g/m^3$ or less. The 3-year average mean 98th percentile concentration is computed at each site by averaging the 3 individual annual 98th percentile values at each site. The 3-year average 98th percentile concentration is referred to as the 24-hour average design value. In this action, EPA is only evaluating whether New Mexico's emissions impact other states' ability to maintain the 1997 annual and 24-hour $PM_{2.5}$ NAAQS and the 1997 8-hour ozone NAAQS, because those are the NAAQS at issue in this section 110(a)(2)(D) SIP submission. In later actions, the state and EPA will evaluate the impacts of interstate transport from emissions from New Mexico sources with respect to other NAAQS.

To project future ozone and annual $PM_{2.5}$ design values, EPA projected future ozone values based on an average of three design value periods which include the years 2003–2007 (*i.e.,* design values for 2003–2005, 2004–2006, and 2005–2007). The average of the three design values creates a "5-year weighted average" value. The 5-year weighted average values were then projected to the future years that were analyzed for the Transport Rule Proposal.[15] [16] EPA used the 5-year weighted average concentrations to project concentrations anticipated in 2012 to determine which monitoring sites are expected to be nonattainment in this future year. EPA also projected 2012 design values based on each of the three-year periods (*i.e.,* 2003–2005, 2004–2006, and 2005–2007). The highest projection is referred to as the "maximum design value" and gives an indication of potential variability in future projections due to differences in actual meteorology and emissions from what was modeled.

EPA identified those sites that are projected to be attainment based on the 5-year weighted average design value, but that have a maximum design value (based on a single three-year period) that exceeds the NAAQS, as maintenance sites because EPA anticipates that there will be more difficulty in maintaining attainment of the NAAQS at these locations if there are adverse variations in meteorology or emissions. These projected maintenance sites are the ones that EPA has used to determine if emissions from New Mexico sources potentially interfere with maintenance of the 1997 8-hour ozone NAAQS and 1997 annual $PM_{2.5}$ NAAQS in other states in this action.

From the modeling analyses conducted for the Transport Rule Proposal, EPA identified the following maintenance sites or receptors for the 1997 8-hour ozone NAAQS: Several sites in the Dallas-Ft.Worth (DFW) area; several sites in the Houston/Galveston/Brazoria (Houston) area; and other more distant sites in Georgia, Pennsylvania, New York and Connecticut.[17] For assessing New Mexico's potential for impacts on maintenance receptors, the DFW and Houston areas seem to have the highest probability of potential impact from New Mexico emissions. For the modeling analysis conducted for states not included in the Transport Rule Proposal (*i.e.*, states not included fully in the 12 km Transport Rule Proposal modeling domain), EPA identified several maintenance sites for the 1997 8-hour ozone NAAQS in southern and central California using available 36 km modeling.[18] The 12 km Transport Rule Proposal modeling domain extends from Texas northward to North Dakota and eastward from the Rocky Mountains to the East Coast and includes 37 states and the District of Columbia. Significantly, EPA's analysis did not identify any monitor sites in the states that border New Mexico (Texas, Arizona, Colorado, Utah, and Oklahoma), other than the noted Texas areas, as maintenance sites in the Transport Rule Proposal.

For the annual $PM_{2.5}$ NAAQS, EPA identified the following sites as maintenance receptors: A site in Cook County, Illinois in the Chicago area; a site in Harris County, Texas, in the Houston/Galveston/Brazoria area; and two sites in southern California. As part of the Transport Rule Proposal, EPA did not evaluate nonattainment receptors for the 1997 24-hour $PM_{2.5}$ NAAQS because there were no violations of the standard in portions of the U.S. covered by the 12 km grid, which consists of the continental U.S. east of the Rockies.[19] In fact, based on recent monitoring data (2007–2009 design values that are under final EPA review), the highest 24-hour $PM_{2.5}$ design value in the 47 states of the continental U.S. (not including California) is 50 $\mu g/m^3$, which is well below the level of the 1997 24-hour $PM_{2.5}$ NAAQS of 65 $\mu g/m^3$.[20] Therefore, outside of California, there are no areas that we would expect to have difficulty in maintaining the 1997 24-hour $PM_{2.5}$ NAAQS. We address the potential for interference with maintenance in California for the 1997 24-hour $PM_{2.5}$ NAAQS later in this notice.

EPA has evaluated available analyses and conducted additional analyses for each of these identified maintenance sites that may be potentially impacted by emissions from sources in New Mexico. Using the same proposed

[15] *See,* the Transport Rule Proposal at 75 FR 45210 (August 2, 2010).

[16] Additional information concerning these weighted averages is provided in the docket in the Timin Memo.

[17] Transport Rule Proposal, 75 FR 45210, (August 2, 2010), pages 45253–45270, and Timin Memo.

[18] The Transport Rule Proposal identifies nonattainment and maintenance receptors in the Eastern U.S. It does not include modeling results for the West. The Timin Memo documents further evaluation of the 2012 modeling to identify nonattainment and maintenance receptors in the West.

[19] *Id.,* EPA did not calculate model projections for the 24-hour $PM_{2.5}$ NAAQS in the 36km modeling domain.

[20] Data undergoing review from EPA's Air Quality System which is EPA's repository of ambient air quality data. (*http://www.epa.gov/ttn/airs/airsaqs/*).

screening thresholds for analyzing a state's impacts on another state's maintenance sites that are used in the Transport Rule Proposal, we have determined that emissions from New Mexico do not have a large enough impact on any of these identified maintenance sites to interfere with maintenance.[21] For the reasons discussed below, EPA has determined that emissions from New Mexico do not interfere with maintenance of these NAAQS in any other state.

Ozone Interfere With Maintenance Evaluation

EPA evaluated whether emissions from sources in New Mexico could interfere with maintenance of the 1997 8-hour ozone NAAQS in other states by considering the potential impacts of such sources on projected maintenance sites in California, Texas, and points much further to the east. As discussed in more detail in the Technical Support Document (TSD) for this action, EPA concluded that such impacts were most likely to be from New Mexico sources to the Houston and DFW areas and that even those impacts are very small and below the level EPA considered the initial threshold for further evaluation in the Transport Rule Proposal.

EPA did not separately determine the impacts of New Mexico's emissions on other States as part of the Transport Rule Proposal analysis because New Mexico was partially outside the 12 kilometer grid. Other modeling was available to evaluate the impact of New Mexico's emissions on the 8-hour ozone maintenance sites that EPA identified in the Houston and DFW areas. EPA has conducted a modeling estimate of impacts from New Mexico's emissions using the Central Regional Air Planning Association (CENRAP) modeling of 2002 emissions and meteorology.[22] The CENRAP modeling that EPA utilized was an earlier version of the CENRAP modeling that a number of states submitted as part of their Regional Haze State Implementation Plan submittals and is currently being reviewed by EPA. EPA's source apportionment CENRAP modeling for the 8-hour ozone NAAQS was conducted in 2006 to help provide New Mexico and other states with a technical analysis for the 110(a)(2)(D) SIP submissions.

As discussed above, the CENRAP modeling evaluated New Mexico's impact based on emission and meteorological conditions in 2002. For the reasons discussed below, EPA believes that this modeling is in fact a more conservative approach to evaluate the potential for impacts on other states since it uses a 2002 inventory rather than a 2010 or 2012 emission inventory. The 2002 analysis would include more emissions within the modeling domain because of decrease in emissions after 2002 due to federal measures (such as fleet turnover and cleaner vehicles) and local reductions in DFW, Houston, and other parts of the modeling grid.

As mentioned previously, the evaluation was based on an earlier version of the model. Source apportionment results are not available for the final version of the model. If results were available, we do not expect them to be significantly different than the earlier version and any differences would be more than offset by the conservative nature of using the 2002 emissions.

EPA analyzed source apportionment modeling with the 2002 based CENRAP modeling and concluded that maximum impacts from the emissions of New Mexico sources would be 0.2% of the NAAQS in the Dallas/Ft. Worth area and 0.4% of the NAAQS in the Houston area, which are less than the one percent of the NAAQS screening threshold (0.8 parts per billion) which EPA used in the Transport Rule Proposal to identify states for further analysis and the threshold that we are proposing for our determination. The methodology EPA used in the Transport Rule Proposal to determine if a state's emissions exceeded the one percent of the NAAQS considered the average impact of a state on a downwind monitoring site in another state. Comparing the maximum impacts shown by the CENRAP modeling to the Transport Rule Proposal screening threshold is a conservative approach, because the average impact over all exceedance days at sites in DFW or Houston would be lower. Furthermore, EPA considers the CENRAP modeling analysis conservative because it relies on 2002 emission inventory levels, whereas additional emission reductions have occurred in New Mexico and throughout the modeling domain due to fleet turnover and other measures to reduce air pollution between 2002 and 2010 that would result in lower overall pollution levels if taken into account. EPA believes that using the existing CENRAP analysis provides a conservative basis for concluding that emissions from New Mexico do not have a substantial impact at 1997 8-hour ozone NAAQS maintenance receptors outside the state.

In addition, EPA has reviewed other available information concerning the cause of higher ozone concentration levels in the DFW and Houston areas, and this further confirms that when these two areas experience elevated ozone levels, the meteorological patterns only rarely trace the origins of these air masses to the New Mexico area.[23] Because available evidence indicates that New Mexico emissions are not impacting ozone levels in the DFW and Houston areas to a degree that constitutes interference with maintenance, it is improbable that New Mexico emissions would have such impacts at other identified maintenance sites much farther to the east. EPA believes that the only other identified maintenance sites for 1997 8-hour ozone NAAQS that might be impacted by New Mexico sources are in southern and central California. As further discussed in the TSD for this notice, however, EPA has concluded that the meteorological patterns (*e.g.,* prevailing winds and meteorology that occur when ozone exceedances occur) do not transport emissions from New Mexico to California when California has elevated ozone levels, and that the relatively long distance and the intervening mountainous topography further support this conclusion.

$PM_{2.5}$ Interfere With Maintenance Evaluation

EPA evaluated whether emissions from sources in New Mexico could interfere with maintenance in other states by considering the potential impacts of such sources on projected maintenance receptors in Illinois, California, and Texas. As discussed in more detail in the TSD for this action, EPA concluded that such impacts were most likely to be from New Mexico sources to the Houston area, and that those impacts are shown to be very small.

For the 1997 annual $PM_{2.5}$ NAAQS site located in the Chicago area, previous EPA modeling developed for the 2004 CAIR proposal indicated that

[21] Transport Rule Proposal, 75 FR 45210 (August 2, 2010), pages 45253–45270. The Transport Rule Proposal included proposed screening thresholds, using 1% of the NAAQS, for determining if a State should be evaluated for emission reductions from the Transport Rule. The proposed thresholds were 0.15 $\mu g/m^3$ or more contribution to annual $PM_{2.5}$, 0.35 $\mu g/m^3$ or more contribution to the 1997 24-hour $PM_{2.5}$ NAAQS, and 0.8 ppb or more contribution to the 1997 8-hour ozone NAAQS for States which contribute to nonattainment or maintenance sites in another state. In this notice, we are using the same 1% contribution thresholds in this notice of 0.15 $\mu g/m^3$ for the annual $PM_{2.5}$ NAAQS, 0.8 ppb or more for the 1997 8-hour ozone NAAQS. We are proposing a similar 1% threshold of 0.65 $\mu g/m^3$ or more for the 1997 24-hour $PM_{2.5}$ NAAQS.

[22] Appendix G of New Mexico's SIP submittal for 110(a)(2)(d)(i), "110(a)(2)(d)(i) Modeling Technical Support Document".

[23] Further details are included in the Modeling TSD Memorandum for this notice.

impacts from New Mexico's emissions was 0.02 μg/m$^3$,[24] which is well below the one percent of the NAAQS (*i.e.*, (0.15 μg/m$^3$)) threshold that EPA has proposed as the initial threshold for interference with maintenance in the Transport Rule Proposal for the 1997 annual $PM_{2.5}$ NAAQS. The CAIR proposal modeling used a 2010 future year assessment versus the 2012 year used in the Transport Rule Proposal, but EPA believes that the emissions would be similar and that the 2010 analysis would actually have included somewhat more emissions within the modeling domain because it included two fewer years of reductions from federal measures (*e.g.,* fleet turnover). In summary, the results of analysis using 2010 would be expected to be similar to but slightly more conservative than would be expected for 2012. Therefore, we believe the 2004 CAIR modeling adequately demonstrates that New Mexico's emissions do not interfere with maintenance in the Chicago area.

EPA did not separately calculate the impact of New Mexico's emissions on the Houston area as part of the CAIR modeling or in the Transport Rule Proposal modeling, but EPA believes that one can infer from New Mexico's extremely small impact on other areas that New Mexico's impact on the Houston area would also be less than one percent of the NAAQS. The only modeling available that provided source apportionment for annual $PM_{2.5}$ values is the CAIR proposal modeling. The CAIR source apportionment results that would be expected to most closely match Houston from a transport phenomena perspective are the results for potential impacts on St. Louis. St. Louis is helpful for comparison because, while not the same direction from New Mexico it is the closest area evaluated in the CAIR proposal modeling that is to the east (in the same general transport direction) and at a similar distance from New Mexico as Houston.

For the St. Louis area, the CAIR proposal modeling indicated that a maximum impact from New Mexico's emissions of 0.02 μg/m$^3$, which is well below the 1% of the NAAQS screening threshold. The majority of the emissions of $PM_{2.5}$ and $PM_{2.5}$ precursors from New Mexico sources emanate from either the Albuquerque area or from points father west, so it is a useful point from which to evaluate the relative distances, The distance from Albuquerque to St. Louis, Missouri is approximately 920 miles and the distance from Albuquerque to Houston is about 750 miles, which is about 81.5% of the distance from Albuquerque to St. Louis.[25] Even if one conservatively assumed that New Mexico emissions had twice the impact on Houston that EPA determined they do on St Louis due to the shorter transport distances, New Mexico's impact on Houston would still be significantly below the 1% of the NAAQS threshold in the Transport Proposal. Given that the difference in distances is only 18.5%, this is a conservative analysis that would indicate no significant impacts would be expected from New Mexico on sites in Houston, Texas.

Also, the relative amounts of emissions in New Mexico, when compared to the emissions in Texas, support the conclusion that New Mexico emissions do not interfere with maintenance in areas in Texas. Using databases developed in connection with the Regional Haze (RH) program and submitted with the RH SIPs, the Texas emissions of $SO_2$ are approximately 18 times larger than New Mexico's, the $NO_X$ emissions are approximately 5 times greater than New Mexico's, the fine particulate matter emissions are 12 times greater than New Mexico's and the coarse particulate matter is 5.6 times greater than New Mexico's emissions. The Transport Rule Proposal modeling information also includes emission summaries that indicate that Texas's emissions are 1,338,429 tpy of $NO_X$ and 639,505 tpy of $SO_2$ whereas New Mexico's emissions are 240,892 tpy of $NO_X$ and 24,930 tpy of $SO_2$. Both sets of data indicate that New Mexico's emissions are much lower than Texas's emissions of $PM_{2.5}$ precursors. Moreover, most of the sources of $PM_{2.5}$ precursor emissions in Texas are much closer to the maintenance receptor in Houston, and therefore less dispersion of the pollutants occurs, so Texas's own $PM_{2.5}$ and $PM_{2.5}$ precursors will have a much larger impact on $PM_{2.5}$ levels in Houston.

In addition, the Texas Commission on Environmental Quality (TCEQ) and several researchers have conducted research into the likely causes of elevated annual and 24-hour $PM_{2.5}$ monitoring values in the Houston area. TCEQ and the researcher's analyses do not indicate that emissions from New Mexico impact Houston to a degree to raise a concern for purposes of the 1997 $PM_{2.5}$ NAAQS. These analyses indicate that meteorological patterns are transporting air masses from other directions (*i.e.,* not from the direction of New Mexico) when Houston area sites are monitoring elevated $PM_{2.5}$ levels that have the greatest impact on the annual DV.[26] As discussed further in the TSD, distance between the emission sources and the maintenance receptors and meteorological patterns during times of elevated pollution levels in Chicago and Houston also support the conclusion that New Mexico's emissions do not interfere with maintenance of the NAAQS in these areas. In summary, considering the available evidence, EPA concludes that New Mexico's emissions do not interfere with maintenance of the 1997 $PM_{2.5}$ NAAQS in Houston area.

EPA also reviewed the potential for emissions from New Mexico sources to impact other areas with identified maintenance sites. The other such areas are located in California. As further discussed in the TSD, EPA concludes that New Mexico sources are unlikely to have such impacts given the geographic location of these areas and the meteorological patterns that prevail in the western United States. With respect to the 1997 $PM_{2.5}$ 24-hour standard of 65 μg/m$^3$, the other identified maintenance sites that New Mexico sources might impact are located in California. EPA has evaluated conceptual model documents and field study reports that indicate that transport patterns when elevated $PM_{2.5}$ occurs in areas of California, the meteorological patterns are not such that transport of emissions from New Mexico to California is occurring to a degree to raise a concern.[27] EPA believes that it is rare for meteorological patterns to occur that would transport emissions from New Mexico sources in such a way that they would impact California's pollution levels, and that the relatively long distance and the intervening mountainous topography further support that transport of emissions from New Mexico is unlikely. Therefore,

[24] EPA's "Technical Support Document for the Interstate Air Quality Rule Air Quality Modeling Analyses Appendix H, $PM_{2.5}$ Contributions to Downwind Nonattainment Counties in 2010", January 2004.

[25] TSD. EPA believes that such a comparison is instructive because the majority of relevant New Mexico emissions occur from sources or activities located in the Albuquerque metropolitan area, or in areas further to the west. Even if measured from the New Mexico state border to St. Louis and Houston, however, the proportional impact would presumably be comparable.

[26] "Source Apportionment for $PM_{2.5}$ at Houston Clinton Drive", David W. Sullivan, as The University of Texas at Austin Center for Energy & Environmental Research and Richard Tropp, University of Nevada Reno Desert Research Institute, TEXAQS II Workshop May 29, 2007 and TCEQ Fact Sheet "Harris County/Clinton Drive 1997 Annual Fine Particulate Matter ($PM_{2.5}$)" November 2009.

[27] "Historical Meteorological Analysis in Support of the 2003 San Joaquin Valley $PM_{10}$ State Implementation Plan", Shawn R. Ferreria, Air Quality Meteorologist/Atmospheric Scientist And Evan M. Shipp, Supervising Air Quality Meteorologist San Joaquin Valley Air Pollution Control District January 24, 2005.

available information indicates that emissions from sources in New Mexico do not impact areas of concern in California to the degree that would interfere with maintenance of the 1997 NAAQS in those areas.

b. Interference With PSD Measures in Other States

The third element of section 110(a)(2)(D)(i) requires a SIP to contain adequate provisions prohibiting emissions that interfere with any other state's required measures to prevent significant deterioration of its air quality. EPA's 2006 Guidance made recommendations for SIP submissions to meet this requirement with respect to both the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS.

EPA believes that New Mexico's submission is consistent with the 2006 Guidance, when considered in conjunction with other PSD program revisions that EPA is proposing to approve in this action. The State's submittal indicates in Section C, "Impact on Prevention of Significant Deterioration (PSD)," that the State's SIP provisions include an EPA-approved PSD program applicable to all regulated pollutants. New Mexico's regulations for its PSD program were approved by EPA and made part of the SIP on February 27, 1987 (52 FR 5694) at 52.1620/52.1640(c)(37), effective March 30, 1987. On September 5, 2007, EPA approved the New Mexico's PSD revisions incorporating EPA's December 31, 2002, NSR Reforms into the State's regulations (72 FR 50879), which also recognized volatile organic compounds as a precursor for ozone.

Consistent with EPA's November 29, 2005, Phase 2 rule for the 1997 8-hour ozone NAAQS (70 FR 71612), the State submitted a SIP revision to modify its PSD provisions to address $NO_X$ as an ozone precursor (20.2.74 NMAC). These revisions are further discussed below. EPA believes that the PSD revision for the 1997 8-hour ozone NAAQS that make $NO_X$ a precursor for ozone for PSD purposes, taken together with the PSD SIP and the interstate transport SIP, satisfies the requirements of the third element of section 110(a)(2)(D)(i) for the 1997 8-hour ozone NAAQS, *i.e.,* there will be no interference with any other state's required PSD measures.

For the $PM_{2.5}$ NAAQS, New Mexico stated in its section 110(a)(2)(D)(i) submission that the State would follow EPA's interim guidance on use of $PM_{10}$ as a surrogate for $PM_{2.5}$ as recommended in the 2006 Guidance. The New Mexico Environment Department (NMED) clarified its interpretation of the New Mexico Interstate Transport SIP for Implementation of the $PM_{2.5}$ NAAQS in a July 23, 2010 letter to EPA. In the letter NMED stated that: (1) It does not use $PM_{10}$ as a surrogate for $PM_{2.5}$ in its permitting programs, (2) it requires that applicants include $PM_{2.5}$ modeling and emissions in their PSD and minor source permit applications, and (3) the record for the Department's permitting decision includes an explanation of how $PM_{2.5}$ emissions have been appropriately analyzed and estimated. The NMED letter is included in the electronic docket for this action. Because of clarifications to EPA guidance, EPA believes that New Mexico's approach is appropriate.

On the basis of the data and analysis presented above, EPA is proposing to determine that the New Mexico SIP as revised with respect to PSD program requirements, satisfactorily addresses the requirements of elements (2) and (3) of section 110(a)(2)(D)(i) for the 1997 8-hour ozone NAAQS and 1997 $PM_{2.5}$ NAAQS.

*C. New Mexico PSD SIP*

The New Mexico Environment Department (NMED) made a SIP submission to meet requirements of the 8-hour ozone NAAQS by incorporating $NO_X$ as a precursor for ozone. The submitted PSD SIP revisions adding $NO_X$ as a precursor for ozone include the following:

- The definition of "Major stationary source" states that a major source that is major for $NO_X$ is considered major for ozone (20.2.74.7.AF.(4) NMAC);
- The definition of "Regulated new source review pollutant" specifically identifies $NO_X$ as an ozone precursor (20.2.74.7.AR.(1) NMAC);
- When referring to a net emissions increase or potential to emit, a rate of emissions that equals or exceeds 40 tons per year of $NO_X$ is significant (20.2.74.502 NMAC, Table 2, Significant Emission Rates); and
- Any net emissions increase of 100 tons per year of $NO_X$ subject to PSD would require an ambient impact analysis, including the gathering of ambient air quality data (20.2.74.503 NMAC, Table 3, Footnote b).

For the 8-hour ozone NAAQS, the revision to 20.2.74.7.AF meets the federal definition in 40 CFR 51.166(b)(1) to identify a major source of nitrogen oxides as a major source for ozone. The revision to 20.2.74.7.AR NMAC meets the federal definition in 40 CFR 51.166(b)(49) for $NO_X$ as an ozone precursor. The revision to 20.2.74.502 NMAC Table 2 meets the federal requirement for significant emission rate for $NO_X$ emissions in 40 CFR 51.166(b)(23)(i). The revision to 20.2.74.503 NMAC, Table 3 meets the federal requirement for ambient air impact analysis for ozone precursors under the footnote for 40 CFR 166(i)(5)(i)(e). Thus, EPA is proposing approval of these revisions as meeting the requirements of CAA section 110 and 40 CFR 51.166 for establishing $NO_X$ emissions as a precursor for ozone.

The State's SIP submittal also contains revisions to Parts 20.2.2 NMAC, Definitions; and 20.2.79 NMAC, Permits—Nonattainment areas. These two submitted revisions are severable from each other, are severable from the submitted revisions to 20.2.74 NMAC discussed above, and are severable from the Transport SIP requirements addressed in this proposed action. The EPA is still reviewing the approvability of the submitted revisions to Parts 20.2.2 NMAC and 20.2.79 NMAC; therefore, we are not proposing to take action on those revisions in this proposed rulemaking. We intend to act on those revisions in a future rulemaking. EPA wishes to note that it approved New Mexico's Nonattainment New Source Review SIP on February 8, 2002 (67 FR 6147). In that same action, EPA approved the $NO_X$ waiver for the Sunland Park 1-hour ozone nonattainment area.

## V. Statutory and Executive Order Reviews

Under the Clean Air Act, 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 Clean Air Act. Accordingly, this action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described

in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; 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 proposed 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.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: August 20, 2010.

**Samuel Coleman,**

*Acting Regional Administrator, Region 6.*

[FR Doc. 2010–21384 Filed 8–26–10; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R07–OAR–2008–0538; FRL–9193–8]**

## Approval and Promulgation of Implementation Plans; State of Missouri

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

**ACTION:** Supplemental proposed rule.

**SUMMARY:** EPA proposes to grant full approval of Missouri's attainment demonstration State Implementation Plan (SIP) and control strategy for the lead National Ambient Air Quality Standard (NAAQS) nonattainment area of Herculaneum, Missouri. This proposed action supplements the proposed conditional approval published by EPA on October 8, 2008, and explains why EPA now believes full approval is appropriate. The applicable standard addressed in this action is the lead NAAQS promulgated by EPA in 1978. EPA believes that the SIP submitted by the state satisfies the applicable requirements of the Clean Air Act identified in EPA's October 2008 proposal, and demonstrates attainment of the 1.5 microgram per cubic meter ($\mu g/m^3$) lead NAAQS in the Herculaneum, Missouri area. This action does not address any obligations which Missouri may have relative to the revised lead NAAQS promulgated by EPA in 2008.

**DATES:** Comments must be received on or before September 27, 2010.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R07–OAR–2008–0538, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *E-mail: jay.michael@epa.gov.*

3. *Mail:* Michael Jay, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

4. *Hand Delivery or Courier:* Deliver your comments to: Michael Jay, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

*Instructions:* Direct your comments to Docket ID No. EPA–R07–OAR–2008–0538. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket.* All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas. EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

**FOR FURTHER INFORMATION CONTACT:** Michael Jay at (913) 551–7460, or e-mail him at *jay.michael@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document "we," "us," or "our" refer to EPA.

**Table of Contents**

## I. Background

*A. The SIP Process*

1. What is a SIP?

Section 110 of the Clean Air Act (CAA or Act) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP. Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

2. What is the Federal approval process for a SIP?

In order for state regulations to be incorporated into the Federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to EPA for inclusion into the Federally-approved SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by EPA.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, Part 52, entitled Approval and Promulgation of Implementation Plans. The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are incorporated by reference, which means that EPA has approved a given state regulation with a specific effective date.

3. What does Federal approval of a state regulation mean to me?

Enforcement of the state regulation before and after it is incorporated into the Federally-approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, EPA is authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

*B. Background for the Proposal*

The Environmental Protection Agency (EPA) established the National Ambient Air Quality Standard (NAAQS) for lead on October 5, 1978 (43 FR 46246). The 1978 NAAQS for lead is set at a level of 1.5 micrograms (μg) of lead per cubic meter ($m^3$) of air, averaged over a calendar quarter. The Herculaneum, Missouri area is designated nonattainment for the 1978 lead NAAQS. On November 12, 2008, EPA revised the lead NAAQS (73 FR 66964), lowering the level to 0.15 $\mu g/m^3$ calculated over a three-month rolling average. Missouri is required to bring any nonattainment areas into attainment of the 2008 lead NAAQS according to the timeline established in the Clean Air Act and in the November 12, 2008 final rulemaking. The final rulemaking also specifies that the 1.5 $\mu g/m^3$ standard will not be revoked for any current nonattainment area until the affected area submits, and EPA approves, an attainment demonstration which addresses the attainment of the new 0.15 $\mu g/m^3$ Pb NAAQS. EPA has not yet designated areas with respect to the 2008 NAAQS.

This rulemaking proposes approval of the Missouri SIP to bring the Herculaneum area into attainment of the 1.5 $\mu g/m^3$ NAAQS. However, although EPA believes this SIP is directionally correct in terms of achieving reductions in lead emissions, this proposed action does not address any future obligation of the state to address the revised standard.

During the 1980s and 1990s, Missouri submitted and EPA approved a number of SIP revisions for lead to address ambient lead concentrations in various areas of the state. One such area was Herculaneum, Missouri, where a primary lead smelter has been in operation since 1892. The primary lead smelter is currently owned and operated by the Doe Run Resources Company (hereafter referred to as "Doe Run"). Doe Run-Herculaneum is the only currently operating primary lead smelter in the United States.

The Herculaneum area was designated nonattainment for lead in 1991 (56 FR 56694, November 6, 1991, codified at 40 CFR 81.326), pursuant to new authorities provided by the Clean Air Act Amendments of 1990. The state also became subject to new SIP requirements under part D, Title I of the Act, added by the 1990 amendments. A revised SIP meeting the part D requirements was subsequently submitted in 1994. The plan established June 30, 1995, as the date by which the Herculaneum area was to attain compliance with the lead standard. However, the plan did not result in attainment of the standard and monitored ambient air lead concentrations in the Herculaneum area continued to show exceedances of the standard. Therefore, on August 15, 1997, after taking and responding to public comments, EPA published a notice in the **Federal Register** (62 FR 43647) finding that the Herculaneum nonattainment area had failed to attain the lead standard by the June 30, 1995, deadline.

On January 10, 2001, Missouri submitted a revised SIP to EPA for the Herculaneum area. The SIP contained control measures to reduce lead emissions to attain the standard, including building enclosure and ventilation projects, implementation of work practice standards, process throughput restrictions and hours of operation limitations. As required by section 172(c)(9) of the Act, the plan also included contingency measures to be implemented in the event that there were future exceedances of the lead standard in Herculaneum. These consisted of additional building enclosures and process controls, and a production curtailment measure. A 2000 Work Practices Manual, 2001 Consent Judgment, and Missouri rule 10 CSR 10–6.120 "Restriction of Emissions of Lead from Specific Lead Smelter-Refinery Installations" were also included as part of the SIP submittal. The SIP established August 14, 2002, as the attainment date for the area. The plan included permitting, monitoring, and reporting requirements, an emissions inventory, implementation of all reasonably available control measures as expeditiously as practicable, provided for attainment of the NAAQS as demonstrated using modeling, provisions for reasonable further progress and implementation of contingency measures, and assurances that the state would be able to implement the plan, thereby satisfying the CAA section 172(c) nonattainment plan provision requirements. EPA

approved the SIP on April 16, 2002 (67 FR 18497).

Doe Run and the Missouri Department of Natural Resources (MDNR) operate co-located monitors at the Main Street/City Hall monitoring location, and in several other lead monitoring locations in the nonattainment area. These monitors are used to show whether or not the area is in attainment of the standard. Following the August 2002 attainment date, the Herculaneum area monitored attainment of the lead standard for 10 consecutive calendar quarters. In 2005, air quality monitors in the area again reported exceedances of the 1.5 μg/m$^3$ lead NAAQS in the first two calendar quarters in 2005. Monitored values are quality assured by MDNR and properly entered into the Air Quality System, EPA's repository for ambient air monitoring data. The values for the first two quarters of 2005 exceed the 1.5 μg/m$^3$ lead standard and, therefore, constitute violations of the standard for each quarter.

In accordance with the plan approved in 2002, a violation would trigger implementation of a contingency measure. The first set of contingency measures, consisting of additional building enclosures and process controls, was fully implemented by Doe Run prior to any monitored exceedances of the lead NAAQS. The second contingency measure, a production curtailment, was implemented following exceedance of the lead standard in the first and second calendar quarters of 2005. Despite implementation of all contingency measures, air monitors in Herculaneum recorded values above the 1.5 μg/m$^3$ lead standard in the third quarter of 2005.

Because the exceedance recorded in the third quarter of 2005 occurred despite implementation of all the control measures contained in the SIP, including all contingency measures developed and implemented to address exceedances, EPA proposed a SIP call on December 19, 2005 (70 FR 75093). The SIP call proposed to find the SIP substantially inadequate to attain and maintain the NAAQS for lead and proposed to require the state to revise the lead SIP for Herculaneum.

EPA finalized the SIP call on April 14, 2006 (71 FR 19432). The SIP call notified the state of EPA's finding that the SIP was substantially inadequate to provide for attainment and maintenance of the lead NAAQS in Herculaneum, and required the state to submit a revised SIP. Section 110(k)(5) of the CAA provides that after EPA makes a finding that a plan is substantially inadequate, it may establish a reasonable deadline for correcting the deficiencies, but the date can be no later than 18 months after the state is notified of the finding. Based on a number of considerations detailed in the final rule, the SIP call required submission of the revisions within twelve months following date of signature of the final rulemaking.

Along with a deadline for SIP submittal by the state to EPA, the final SIP call established the date by which the state must demonstrate attainment of the standard in Herculaneum. Sections 110(k)(5) and 172(d) of the Act provide that EPA may adjust any SIP deadlines that are applicable under the Act, except that the attainment date may not be adjusted unless it has elapsed. For Herculaneum, the attainment date had been August 2002 (five years after the state was notified that the area failed to attain). The attainment date had elapsed, and the area was not attaining the standard. The attainment date could therefore be adjusted pursuant to section 110(k)(5) and section 172(d) of the Act, and the state was required to provide a plan for attainment as expeditiously as practicable. Based on information described in the final SIP call rule, EPA established an attainment date of April 7, 2008, two years from the date of signature of the final rulemaking. MDNR formally commented in support of the timelines contained in the SIP call, including the SIP submittal deadline and attainment date.

EPA required MDNR to submit several specific plan elements to EPA in order to correct the inadequacy of the SIP. These specific elements were: (1) A revised emissions inventory, (2) a modeling demonstration showing what reductions would be needed to bring the area back into attainment of the lead NAAQS, (3) adoption of measures to achieve the reductions determined necessary by the modeled attainment demonstration, with enforceable schedules for implementing the measures as expeditiously as practicable, and (4) contingency measures meeting the requirements of Section 172(c)(9) of the CAA.

MDNR completed its revision to the SIP, and on April 26, 2007, the Missouri Air Conservation Commission approved the SIP revision after completing the required public notification, public hearing and comment period. On May 31, 2007, EPA received Missouri's revised SIP for the Herculaneum area. MDNR submitted supplemental information to EPA on March 19, 2008.

On October 8, 2008, EPA proposed conditional approval of Missouri's SIP submission (*see* 73 FR 58913). EPA stated that the proposal to conditionally approve the SIP was due to the lack of enforceable conditions associated with one of the control measures. It provided a process to establish ventilation requirements, but MDNR had not yet specified these requirements. The ventilation study and resulting enforceable conditions and reduction in building fugitive emissions are significant elements of the proposed control strategy, and these projected emissions reductions contribute significantly to the control strategy modeling showing attainment. EPA did not believe it was appropriate to give full approval to the SIP until the ventilation study and associated enforceable conditions were submitted by the state, reviewed by EPA, and made available for public comment. EPA proposed conditional approval of the SIP as it provided substantial progress toward improving air quality, and the state asserted that it would adopt and submit the missing elements to EPA no later than one year following any EPA approval of the plan.

In the proposed conditional approval notice, EPA indicated that if Missouri submitted adequate ventilation control provisions prior to EPA taking final action on the proposed conditional approval, EPA would publish a supplemental proposed rule relating to those provisions, which might include a proposal to fully approve the SIP revision. EPA received the SIP revision addressing ventilation controls on September 3, 2009, following adoption by the Missouri Air Conservation Commission on July 29, 2009. EPA believes that the SIP revision contains enforceable ventilation conditions to ensure adequate building particle capture. Our technical review of the submission is detailed below. With the addition of this September 3, 2009 SIP supplemental revision, EPA proposes full approval of Missouri's SIP to bring Herculaneum into attainment of the 1.5 μg/m$^3$ lead NAAQS.

Since the SIP call was issued in April 2006, Herculaneum air monitors have recorded additional exceedances of the quarterly lead NAAQS. In total, since the third calendar quarter of 2002, exceedances have occurred in the first, second, and third quarters of 2005; first, third, and fourth quarters of 2006; second and third quarters of 2007; and the first quarter of 2008. The SIP submittal establishes April 7, 2008, as the attainment date and requires implementation of all measures required for attainment by that date. Since the first quarter of 2008, Herculaneum has not exceeded the 1.5 μg/m$^3$ NAAQS.

EPA received one set of comments on the proposed conditional approval. EPA

will respond to this set of comments, as well as any additional comments relating to this supplemental proposal, at the time EPA takes final action. In this proposed action, EPA seeks comments on the state's September 3, 2009, submission, particularly on the ventilation requirements, and on EPA's supplemental proposal to fully approve the state's attainment demonstration and control strategy SIP for Herculaneum. EPA believes that it has already provided adequate opportunity for comment on the other aspects of the SIP submittal (the May 31, 2007, submission) in its October 8, 2008, proposed rulemaking.

**II. Summary of the State Submittal**

The October 8, 2008, proposed conditional approval (73 FR 58913) contains extensive discussion on Missouri's SIP submittal received to that point. The proposed action includes discussion on model selection, meteorological and emissions inventory input data, modeling results, control strategy, contingency measures, and enforceability, among other elements. For information on these elements, please refer to the October 8, 2008 **Federal Register** (73 FR 58913) and associated docket.

The September 3, 2009 SIP revision supplements the May 2007 SIP, and meets the last outstanding requirements of the 2007 Consent Judgment. The Consent Judgment contains control requirements, associated implementation schedules, and contingency measures, and is included as an enforceable document under the SIP. One of the Consent Judgment controls requires Doe Run to execute a ventilation study for the Sinter Building, Blast Furnace Building, and Refinery Building. Building openings, ventilation sources with either continuous or varying rates of operation, and a procedure for measuring inflow into the buildings must be identified within the study. The study must also include enforceable conditions developed to ensure that particles emitted within the process buildings are being appropriately captured by the ventilation systems.

The ventilation study works together with door closure and building siding inspection requirements to achieve an overall objective, or control measure, of effective building enclosure. By minimizing building openings and ensuring adequate ventilation, the buildings will be operated and maintained in such a fashion as to minimize fugitive emissions from the buildings. The SIP requires this overall building enclosure control measure, and also requires adequate ventilation in each of the process buildings under the ventilation study element. The control strategy modeling attributes a control efficiency to the overall building enclosure control measure, and this control efficiency is included in all attainment demonstration calculations.

EPA believes that the September 3, 2009 supplemental SIP submittal contains the necessary enforceable conditions associated with the ventilation study to ensure that the ventilation-related control measures are met. MDNR and Doe Run conducted a series of tests to ensure adequate inflow at specific ventilation rates. These rates are proposed as enforceable conditions. MDNR has also revised the Work Practices Manual to include additional recordkeeping, compliance monitoring, and corrective action requirements associated with building ventilation. In addition, MDNR has revised the Work Practices Manual to include language to minimize the occurrence of construction when temperatures are below 39 degrees Fahrenheit. This should decrease construction when the plant watering system, a control measure to decrease in-plant road dust, cannot be operated. The supplemental SIP includes Work Practices Manual revision language (Attachment E in the docket), as well as a new Consent Judgment attachment (Attachment M in the docket). The submittal of the Work Practices Manual language as part of the supplemental SIP constitutes an official revision to the Work Practices Manual. These revisions will be enforceable by EPA if approved into the SIP.

1. Plant Ventilation Design

The smelter at Herculaneum has three process buildings: The Sinter Building, the Blast Furnace Building, and the Refinery Building. Each building contains ventilation for specific process units as well as baghouses that service the overall buildings.

The Sinter Building contains a number of baghouses and process ventilation systems. Once concentrate is delivered from the mines and mills to the smelter, the concentrate is processed through the sinter plant. The concentrate is mixed and crushed with other feedstock materials such as silica, iron ore, and limestone fluxes. Recycled process material such as returned sinter, blast furnace slag, and baghouse fume may also be added to this mixture to produce the sinter feed. A thin layer of sinter feed enters the sinter machine and is ignited by a series of natural gas burners. A main sinter feed layer is then laid on top of this ignition layer. This layered sinter bed enters the updraft portion of the sinter machine, where air is drawn across the sinter bed from the bottom to the top, driving the thermal reaction. The lead sulfide contained in the feed is oxidized, producing lead oxide and releasing sulfur dioxide. Off-gasses from the sintering process are sent to a baghouse which removes particulate matter. The off-gasses continue on to the acid plant where sulfur dioxide is recovered as sulfuric acid. The sinter machine produces a continuous feed of sinter cake (also called sinter roast) which is crushed and sorted by size. The larger pieces are transported to the blast furnace or to temporary storage, while the undersized pieces return to the mix room to await reprocessing through the sinter machine.

Baghouses servicing the Mix Drum, Crusher, Cooler, Cage Paktor, 76″ Smooth Rolls, and conveyor CV22 capture and scrub air (remove particles) from specific parts of the sintering process. The #6 Baghouse scrubs the air that circulates within the Sinter Building itself. Flows from all seven of these units combine to be released out of the main stack. This combined flow is termed the Sinter Plant Combination Trail. Within the Sinter Building the sinter machine wheel tunnel also has its own dedicated ventilation system. This system prevents hot gases containing lead particles from escaping out the sides of the conveyor while the sinter feed is processed through the sinter machine. Air captured by the sinter machine wheel tunnel ventilation system is sent to the #3 Baghouse for scrubbing. Air is also pulled from the top of the conveyor into the #3 Baghouse. After being treated in the Acid Plant, off-gases from the sinter machine join the stream of scrubbed air emerging from the #3 Baghouse. This entire stream is then sent through the main stack. *See* "Sinter Building Ventilation Diagram" in the docket for a visual depiction of this ventilation system.

After processing through the Sinter Building, sinter cake is smelted in Doe Run-Herculaneum's two blast furnaces. The sinter cake is mixed with coke and other feed materials and transferred to the top of a furnace. Air feeds through the bottom of the furnace, resulting in coke combustion. The coke combustion heats the sinter cake to approximately 3,000 degrees Fahrenheit and produces carbon monoxide. The carbon monoxide reacts with lead and other metal oxides to produce molten lead, waste slag, and carbon dioxide. The lead bullion settles to the bottom of the furnace, where it is tapped into holding pots and transferred to the drossing area for further refining.

The slag (a sand-like byproduct with small amounts of lead, copper, zinc, and other materials) floats to the top of the furnace, is tapped off and either recycled into the sinter feed or transported to the slag storage area at the south end of the facility.

Air pulled from the conveyor (CV) 10 Grizzley, CV10, CV11, CV12, CV13, CV14, the Scale Belt, Crow's Nest, "D" Kettle, and Furnace Front is sent to the #5 Baghouse. Air from the CV leg is sent to the #8 Baghouse for scrubbing, while air from the Blast Furnace feed floor goes to the #6 Baghouse. General air that circulates throughout the Blast Furnace Building and is not captured by any process ventilation is sent to the #7 Baghouse. (*See* "Blast Furnace Building Ventilation Diagram" in the docket for a visual depiction of this ventilation system.)

After the blast furnace, molten lead bullion is transferred to one of four large drossing kettles where it is allowed to cool. As the bullion cools, copper, nickel, and other impurities are skimmed from the surface layer. Next, the decopperized lead is transferred to a series of natural gas-heated refining kettles where additional impurities are removed.

Kettles 1, 2, 3, 9, 10 and 11 have their own ventilation systems which capture emissions that may escape during the heating, separation, and skimming processes. Each kettle ventilation system feeds into the #8 Baghouse, where the air collected from the kettles is scrubbed for particulate. The air that circulates within the Refinery Building itself is pulled into the #9 Baghouse for scrubbing before exiting out a stack. (*See* "Refinery Building Ventilation Diagram" in the docket for a visual depiction of this ventilation system.)

2. Ventilation Study Objectives

Under the 2007 Consent Judgment, Doe Run was required to conduct a ventilation study to establish enforceable flow rates and/or fan amperes to ensure adequate particle capture within the smelter's process buildings. (*See,* Section 2.A.20 of the 2007 Consent Judgment, included in the docket.)

As described in the October 8, 2008, proposed conditional approval rulemaking (73 FR 58913), data from Herculaneum has shown that building fugitives (air that escapes out of the building without first being processed through a control device, such as a baghouse) can significantly impact the concentration of lead in ambient air in Herculaneum. The objective of the ventilation study is to minimize building fugitives by ensuring the ventilation systems within each process building are sufficient to adequately capture particles released within the process buildings. Also, the ventilation study identifies flow rate or fan amperage requirements sufficient to minimize building fugitives. These flow rates and fan amperes must then be made enforceable.

In order to show the ventilation systems are adequate, Doe Run tested inflow at all building openings. The face velocity of 200 fpm has been identified as a critical velocity in the capture of particulates by the American Society of Heating, Refrigeration, and Air-Conditioning Engineers. EPA Method 204, "Criteria For and Verification of a Permanent or Temporary Total Enclosure," also requires that "the average facial velocity (FV) of air through all natural draft openings (NDOs) shall be at least 3,600 m/hr (200 fpm). The direction of air flow through all NDO's shall be into the enclosure." A face velocity of 200 fpm at all building openings is therefore used to verify that ventilation is adequate to ensure particulates are not escaping out of building openings. Doe Run demonstrated that it achieves a 200 feet per minute (fpm) inflow at all building openings when the ventilation systems are run at the proposed minimum flows.

Before setting minimum flows, the critical ventilation points of interest were identified. Doe Run's process building ventilation systems have many components. To ensure adequate building ventilation, Doe Run measured fans or groups of fans whose proper operation would provide sufficient draft to achieve the required inflow. In some instances, Doe Run was able to directly measure ventilation flow rates. In these cases, a flow rate requirement was set instead of a fan amperage requirement. For the Sinter Building, the key points of measurement are the sinter machine wheel tunnel flow, #3 Baghouse flow just after it exits the #3 Baghouse (after the flow from the Acid Plant joins the #3 Baghouse flow), the #6 Baghouse flow, and the Sinter Plant Combination flow. For the Blast Furnace Building, the #5 Baghouse, #6 Baghouse, #7 Baghouse, and #8 Baghouse flows are critical. In the Refinery Building, the critical flows include the #8 Baghouse and #9 Baghouse.

3. Ventilation Study Results

To identify building openings, Doe Run created a list of all doors, both man doors (less than 35 square feet) and equipment doors (more than 35 square feet). The doorways are identified in Attachment J1, J2, and K of the docket. To ensure that particles are not escaping out of the buildings when the doors were open, Doe Run tested at each doorway. Inflow testing was conducted in accordance with the Standard Operating Procedure (SOP) for Building Inflow Testing Utilizing Hand-Held Anemometers. (A copy of the SOP is attached to the Attachment E, Work Practices Manual Revision document in the docket.)

Doe Run undertook several flow testing campaigns. Data from these campaigns are included in the docket (*see* Attachments C1–C3). Some doors initially did not meet the 200 fpm inflow requirement. Doe Run modified these doors by permanently sealing or weather-stripping the doors to prevent particles from escaping. Some doors that were initially identified were found to be inappropriate for an inflow test. For example, doors such as B24 open to a different, enclosed part of the building and not to the outside air (*see* "Summary of Sinter Building Door Inflows" and "Summary of Blast Furnace and Refinery Building Door Inflows"). The first floor of the mix room is part of the Sinter Plant first floor. A portion of the wall separating the first floor mix room from the Sinter Plant first floor has been removed. This allows the #6 Baghouse to pull in and scrub air from the first floor of the mix room together with the rest of the Sinter Building's general air. Unmodified first floor mix room doors would therefore be subject to the 200 fpm inflow requirement. MDNR characterizes the second floor of the mixing room as a large settling chamber. Most second-floor mix room doors were not subject to inflow testing. Second floor mix room doors are infrequently used; the door most commonly used is door S16, which is the only connection between the second floor mix room and the Sinter Plant Building (*see* Attachment J2 in the docket). The second floor mix room therefore does not use the Sinter Building's ventilation, nor does it have a ventilation system of its own. Therefore, door S16 will be subject to inflow tests, to verify that air is flowing into the Sinter Plant Building at 200 fpm or more. The remaining mix room doors S8–S15, S17 and S18 will not be subject to inflow testing. *See* Attachment J1 in the docket for a Sinter Building door diagram.

During the final testing campaign, Doe Run held the fan amperes and flow rates for the critical ventilation systems steady while measuring doorway inflows. The final testing campaign for the Blast Furnace and Refinery Buildings took place on March 26, 2009. As shown in Attachment L in the docket for this rulemaking, all doorways met

the 200 fpm inflow requirement when Baghouse #7 fan was at 210 amperes or higher, Baghouse #8 fan was at about 73 amperes or higher, and Baghouse #9 fan was about 163 amperes or higher. Under the 2007 Consent Judgment, #5 Baghouse is required to meet a 300,000 actual cubic feet per minute (acfm) flow rate, and #6 Baghouse must meet a minimum 50,000 acfm flow rate. Together, these account for all of the critical ventilation systems for the Blast Furnace Building and the Refinery Building.

The final testing campaign for the Sinter Building took place May 12 and 13, 2009. Because of the batch nature of the sintering process, there are periods when the sinter machine is not in use. When operating, the sinter machine runs at about 500 degrees Fahrenheit, greatly heating the air around it and thus affecting air flow. It was therefore necessary to create two ventilation scenarios: One for when the sinter machine was operating and heating the air in the building, and a second for when the sinter machine was not operating and the air from the sinter building is much cooler. Doe Run tested both scenarios in May 2009. As shown in "Summary: Sinter Building Door Inflows" in the docket, all non-modified doors were above the 200 fpm inflow requirement when the Sinter Plant Combination Trail was above 169,000 acfm. To test the non-production scenario, Doe Run tested select doors and found a flow rate of 100,000 acfm to be adequate.

In addition to the Sinter Plant Combination Trail, there are three other critical flows within the Sinter Building. The #6 Baghouse is required by the Consent Judgment to meet a minimum flow rate of 50,000 acfm. Doe Run additionally created a minimum 70 fan amperage requirement for the #6 Baghouse. The Consent Judgment also requires the #3 Baghouse to meet a minimum flow rate of 225,000 acfm, and the sinter wheel tunnel to meet a 15,000 acfm flow rate. Doe Run studied the relationship between flow and fan amperes for the sinter wheel tunnel. They found that a minimum fan amperage of 58 will maintain a 15,000 acfm flow (*see* Attachment H). Doe Run will be required to maintain a minimum of 58 amperes at the sinter wheel tunnel.

4. Ventilation Limits

From the results gathered during the Ventilation Study, MDNR adopted the following ventilation flow rate and fan amperage limits:

Sinter Plant Combination Trail Production period minimum = 169,000 acfm;

Sinter Plant Combination Trail Non-Production minimum [1] = 100,000 acfm;

#6 Baghouse Fan = 70 amps;

#7 Baghouse Fan = 210 amps;

#8 Baghouse Fan = 73 amps;

#9 Baghouse Fan = 163 amps;

Sinter Wheel Tunnel Ventilation Fan [2] = 58 amps.

The Work Practices Manual revision and the 2007 Consent Judgment allow ventilation equipment to be shut down for maintenance work being performed on the ventilation or related process units. The shut downs must be logged and recorded. The Work Practices Manual revision also allows ventilation systems to be shut down if all lead manufacturing process units within a given building have been turned off and all corresponding production has ceased for at least 24 consecutive hours, unless the Consent Judgment contains other specifications.

The 2007 Consent Judgment contains other specification for the sinter machine wheel tunnel, #3 Baghouse, #5 Baghouse, and #6 Baghouse. It requires the sinter machine wheel tunnel to be operated at 15,000 acfm regardless of sinter machine operation. It requires #3 Baghouse flow to be maintained at a minimum 225,000 acfm, #5 Baghouse flow at a minimum of 300,000 acfm, and #6 Baghouse flow to be maintained at a minimum of 50,000 acfm. All flow rates are to be maintained at all times, including times when the Blast Furnace is not operational. Doe Run is required to comply with these requirements. These limits are incorporated into the Doe Run Herculaneum Work Practices Manual and are currently enforceable by MDNR as requirements thereof.

Limits resulting from the Ventilation Study for the #3 Baghouse, #5 Baghouse and #6 Baghouse are the same as the flow requirements already present in the 2007 Consent Judgment.

5. Ongoing Ventilation Testing and Reporting Requirements

The Work Practices Manual revision requires an automatic data logging system to record the following information at least once every minute: Fan amperes from the sinter machine wheel tunnel, #6, #7, #8, and #9 Baghouses; and flow rates from #5 Baghouse, #6 Baghouse, the combined #3 Baghouse/Acid Plant trail, and the Sinter Plant Combination Trail.

The data logger will set off a "warning alarm" should any three consecutive minutes of data be below the applicable limit. The operator will then troubleshoot and work to bring the flow or fan amperage back into compliance with the limit. The data logger will trigger an "actionable alarm" should any fifteen consecutive minutes of data be below the applicable limit. Doe Run will produce a detailed log of the event and all actions taken to restore flow. Corrective action must be taken as quickly as possible, including the shut down of all processes within the affected building if necessary to prevent lead-bearing emissions from escaping. Within 24 hours of restoration of operations, a flow test must be conducted at the point(s) where the ventilation system failed.

Each calendar quarter, Doe Run must conduct an inflow test of all applicable doors and openings. Testing will be done in accordance with the SOP included as part of the Work Practices Manual revision. If a man door shows inflow below 200 fpm, the door must be permanently sealed or replaced with a double door chamber system. These projects must be completed no later than three months following the low-flow measurement. Once the doors are modified in this fashion, they will not be subject to future inflow tests. Doe Run may petition MDNR to use an alternative method of addressing low-flow doors. MDNR will consider the petition only if the proposal is submitted in writing within 30 days of the low-flow measurement. The petition must outline the particle capture benefit from the alternative door project, and state why permanent sealing or a double door chamber system are not feasible or appropriate. If an equipment door shows inflow below 200 fpm, Doe Run must install heavy-duty industrial clear vinyl strip curtains within two months of the low-flow measurement. Inflow measurements are still required in doorways with vinyl strip curtains. Doe Run may petition MDNR to use an alternative method to address a non-compliant door. The same timing and analytical requirements apply to the equipment door petition as exist for the man door petition. If an equipment door is modified and measures low-flow again within a year of modification, Doe Run will propose a project to MDNR to significantly reduce the outflow of air emissions from the door in question. See the Work Practices Manual revision (Attachment E) for more details.

All data associated with the ventilation study Work Practices

[1] The Sinter Plant Combination Trail flow requirement switches to the Non-Production 100,000 acfm minimum requirement when both the sinter machine and feed belt motors measure zero amps.

[2] The Sinter Wheel tunnel damper will be welded into place.

Manual requirements must be maintained for at least five years, and made available to MDNR upon request. Doe Run must submit a quarterly report to MDNR summarizing any 15 minute alarms and associated corrective actions. The report must also include results from the quarterly inflow study. For a list of which doors are subject to inflow testing, *see* docket document "Summary of Sinter Plant Building Door Inflows" and "Summary of Blast Furnace and Refinery Building Door Inflows." If Doe Run measures any inflows less than 200 fpm, the report must identify these and provide a schedule for modifying the doors. Any changes to doorways as a result of previous inflow studies will also be reported. In addition, Doe Run's quarterly report must describe any actions taken or recommendations to prevent ventilation system shutdowns or to improve corrective action responses. If MDNR determines a more timely or effective procedure is possible, Doe Run must submit a written update to the Work Practices Manual for MDNR's approval. The underlying ventilation requirements remain in effect pending MDNR approval of any updates or revisions. If EPA approves this SIP revision, including the provisions of the Work Practices Manual and Consent Judgment, any subsequent changes must also be approved by EPA as revisions to the SIP.

Once a year, Doe Run is required to conduct the flow testing campaign again, and address any issues identified. Ventilation systems discussed in the Work Practices Manual revision (Attachment E) may only be altered to improve capture and control of emissions. Improvement plans must be submitted and approved by MDNR before any improvement project may take place. Any unauthorized modification that affects the flow rate, fan amperes, or capture and control of emissions within the Sinter Building, Blast Furnace Building, or Refinery Building ventilation systems is a violation of the Work Practices Manual and Consent Judgment.

Finally, if an ambient air quality monitor in Herculaneum monitors a quarterly value over 1.4 micrograms per cubic meter, Doe Run must conduct a fluid modeling study of flow patterns within the process buildings. This study would determine if additional ventilation is appropriate and if so, where the ventilation unit(s) should be positioned. Doe Run must complete the study within three months of receipt of the quarterly monitoring value.

6. Winter Construction Work Practices Manual Modification

In the first quarter of 2008, prior to the April 2008 attainment date in the SIP submittal, ambient air monitors in Herculaneum recorded values well over the 1.5 microgram per cubic meter lead NAAQS. Doe Run determined the cause was in-plant road dust stirred up by construction-related activities. Because the activities took place in weather below 39 degrees Fahrenheit, Doe Run was not able to run its watering system to control the in-plant road dust.

To prevent this problem in the future, MDNR has modified the Work Practices Manual. The additional language requires projects to be suspended if they have the potential to cause fugitive emissions and water cannot be used for dust suppression due to cold weather. It also prompts Doe Run to plan construction projects such that deadlines do not occur during cold weather periods.

7. Enforceability

As specified in section 172(c)(6) and section 110(a)(2)(A) of the CAA, all measures and other elements in the SIP must be enforceable by the state and EPA. Enforceable documents included in Missouri's SIP submittal are the May 2007 Consent Judgment, January 2007 Work Practices Manual, and the Consent Judgment and Work Practices Manual modifications submitted to EPA on September 3, 2009. The Consent Judgment contains all control and contingency measures with enforceable dates for implementation. The Consent Judgment also includes monitoring, recordkeeping, and reporting requirements to ensure that the control and contingency measures are met. The Work Practices Manual includes the requirements of the Consent Judgment, as well as specific operating procedures and additional reporting requirements. The state adopted the original documents into Missouri's state regulations on April 26, 2007, and adopted the modifications on July 29, 2009, making them state-enforceable. Upon EPA approval of the SIP submission, both documents would become state and federally enforceable, and enforceable by citizens under section 304 of the Act. As described above in the discussion of specific ventilation requirements, EPA believes the ventilation requirements in the Consent Judgment and Work Practices Manual as revised are enforceable and meet the requirements of the CAA. We further note that values below the required fan amperage or flow rate may constitute a violation; the alarm mechanisms laid out in the Work Practices Manual do not prevent MDNR or EPA from finding Doe Run in violation of it and SIP requirements. EPA previously requested comments on the enforceability of the SIP submitted in its October 8, 2008 proposed conditional approval. We are now requesting comments specifically relating to the ventilation requirements which are the subject of this notice.

We also noted in the October 2008 proposal that the Consent Judgment contains provisions for stipulated penalties and sanctions should Doe Run fail to comply with provisions of the Consent Judgment or Work Practices Manual. EPA is not bound by the state's Consent Judgment penalties, and would enforce against violations of these documents under section 113 of the Clean Air Act or other Federal authorities, rather than the Consent Judgment, if it approves the Consent Judgment and Work Practices Manual into the SIP.

## III. Proposed Action

EPA proposes approval of Missouri's attainment demonstration SIP and associated control measures for the 1978 lead National Ambient Air Quality Standards in the nonattainment area of Herculaneum, Missouri. The ventilation requirements contained within the revised SIP minimize the potential for building fugitives escaping into the outside air, and the winter construction Work Practices Manual modification minimizes the potential for uncontrolled lead emissions associated with cold-weather construction activities. EPA proposes full approval of the SIP as it demonstrates attainment of the 1.5 $\mu g/m^3$ lead NAAQS, and fulfills the requirements of the Clean Air Act. The rationale for this proposed action is stated in the October 8, 2008, proposed conditional approval and in this supplemental proposal. As stated previously, EPA requests comments on the September 3, 2009 supplemental submittal, and on EPA's proposed full approval of the 2007, 2008, and 2009 submittals.

## IV. Statutory and Executive Order Reviews

Under the Clean Air Act, 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 proposed 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 proposed action:

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

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 17, 2010.

**Karl Brooks,**

*Regional Administrator, Region 7.*

[FR Doc. 2010–21446 Filed 8–26–10; 8:45 am]

**BILLING CODE 6560–50–P**

# Notices

Federal Register
Vol. 75, No. 166
Friday, August 27, 2010

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

### Animal and Plant Health Inspection Service

**[Docket No. APHIS-2010-0080]**

### Notice of Request for Extension of Approval of an Information Collection; Importation of Animals and Poultry, Animal and Poultry Products, Certain Animal Embryos, Semen, and Zoological Animals

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

**ACTION:** Extension of approval of an information collection; comment request.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request extension of approval of an information collection associated with the importation of animals and poultry, animal and poultry products, and animal germplasm.

**DATES:** We will consider all comments that we receive on or before October 26, 2010.

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

- Federal eRulemaking Portal: Go to (*http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2010-0080*) to submit or view comments and to view supporting and related materials available electronically.
- Postal Mail/Commercial Delivery: Please send one copy of your comment to Docket No. APHIS-2010-0080, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. APHIS-2010-0080.

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

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

**FOR FURTHER INFORMATION CONTACT:** For information on the importation of animals and poultry, animal and poultry products, and animal germplasm, contact Dr. Betzaida Lopez, Staff Veterinarian, Technical Trade Services Team—Animals, NCIE, VS, APHIS, 4700 River Road Unit 39, Riverdale MD 20737; (301) 734-5677. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851-2908.

**SUPPLEMENTARY INFORMATION:**

*Title:* Importation of Animals and Poultry, Animal and Poultry Products, Certain Animal Embryos, Semen, and Zoological Animals.

*OMB Number:* 0579-0040.

*Type of Request:* Extension of approval of an information collection.

*Abstract:* Under the Animal Health Protection Act (8301 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture is authorized, among other things, to prohibit or restrict the importation of animals, animal products, and other articles into the United States to prevent the introduction of animal diseases and pests. In support of this mission, APHIS collects pertinent information from persons who import animals or poultry, animal or poultry products, or animal germplasm into the United States.

This information includes data such as the origins of the animals or animal products to be imported, the health status of the animals or the processing methods used to produce animal products to be imported, and whether the animals or animal products were temporarily offloaded in another country during their transit to the United States. We need this information to help ensure that these imports do not introduce exotic animal diseases into the United States.

We use a variety of information collection procedures and forms, including health certificates, import permits, specimen submission forms, inspection reports, cooperative and trust fund agreements, and certification statements.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate 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;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; e.g., permitting electronic submission of responses.

*Estimate of burden:* The public reporting burden for this collection of information is estimated to average 0.3910632 hours per response.

*Respondents:* U.S. importers; State animal health officials; foreign exporters; foreign animal health officials; shippers, owners, and operators of foreign processing plants and farms, USDA-approved zoos, laboratories, and feedlots; and private quarantine facilities.

*Estimated annual number of respondents:* 2,696.

*Estimated annual number of responses per respondent:* 96.39132.

*Estimated annual number of responses:* 259,871.

*Estimated total annual burden on respondents:* 101,626 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 23rd day of August 2010.

**Gregory Parham**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2010–21458 Filed 8–26–10: 8:45 am]

**BILLING CODE 3410–34–S**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

**[Docket No. APHIS-2010-0083]**

### Notice of Request for Extension of Approval of an Information Collection; National Management Information System

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

**ACTION:** Extension of approval of an information collection; comment request.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with cooperative wildlife damage management programs.

**DATES:** We will consider all comments that we receive on or before October 26, 2010.

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

- Federal eRulemaking Portal: Go to (*http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2010-0083*) to submit or view comments and to view supporting and related materials available electronically.
- Postal Mail/Commercial Delivery: Please send one copy of your comment to Docket No. APHIS-2010-0083, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. APHIS-2010-0083.

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

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

**FOR FURTHER INFORMATION CONTACT:** For information on the national management information system for cooperative wildlife damage management programs, contact Mr. Robert Myers, Wildlife Biologist, Wildlife Services, APHIS, 4700 River Road Unit 87, Riverdale MD 20737; (301) 651-8845. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851-2908.

**SUPPLEMENTARY INFORMATION:**

*Title:* National Management Information System.

*OMB Number:* 0579-0335.

*Type of Request:* Extension of approval of an information collection.

*Abstract:* As authorized by the Act of 1931 (7 U.S.C. 426-426c; 46 Stat. 1468) as amended, the Secretary of Agriculture may conduct activities and enter into agreements with States, local jurisdictions, individuals, public and private agencies, organizations, and institutions in the control of nuisance mammals and birds and those mammal and bird species that are reservoirs for zoonotic diseases.

Wildlife Services (WS) of the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture (USDA), cooperates with Federal agencies, State and local governments, and private individuals to research and implement the best methods of managing conflicts between wildlife and human health and safety, agriculture, property, and natural resources.

As part of the WS program, WS enters into agreements to document the terms and conditions for cooperating with parties outside of APHIS.

In the normal course of business in response to requests for assistance in managing wildlife damage, WS collects information about organizations, industry, Federal and non-Federal entities, and members of the public as part of its program. Program activities usually consist of either cooperative direct control or technical assistance programs. In the former, WS provides goods, services, and expertise to address wildlife damage. Clients must reimburse USDA for expenses and time spent by WS to conduct these kinds of programs. In the latter, WS gives advice in the form of telephone consultations, personal onsite consultations, training sessions, demonstration projects, etc. WS usually provides only technical expertise in these activities, and the client usually conducts whatever activities are likely to manage the wildlife damage occurring. Such activities are usually free to the public.

All persons who receive assistance from WS are referred to as "cooperators," and any information provided by clients to WS is voluntary.

Information is used by the agency to:

- Identify cooperators appropriately.
- Identify lands on which WS personnel will work.
- Differentiate between cooperators (i.e., property owners, land managers, or resource owners) who request assistance to manage damage caused by wildlife.
- Identify the land areas on which wildlife damage management activities would be conducted.
- Identify the relationship between resources or property, WS' protection of such resources or property, and the damage caused by wildlife.
- Determine the methods or damage management activities to deal with the damage.
- Establish a record that a cooperative agreement has been entered into with a cooperator.
- Document that permission has been obtained from landowners to go on the cooperator's property.
- Record wildlife damage occurrences on cooperator's property and steps to address them.
- Record occurrences which may have affected non-target species or humans during, or related to, WS project actions.
- Determine satisfaction with service to help WS evaluate, modify, and improve its programs.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate 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;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as

appropriate, of automated, electronic, mechanical, and other collection technologies; e.g., permitting electronic submission of responses.

*Estimate of burden:* The public reporting burden for this collection of information is estimated to average 0.045736 hours per response.

*Respondents:* Federal, State, and local agencies and the public who request services from WS or engage in wildlife damage management projects with WS.

*Estimated annual number of respondents:* 89,902.

*Estimated annual number of responses per respondent:* 1.01295.

*Estimated annual number of responses:* 91,066.

*Estimated total annual burden on respondents:* 4,165 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 23rd day of August 2010.

**Gregory Parham**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2010–21459 Filed 8–26–10: 8:45 am]

**BILLING CODE 3410–34–S**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

**[Docket No. APHIS-2010-0084]**

### Notice of Request for Approval of an Information Collection; National Animal Health Monitoring System; Sheep 2011 Study

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

**ACTION:** New information collection; comment request.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to initiate an information collection to support the National Animal Health Monitoring System Sheep 2011 Study.

**DATES:** We will consider all comments that we receive on or before October 26, 2010.

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

- Federal eRulemaking Portal: Go to (*http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2010-0084*) to submit or view comments and to view supporting and related materials available electronically.
- Postal Mail/Commercial Delivery: Please send one copy of your comment to Docket No. APHIS-2010-0084, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. APHIS-2010-0084.

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

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

**FOR FURTHER INFORMATION CONTACT:** For information on the Sheep 2011 Study, contact Ms. Sandra Warnken, Management and Program Analyst, Centers for Epidemiology and Animal Health, VS, APHIS, 2150 Centre Avenue, Building B MS 2E3, Fort Collins, CO 80526; (970) 494-7193. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851-2908.

**SUPPLEMENTARY INFORMATION:**

*Title:* National Animal Health Monitoring System; Sheep 2011 Study.

*OMB Number:* 0579-xxxx.

*Type of Request:* Approval of a new information collection.

*Abstract:* Under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA) is authorized, among other things, to protect the health of our Nation's livestock and poultry populations by preventing the introduction and interstate spread of serious diseases and pests of livestock and for eradicating such diseases from the United States when feasible. In connection with this mission, APHIS operates the National Animal Health Monitoring System (NAHMS), which collects nationally representative, statistically valid, and scientifically sound data on the prevalence and economic importance of livestock diseases and associated risk factors.

NAHMS' national studies have evolved into a collaborative industry and government initiative to help determine the most effective means of preventing and controlling diseases of livestock. APHIS is the only agency responsible for collecting data on livestock health. Participation in any NAHMS study is voluntary, and all data are confidential.

APHIS plans to conduct the Sheep 2011 Study as part of an ongoing series of NAHMS studies on the U.S. livestock population. The 22 States targeted for the study account for 85 percent of the ewe inventory in the United States on January 1, 2010, and on 70 percent of farms in the United States with one or more ewes. The purpose of this study is to collect information, through questionnaires and biologic sampling, to:

- Describe trends in sheep health and management practices from 1996 to 2011.
- Describe management and biosecurity practices used to control common infectious diseases, including scrapie, ovine progressive pneumonia, Johne's disease, and caseous lymphadenitis.
- Estimate the prevalence of gastrointestinal parasites and anthelmintic resistance.
- Estimate the prevalence of *Mycoplasma ovipneumonia* in domestic sheep flocks. Relate presence of the organism in blood and nasal secretions to clinical signs and demographic and management factors.
- Facilitate the collection of information and samples regarding causes of abortion storms in sheep.
- Determine producer awareness of the zoonotic potential of contagious ecthyma (soremouth) and the management practices used to prevent transmission of the disease.
- Provide serum to include in the serological bank for future research.

The study will consist of a series of on-farm questionnaires, with biologic sampling, that will be administered by APHIS-designated data collectors. The information collected through the Sheep 2011 Study will be analyzed and organized into descriptive reports. Information sheets will be derived from these reports, and the data will be disseminated to and used by a variety of constituents, including producers, veterinarians, stakeholders, academia, and others. The data will help APHIS address emerging issues and examine the economic impact of selected animal health management practices.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for 3 years.

The purpose of this notice is to solicit comments from the public (as well as agencies) concerning our information collection. These comments will help us:

(1) Evaluate 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;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

*Estimate of burden:* The public reporting burden for this collection of information is estimated to average 0.8840854 hours per response.

*Respondents:* Sheep producers in 22 States.

*Estimated annual number of respondents:* 5,500.

*Estimated annual number of responses per respondent:* 1.7285454.

*Estimated annual number of responses:* 9,507.

*Estimated total annual burden on respondents:* 8,405 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 23rd day of August 2010.

**Gregory Parham**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2010–21455 Filed 8–26–10: 8:45 am]

**BILLING CODE 3410–34–S**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

**[Docket No. APHIS–2010–0065]**

### Notice of Decision To Issue Permits for the Importation of Fresh Mango Fruit From Pakistan Into the Continental United States

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

**ACTION:** Notice.

**SUMMARY:** We are advising the public of our decision to begin issuing permits for the importation into the continental United States of fresh mango fruit from Pakistan. Based on the findings of a pest risk analysis, which we made available to the public for review and comment through a previous notice, we believe that the application of one or more designated phytosanitary measures will be sufficient to mitigate the risks of introducing or disseminating plant pests or noxious weeds via the importation of fresh mango fruit from Pakistan.

**DATES:** *Effective Date:* August 27, 2010.

**FOR FURTHER INFORMATION CONTACT:** Ms. Donna L. West, Senior Import Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737; (301) 734–0627.

**SUPPLEMENTARY INFORMATION:**

#### Background

Under the regulations in "Subpart—Fruits and Vegetables" (7 CFR 319.56–1 through 319.56–50, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into and spread within the United States.

Section 319.56–4 contains a performance-based process for approving the importation of commodities that, based on the findings of a pest risk analysis, can be safely imported subject to one or more of the designated phytosanitary measures listed in paragraph (b) of that section. Under that process, APHIS publishes a notice in the **Federal Register** announcing the availability of the pest risk analysis that evaluates the risks associated with the importation of a particular fruit or vegetable. Following the close of the 60-day comment period, APHIS may begin issuing permits for importation of the fruit or vegetable subject to the identified designated measures if: (1) No comments were received on the pest risk analysis; (2) the comments on the pest risk analysis revealed that no changes to the pest risk analysis were necessary; or (3) changes to the pest risk analysis were made in response to public comments, but the changes did not affect the overall conclusions of the analysis and the Administrator's determination of risk.

In accordance with that process, we published a notice [1] in the **Federal Register** on June 17, 2010 (75 FR 34422, Docket No. APHIS–2010–0065), in which we announced the availability, for review and comment, of a pest risk analysis that evaluates the risks associated with the importation into the continental United States of fresh mango fruit from Pakistan. We solicited comments on the notice for 60 days ending on August 16, 2010. We received 19 comments by that date, from nurseries, exporters, private citizens, a marketing agency, and a State department of agriculture. All of the commenters supported the importation of fresh mango fruit from Pakistan under the conditions described in the risk management document.

Therefore, in accordance with the regulations in § 319.56–4(c)(2)(ii), we are announcing our decision to begin issuing permits for the importation into the continental United States of fresh mango fruit from Pakistan subject to the following phytosanitary measures:

- The mangoes must be irradiated with a minimum absorbed dose of 400 gray.
- If irradiation is applied outside of the United States, each consignment of mangoes must be inspected jointly by the national plant protection organization (NPPO) of Pakistan and APHIS inspectors and accompanied by a phytosanitary certificate issued by the NPPO of Pakistan. The phytosanitary certificate must document that the consignment received the required irradiation treatment. The phytosanitary certificate must also contain an additional declaration that states: "This consignment was inspected jointly by APHIS and Government of Pakistan inspectors, and found free of *Xanthomonas campestris* pv. *mangiferaeindicae*." To be consistent with International Plant Protection Convention standards, treatment specifics, including the application of 400 Gy dose, will be located in the treatment section of the phytosanitary

[1] To view the notice, the pest risk analysis, the risk management analysis, and the comments we received, go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2010-0065.*

certificate, rather than in the additional declaration.

If irradiation is to be applied upon arrival in the United States, each consignment of mangoes must be inspected by inspectors from the NPPO of Pakistan prior to departure and accompanied by a phytosanitary certificate issued by the NPPO of Pakistan. The phytosanitary certificate must contain an additional declaration that states: "This consignment was inspected by the Government of Pakistan inspectors and found free of *Xanthomonas campestris* pv. *mangiferaeindicae.*"

• The mangoes may be imported into the United States in commercial consignments only.

These conditions will be listed in the Fruits and Vegetables Import Requirements Database (available at *http://www.aphis.usda.gov/favir*). In addition to those specific measures, mangoes from Pakistan will be subject to the general requirements listed in § 319.56–3 that are applicable to the importation of all fruits and vegetables.

**Authority:** 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 25th day of August 2010.

**Gregory Parham,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2010–21568 Filed 8–26–10; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Nationwide Aerial Application of Fire Retardant on National Forest System Lands

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare an environmental impact statement.

**SUMMARY:** The Forest Service will prepare a programmatic environmental impact statement for the continued nationwide aerial application of fire retardant on National Forest System lands. The responsible official for this action is the Chief of the Forest Service. The Forest Service invites comments at this time on the proposed action.

**DATES:** Comments concerning the scope of the analysis must be received by October 12, 2010.

**ADDRESSES:** Send written comments to U.S. Forest Service, P.O. Box 26667, Salt Lake City, UT 84126–0667. Comments may also be sent via e-mail to *FireRetardantEIS@fs.fed.us.*

**FOR FURTHER INFORMATION CONTACT:** Joe Carbone, Assistant Director for Ecosystem Management Coordination, Forest Service, 202–205–0884, or e-mail: *jcarbone@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** The Forest Service is working to restore fire-adapted ecosystems through prescribed fire, other fuel treatments, and effective management of wildfire to achieve both protection and resource benefit objectives. However, in some circumstances, fire must be suppressed. For example, it might be necessary to suppress a fire to protect life or property or to preserve natural resources and critical habitat for threatened and endangered species. Fire retardant is one of the tools used to suppress fires.

Aerially applied fire retardant reduces the spread and intensity of fires and slows larger, more damaging, and thus, more costly fires. In many situations, using retardant to fight fires is the most effective and efficient method of protecting people, resources, private property, and facilities; sometimes it is the only tool that will allow fire fighters to accomplish the job in a safe manner.

In October 2007, the Forest Service issued an environmental assessment (EA) and decision notice and finding of no significant impact (DN/FONSI) entitled "Aerial Application of Fire Retardant". In February 2008, the Forest Service amended the DN/FONSI by incorporating the reasonable and prudent alternatives proposed by the United States Fish and Wildlife Service (USFWS) and National Oceanic and Atmospheric Administration (NOAA) Fisheries during the Section 7 consultation process prescribed by the Endangered Species Act (ESA).

On July 27, 2010, the United States District Court for the District of Montana issued a decision in *Forest Service Employees for Environmental Ethics v. United States Forest Service,* 08–43 (D. Mont.) that invalidated the Forest Service's decision to adopt the 2000 Guidelines based on violations of NEPA. The Court also held that the USFWS and NOAA Fisheries' Section 7 consultation with the Forest Service violated the ESA. The Court directed the Forest Service, USFWS, and NOAA Fisheries to cure these NEPA and ESA violations and for the Forest Service to issue a new decision no later than December 31, 2011.

**Estimated Dates**

The draft environmental impact statement is expected to be available for public comment early in 2011 and the final EIS is expected to be completed by the fall of 2011.

**Purpose and Need for Action**

Adopting the proposed action would give the Forest Service the ability to reduce wildfire intensities and rates of spread under certain circumstances until ground forces can safely take suppression action over the duration of an incident. High fire intensities and rates of spread greatly reduce the ability of ground-based firefighters to safely fight wildland fires. In addition, the remote locations and rugged topography associated with many wildland fires can delay the deployment of ground forces for suppression. In some situations, firefighters need the ability to quickly reduce rates of spread and intensities of wildland fires, often in remote locations, and to do so until ground forces can safely take suppression action or until a wildfire is contained or controlled.

**Proposed Action**

The Forest Service proposes to continue the aerial application of fire retardant to fight fires on National Forest System Lands. Aerial application would be conducted, as it is now, under "Guidelines for Aerial Delivery of Retardant or Foam Near Waterways" (2000 Guidelines) adopted by the Forest Service, Bureau of Land Management, National Park Service, and Fish and Wildlife Service in April 2000. The 2000 Guidelines are a means to minimize the impact of aerially-delivered fire retardant on aquatic life and habitat. The 2000 Guidelines, available at *http://www.fs.fed.us/rm/fire/retardants/current/gen/appguide.htm* are as follows:

**Definition:** WATERWAY—Any body of water including lakes, rivers, streams and ponds whether or not they contain aquatic life.

**Avoid aerial application of retardant or foam within 300 feet of waterways.**

These guidelines do not require the helicopter or airtanker pilot-in-command to fly in such a way as to endanger his or her aircraft, other aircraft, or structures or compromise ground personnel safety.

**Guidance for pilots: To meet the 300-foot buffer zone guideline, implement the following:**

*Medium/Heavy Airtankers:* When approaching a waterway visible to the pilot, the pilot shall terminate the

application of retardant approximately 300 feet before reaching the waterway. When flying over a waterway, pilots shall wait one second after crossing the far bank or shore of a waterway before applying retardant. Pilots shall make adjustments for airspeed and ambient conditions such as wind to avoid the application of retardant within the 300-foot buffer zone.

*Single Engine Airtankers:* When approaching a waterway visible to the pilot, the pilot shall terminate application of retardant or foam approximately 300 feet before reaching the waterway. When flying over a waterway, the pilot shall not begin application of foam or retardant until 300 feet after crossing the far bank or shore. The pilot shall make adjustments for airspeed and ambient conditions such as wind to avoid the application of retardant within the 300-foot buffer zone.

*Helicopters:* When approaching a waterway visible to the pilot, the pilot shall terminate the application of retardant or foams 300 feet before reaching the waterway. When flying over a waterway, pilots shall wait five seconds after crossing the far bank or shore before applying the retardant or foam. Pilots shall make adjustments for airspeed and ambient conditions such as wind to avoid the application of retardant or foam within the 300-foot buffer zone.

**Exceptions:**

When alternative line construction tactics are not available due to terrain constraints, congested area, life and property concerns or lack of ground personnel, it is acceptable to anchor the foam or retardant application to the waterway. When anchoring a retardant or foam line to a waterway, use the most accurate method of delivery in order to minimize placement of retardant or foam in the waterway (*e.g.,* a helicopter rather than a heavy airtanker).

Deviations from these guidelines are acceptable when life or property is threatened and the use of retardant or foam can be reasonably expected to alleviate the threat.

When potential damage to natural resources outweighs possible loss of aquatic life, the unit administrator may approve a deviation from these guidelines.

**Threatened and Endangered (T&E) Species:**

The following provisions are guidance for complying with the emergency section 7 consultation procedures of the Endangered Species Act (ESA) with respect to aquatic species. These provisions do not alter or diminish an action agency's responsibilities under the ESA.

Where aquatic T&E species or their habitats are potentially affected by aerial application of retardant or foam, the following additional procedures apply:

1. As soon as practicable after the aerial application of retardant or foam near waterways, determine whether the aerial application has caused any adverse effects to a T&E species or their habitat. This can be accomplished by the following:

a. Aerial application of retardant or foam outside 300 feet of a waterway is presumed to avoid adverse effects to aquatic species and no further consultation for aquatic species is necessary.

b. Aerial application of retardant or foam within 300 feet of a waterway requires that the unit administrator determine whether there have been any adverse effects to T&E species within the waterway.

These procedures shall be documented in the initial or subsequent fire reports.

2. If there were no adverse effects to aquatic T&E species or their habitats, there is no additional requirement to consult on aquatic species with Fish and Wildlife Service (FWS) or National Marine Fisheries Service (NMFS).

3. If the action agency determines that there were adverse effects on T&E species or their habitats then the action agency must consult with FWS and NMFS, as required by 50 CFR 402.05 (Emergencies). Procedures for emergency consultation are described in the Interagency Consultation Handbook, Chapter 8 (March 1998) [*U.S. Fish and Wildlife Service and National Marine Fisheries Service 1998*]. In the case of a long duration incident, emergency consultation should be initiated as soon as practical during the event. Otherwise, post-event consultation is appropriate. The initiation of the consultation is the responsibility of the unit administrator.

Each agency will be responsible for ensuring that the appropriate guides and training manuals reflect these guidelines.

Additionally, the proposed action includes the reasonable and prudent alternatives for aerial application of fire retardant on national forest system lands developed by the U.S. Fish and Wildlife Service and National Marine Fisheries Service available at *http://www.fs.fed.us/fire/retardant/index.html.* Forest Service reports on applying the reasonable and prudent alternatives are also included on this Web site.

**Responsible Official and Lead Agency**

The USDA Forest Service is the lead agency for this proposal. The Chief of the Forest Service is the responsible official.

**Nature of Decision To Be Made**

The decision to be made is whether to continue aerial application of fire retardant and if so, under the 2000 Guidelines or under some other guidance.

**Scoping Process**

The publication of this notice of intent starts the scoping process, which guides preparation of the environmental impact statement. There will be further opportunities for public involvement and information sharing about the proposed action, including a comment period on the draft environmental impact statement. Public information and involvement opportunities and documents will be posted at *http://www.fs.fed.us/fire/retardant/index.html.* The site presently contains information such as a 2007 environmental assessment and associated comments that are also being used to prepare the draft environmental impact statement.

It is important that reviewers provide their comments at such times and in such a way that they are useful to the Agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered.

Dated: August 24, 2010.

**Gloria Manning,**

*Associate Deputy Chief, NFS.*

[FR Doc. 2010–21482 Filed 8–26–10; 8:45 am]

**BILLING CODE 3410–11–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Wrangell-Petersburg Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Wrangell-Petersburg Resource Advisory Committee will meet in Kake, Alaska. The committee is

meeting as authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) and in compliance with the Federal Advisory Committee Act. The purpose of the meeting is to review project proposals and make project funding recommendations.

**DATES:** The meeting will be held Friday, September 10th from 9 a.m. to 2 p.m., and on Saturday, September 11th from 8 a.m. to Noon.

**ADDRESSES:** The meeting will be held at the Kake Community Hall Conference Room in Kake, Alaska. Written comments should be sent to Christopher Savage, Petersburg District Ranger, P.O. Box 1328, Petersburg, Alaska 99833, or Robert Dalrymple, Wrangell District Ranger, P.O. Box 50, Wrangell, AK 99929. Comments may also be sent via e-mail to *csavage@fs.fed.us,* or via facsimile to 907–772–5995.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Petersburg Ranger District office at 12 North Nordic Drive or the Wrangell Ranger District office at 525 Bennett Street during regular office hours (Monday through Friday 8 a.m.–4:30 p.m.).

**FOR FURTHER INFORMATION CONTACT:** Christopher Savage, Petersburg District Ranger, P.O. Box 1328, Petersburg, Alaska, 99833, phone (907) 772–3871, e-mail *csavage@fs.fed.us*, or Robert Dalrymple, Wrangell District Ranger, P.O. Box 51, Wrangell, AK 99929, phone (907) 874–2323, e-mail *rdalrymple@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** The meeting is open to the public. The following business will be conducted: Evaluation of project proposals and recommendation of projects for funding. Persons who wish to bring related matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. A public input session will be provided beginning at 9 a.m. on September 11th .

Dated: August 19, 2010.

**Christopher S. Savage,**

*District Ranger.*

[FR Doc. 2010–21338 Filed 8–26–10; 8:45 am]

**BILLING CODE 3410–11–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Ashley Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Ashley Resource Advisory Committee will meet in Vernal, Utah. The committee is meeting as authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) and in compliance with the Federal Advisory Committee Act. The purpose of the meeting is conduct "welcomes" and introductions, review the Federal Advisory Committee Act requirements, brief participants on Payments to States legislative history, discuss the guidelines for Title II and Title 111 funding and proposals, capture and record preliminary project ideas and receive public comment on the meeting subjects and proceedings.

**DATES:** The meeting will be held September 16, 2010, from 6 p.m. to 9 p.m.

**ADDRESSES:** The meeting will be held at the Ashley National Forest Supervisor's Office, 355 North Vernal Avenue in Vernal, Utah. Written comments should be sent to Ashley National Forest, 355 North Vernal Avenue, Vernal, UT 84078. Comments may also be sent via e-mail to *ljhaynes@fs.fed.us,* or via facsimile to 435–781–5142.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Ashley National Forest, 355 North Vernal Avenue, Vernal, UT.

**FOR FURTHER INFORMATION CONTACT:** Louis Haynes, RAC Coordinator, Ashley National Forest, (435) 781–5105; *e-mail: ljhaynes@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** The meeting is open to the public. The following business will be conducted: (1) Welcome and Committee introductions; (2) Federal Advisory Committee Act overview; (3) review of Payments to States legislative history and discussion of requirements related to Title II and Title III funding; (4) discussion of Committee member roles and operational guidelines; (5) discussion of preliminary project ideas; (6) election of committee chairperson, (7) review of next meeting purpose, location, and date; (8) and receive public comment. Persons who wish to bring related matters to the attention of the Committee may file written statements with the committee staff before or after the meeting. Public input sessions will be provided and individuals who made written requests by September 14, 2010 will have the opportunity to address the committee at those sessions.

Dated: August 20, 2010.

**Kevin B. Elliott,**

*Forest Supervisor.*

[FR Doc. 2010–21256 Filed 8–26–10; 8:45 am]

**BILLING CODE 3410–11–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Southern Arizona Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Southern Arizona Resource Advisory Committee will meet in Tucson, Arizona. The purpose of the meeting is for the committee members to discuss committee protocols, operating guidelines, and project proposal requirements.

**DATES:** The meeting will be held September 14, 2010, beginning at 10 a.m. to approximately 4 p.m.

**ADDRESSES:** The meeting will be held at the National Advanced Fire and Resource Institute (NAFRI) at 3265 E. Universal Way, Tucson, Arizona 85756. Send written comments to Jennifer Ruyle, RAC Coordinator, Southern Arizona Resource Advisory Committee, c/o Coronado National Forest, 300 W. Congress, Tucson, Arizona 85701 or electronically to *jruyle@fs.fed.us.*

**FOR FURTHER INFORMATION CONTACT:** Jennifer Ruyle, Coronado National Forest, (520) 388–8351.

**SUPPLEMENTARY INFORMATION:** The meeting is open to the public and opportunity for public input will be provided. Committee discussion is limited to Forest Service staff and Committee members. However, persons who wish to bring Public Law 110–343 related matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting.

Dated: August 19, 2010.

**Robert Lee,**

*Acting Deputy Forest Supervisor, Coronado National Forest.*

[FR Doc. 2010–21152 Filed 8–25–10; 8:45 am]

**BILLING CODE 3410–11–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Transfer of Land to Forest Service

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of land transfer.

**SUMMARY:** On January 13, 2010, the Deputy Administrator of the Farm Service Agency, U.S. Department of Agriculture, and on March 16, 2010, the Deputy Chief of the Forest Service, U.S. Department of Agriculture, respectively signed a land transfer agreement transferring administrative jurisdiction of certain Federally owned lands in the Commonwealth of Puerto Rico from the Farm Service Agency to the Forest Service. This administrative transfer is authorized by Section 354 of the Consolidated Farm and Rural Development Act (Title 7 U.S.C. 2002).

Pursuant to the land transfer agreement between the Farm Service Agency and the Forest Service, the approximately 432.14 acres referenced in this notice are hereafter to be managed as components of the National Forest System under the administrative jurisdiction of the Forest Service.

**DATES:** This notice is effective August 27, 2010.

**FOR FURTHER INFORMATION CONTACT:** Louisa Herrera, National Title Claims Program Manager, Lands and Realty Management, USDA, Forest Service, (202) 205–1255.

**SUPPLEMENTARY INFORMATION:** The land transfer is authorized by Title 7, United States Code, section 2002, in that the lands have special management importance and are environmentally sensitive within the Jobos Bay National Estuarine Research Reserve Watershed and the core segment of the Karst Belt. In accordance with Title 7, United States Code, section 2002(b), the requisite conditions of public notices of the transfer have been met by the Farm Service Agency, including consultation with the Governor of Puerto Rico and with elected municipal officials.

The land transfer consists of two separate parcels of land with one parcel consisting of two tracts and the other parcels consisting of three tracts, described as follows:

1. That real property acquired by the USDA–FSA through a Deed of Judicial Sale number four hundred ninety-five (495), executed in San Juan, Puerto Rico, on October twenty-one of nineteen ninety-seven (October 21, 1997), before Notary Public Miquel Bauza Rolon. Said property being USDA–FSA Property #63–006–00044 (Montes-Mandes); being comprised of a tract of 214.208 cuerdas, a tract of 106.04 cuerdas, and a tract of 36.70 cuerdas; and being located at PR# 712, km. 10.5 Int. and PR# 7712, Palo Sector, Carmen Ward, Guayama, PR.

2. That real property acquired by the USDA–FSA through a Deed of Judicial Sale number three (3), executed in San Juan, Puerto Rico, on July eleventh of nineteen ninety-four (July 11, 1994), before Notary Public Bolivar Dones Rivera, pending for recording at the date at page #402, diary #284 of the Register of Property, Section of Manati. Said property being USDA–FSA Property #63–031–00114 (Guevara-Delgado); being comprised of a tract of 20.00 cuerdas and a tract of 68.00 cuerdas; and being located at PR# 667, km. 1.8, Int. Florida Afuera Ward, Florida, PR.

Dated: August 11, 2010.

**Joel Holtrop,**

*Deputy Chief, NFS.*

[FR Doc. 2010–21361 Filed 8–26–10; 8:45 am]

**BILLING CODE 3410–11–P**

## DEPARTMENT OF COMMERCE

### Environmental Technologies Trade Advisory Committee (ETTAC)

**AGENCY:** International Trade Administration, U.S. Department of Commerce.

**ACTION:** Notice of open meeting.

**SUMMARY:** The Environmental Technologies Trade Advisory Committee (ETTAC) will hold its quarterly meeting to discuss environmental technologies industry competitiveness issues, the National Export Initiative, and general Committee administrative items.

**DATES:** September 21, 2010.

**ADDRESSES:** U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230, Room 6029.

**FOR FURTHER INFORMATION CONTACT:** Ellen Bohon, Office of Energy and Environmental Technologies Industries (OEEI), International Trade Administration, U.S. Department of Commerce at (202) 482–0359. This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to OEEI at (202) 482–5225.

**SUPPLEMENTARY INFORMATION:** The meeting will take place from 9 a.m. to 3:30 p.m. This meeting is open to the public and time will be permitted for public comment from 3–3:30 p.m. Written comments concerning ETTAC affairs are welcome any time before or after the meeting. Minutes will be available within 30 days of this meeting.

The ETTAC is mandated by Public Law 103–392. It was created to advise the U.S. government on environmental trade policies and programs, and to help it to focus its resources on increasing the exports of the U.S. environmental industry. ETTAC operates as an advisory committee to the Secretary of Commerce and the Trade Promotion Coordinating Committee (TPCC). ETTAC was originally chartered in May of 1994. It was most recently re-chartered until September 2010.

Dated: August 23, 2010.

**Edward A. O'Malley,**

*Director, Office of Energy and Environmental Industries.*

[FR Doc. 2010–21370 Filed 8–26–10; 8:45 am]

**BILLING CODE 3510–DR–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–890]**

### Wooden Bedroom Furniture From the People's Republic of China: Extension of Preliminary Results of Antidumping Duty New Shipper Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** August 27, 2010.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Pedersen or Rebecca Pandolph, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–2769 or (202) 482–3627, respectively.

**SUPPLEMENTARY INFORMATION:**

#### Background

On March 5, 2010, the Department of Commerce ("Department") published a notice of initiation of new shipper reviews of the antidumping duty order on wooden bedroom furniture from the People's Republic of China. *See Wooden Bedroom Furniture from the People's Republic of China: Initiation of Antidumping Duty New Shipper Reviews*, 75 FR 10214 (March 5, 2010). The period of the reviews is January 1, 2009, through December 31, 2009. The

preliminary results of the new shipper reviews are currently due no later than August 28, 2010.

**Extension of Time Limits for Preliminary Results**

Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended ("Act"), and 19 CFR 351.214(i)(1) require the Department to issue the preliminary results in a new shipper review of an antidumping duty order 180 days after the date on which the review is initiated. The Department may, however, extend the deadline for completion of the preliminary results of a new shipper review to 300 days if it determines that the case is extraordinarily complicated. *See* section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2).

The Department finds that these new shipper reviews are extraordinarily complicated and, therefore, it requires additional time to complete the preliminary results. Specifically, the Department requires additional time to examine surrogate value information in these reviews. The Department's ability to examine this information has been limited because of the considerable resources required to complete the final results of the recent administrative review of the antidumping duty order on wooden bedroom furniture from the People's Republic of China. Accordingly, we are extending the time for the completion of the final results of these reviews by 120 days, until December 26, 2010. However, December 26, 2010, falls on a Sunday, and it is the Department's long–standing practice to issue a determination on the next business day when the statutory deadline falls on a weekend. *See Notice of Clarification: Application of* "*Next Business Day*" *Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005). Accordingly, the deadline for completion of the final results of these reviews is now no later than December 27, 2010.

This notice is published in accordance with section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2).

Date: August 23, 2010.

**Edward C. Yang,**

*Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2010–21406 Filed 8–26–10; 8:45 am]

**BILLING CODE 3510–DS–S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–533–824]**

### Polyethylene Terephthalate Film, Sheet and Strip From India: Extension of Time Limit for Preliminary Results of Antidumping Duty New Shipper Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** August 27, 2010.

**FOR FURTHER INFORMATION CONTACT:** Elfi Blum, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0197.

**SUPPLEMENTARY INFORMATION:**

**Background**

On March 9, 2010, the Department of Commerce (the Department) published the initiation of the new shipper review of the antidumping duty order on polyethylene terephthalate film, sheet and strip from India for the period July 1, 2009 through December 31, 2009. *See Polyethylene Terephthalate Film, Sheet and Strip from India: Initiation of Antidumping Duty and Countervailing Duty New Shipper Reviews*, 75 FR 10758 (March 9, 2010). This new shipper review covers one producer and exporter of the subject merchandise to the United States: SRF Limited. The preliminary results of this review are currently due no later than August 29, 2010. *See Notice of Clarification: Application of* "*Next Business Day*" *Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

**Extension of Time Limit for the Preliminary Results**

Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the Act), and section 351.214(i)(1) of the Department's regulations require the Department to issue the preliminary results of a review within 180 days after the date on which the new shipper review was initiated, and final results of the review within 90 days after the date on which the preliminary results were issued. However, if the Department concludes that a new shipper review is extraordinarily complicated, section 751(a)(2)(B)(iv) of the Act and section 351.214(i)(2) of the Department's regulations allow the Department to extend the 180-day period to 300 days, and to extend the 90-day period to 150 days. The Department determines that this new shipper review involves extraordinarily complicated methodological issues, including the examination of importer and customer information. Additional time is also required to ensure that the Department can include SRF's supplemental questionnaire response in its examination of the *bona fides* of SRF's sale.

Therefore, the Department is extending the deadline for completion of the preliminary results of this new shipper review by a total of 54 days, in accordance with section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2). Accordingly, the deadline for the completion of these preliminary results is now no later than October 22, 2010.

This notice is issued and published pursuant to sections 751(a)(2)(B)(iv) and 777(i)(1) of the Act.

Dated: August 18, 2010.

**Edward C. Yang,**

*Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2010–21421 Filed 8–26–10; 8:45 am]

**BILLING CODE 3510–DS–S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[C–533–825]**

### Polyethylene Terephthalate Film, Sheet and Strip From India: Extension of Time Limit for Preliminary Results of Countervailing Duty New Shipper Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** August 27, 2010.

**FOR FURTHER INFORMATION CONTACT:** Elfi Blum, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0197.

**SUPPLEMENTARY INFORMATION:**

**Background**

On March 9, 2010, the Department of Commerce (the Department) published the initiation of the new shipper review of the countervailing duty order on polyethylene terephthalate film, sheet and strip from India for the period January 1, 2009 through December 31, 2009. *See Polyethylene Terephthalate Film, Sheet and Strip from India: Initiation of Antidumping Duty and*

*Countervailing Duty New Shipper Reviews*, 75 FR 10758 (March 9, 2010). This new shipper review covers one producer and exporter of the subject merchandise to the United States: SRF Limited. The preliminary results of this review are currently due no later than the first business day after August 29, 2010. *See Notice of Clarification: Application of* "*Next Business Day*" *Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

**Extension of Time Limit for the Preliminary Results**

Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the Act), and section 351.214(i)(1) of the Department's regulations require the Department to issue the preliminary results of a review within 180 days after the date on which the new shipper review was initiated, and final results of the review within 90 days after the date on which the preliminary results were issued. However, if the Department concludes that a new shipper review is extraordinarily complicated, section 751(a)(2)(B)(iv) of the Act and section 351.214(i)(2) of the Department's regulations allow the Department to extend the 180-day period to 300 days, and to extend the 90-day period to 150 days. This review is extraordinarily complicated because the Department is analyzing certain programs not previously examined and evaluated in this proceeding. Therefore, the Department is extending the deadline for completion of the preliminary results of this new shipper review by a total of 85 days. Further, the Department intends to conduct a verification of the information SRF provided on the record. Accordingly, the deadline for the completion of these preliminary results is now no later than November 22, 2010.

This notice is issued and published pursuant to sections 751(a)(2)(B)(iv) and 777(i)(1) of the Act.

Dated: August 18, 2010.

**Edward C. Yang,**

*Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2010–21404 Filed 8–26–10; 8:45 am]

**BILLING CODE 3510–DS–S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–533–840]**

### Certain Frozen Warmwater Shrimp From India: Final Results of Antidumping Duty Changed Circumstances Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**DATES:** *Effective Date:* August 27, 2010.

**SUMMARY:** On July 28, 2010, the Department of Commerce (the Department) published a notice of preliminary results of changed circumstances review of the antidumping duty order on certain frozen warmwater shrimp (shrimp) from India. *See Certain Frozen Warmwater Shrimp From India: Final Results of Antidumping Duty Changed Circumstances Review,* 75 FR 44229 (July 28, 2010) (*Preliminary Results*). In that notice, we preliminarily determined that Srikanth International (Srikanth) is the successor-in-interest to NGR Aqua International (NGR) for purposes of determining antidumping liability. No interested party submitted comments on, or requested a public hearing to discuss, the *Preliminary Results.* Therefore, for these final results, the Department continues to find that Srikanth is the successor-in-interest to NGR.

**FOR FURTHER INFORMATION CONTACT:** Blaine Wiltse; AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–6345.

**SUPPLEMENTARY INFORMATION:**

**Background**

On February 3, 2010, Srikanth requested that the Department conduct an expedited changed circumstances review under 19 CFR 351.221(c)(3)(iii) to determine whether it is the successor-in-interest to NGR for purposes of determining antidumping liability. On April 1, 2010, the Department initiated a changed circumstances review but did not expedite the review, as requested by Srikanth, because questions remained regarding the completeness of the factual statements forming the basis of Srikanth's changed circumstances review request. *See Certain Frozen Warmwater Shrimp From India: Initiation of Antidumping Duty Changed Circumstances Review,* 75 FR 16436 (Apr. 1, 2010).

On April 19 and June 3, 2010, we requested further information and documentation from Srikanth to substantiate its claim to be the successor-in-interest to NGR. Srikanth submitted this information on May 6 and June 17, 2010, respectively. On July 28, 2010, the Department preliminarily determined that Srikanth is the successor-in-interest to NGR for purposes of determining antidumping liability. *See Preliminary Results,* 75 FR at 44230. In the *Preliminary Results,* we provided all interested parties with an opportunity to comment or request a public hearing regarding our finding that Srikanth is the successor-in-interest to NGR. We received no comments or requests for a public hearing from interested parties within the time period set forth in the *Preliminary Results.*

**Scope of the Order**

The scope of this order includes certain frozen warmwater shrimp and prawns, whether wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,[1] deveined or not deveined, cooked or raw, or otherwise processed in frozen form.

The frozen warmwater shrimp and prawn products included in the scope of this order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count size. The products described above may be processed from any species of warmwater shrimp and prawns. Warmwater shrimp and prawns are generally classified in, but are not limited to, the *Penaeidae* family. Some examples of the farmed and wild-caught warmwater species include, but are not limited to, whiteleg shrimp (*Penaeus vannemei*), banana prawn (*Penaeus merguiensis*), fleshy prawn (*Penaeus chinensis*), giant river prawn (*Macrobrachium rosenbergii*), giant tiger prawn (*Penaeus monodon*), redspotted shrimp (*Penaeus brasiliensis*), southern brown shrimp (*Penaeus subtilis*), southern pink shrimp (*Penaeus notialis*), southern rough shrimp (*Trachypenaeus curvirostris*), southern white shrimp (*Penaeus schmitti*), blue shrimp (*Penaeus stylirostris*), western white shrimp (*Penaeus occidentalis*), and Indian white prawn (*Penaeus indicus*).

Frozen shrimp and prawns that are packed with marinade, spices or sauce

[1] "Tails" in this context means the tail fan, which includes the telson and the uropods.

are included in the scope of this order. In addition, food preparations, which are not "prepared meals," that contain more than 20 percent by weight of shrimp or prawn are also included in the scope of this order.

Excluded from the scope are: (1) Breaded shrimp and prawns (HTSUS subheading 1605.20.10.20); (2) shrimp and prawns generally classified in the *Pandalidae* family and commonly referred to as coldwater shrimp, in any state of processing; (3) fresh shrimp and prawns whether shell-on or peeled (HTSUS subheadings 0306.23.00.20 and 0306.23.00.40); (4) shrimp and prawns in prepared meals (HTSUS subheading 1605.20.05.10); (5) dried shrimp and prawns; (6) canned warmwater shrimp and prawns (HTSUS subheading 1605.20.10.40); (7) certain dusted shrimp; and (8) certain battered shrimp. Dusted shrimp is a shrimp-based product: (1) That is produced from fresh (or thawed-from-frozen) and peeled shrimp; (2) to which a "dusting" layer of rice or wheat flour of at least 95 percent purity has been applied; (3) with the entire surface of the shrimp flesh thoroughly and evenly coated with the flour; (4) with the non-shrimp content of the end product constituting between four and 10 percent of the product's total weight after being dusted, but prior to being frozen; and (5) that is subjected to IQF freezing immediately after application of the dusting layer. Battered shrimp is a shrimp-based product that, when dusted in accordance with the definition of dusting above, is coated with a wet viscous layer containing egg and/or milk, and par-fried.

The products covered by this order are currently classified under the following HTSUS subheadings: 0306.13.00.03, 0306.13.00.06, 0306.13.00.09, 0306.13.00.12, 0306.13.00.15, 0306.13.00.18, 0306.13.00.21, 0306.13.00.24, 0306.13.00.27, 0306.13.00.40, 1605.20.10.10, and 1605.20.10.30. These HTSUS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written description of the scope of this order is dispositive.

**Final Results of Changed Circumstances Review**

For the reasons stated in the *Preliminary Results,* and because we received no comments from interested parties to the contrary, the Department continues to find that Srikanth is the successor-in-interest to NGR. As a result of this determination, we find that Srikanth should receive the cash deposit rate previously assigned to NGR in the most recently completed review of the antidumping duty order on shrimp from India. *See Certain Frozen Warmwater Shrimp From India: Final Results of Antidumping Duty Administrative Review, Partial Rescission of Review, and Notice of Revocation of Order in Part,* 75 FR 41813, 41816 (Jul. 19, 2010). Consequently, the Department will instruct U.S. Customs and Border Protection to suspend liquidation of all shipments of subject merchandise produced and exported by Srikanth and entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice in the **Federal Register** at 2.67 percent, which is the current cash deposit rate for NGR. *See, e.g., Final Results of Antidumping Duty Changed Circumstances Review: Certain Circular Welded Non-Alloy Steel Pipe and Tube From Mexico,* 74 FR 41681, 41682 (Aug., 18, 2009). This cash deposit requirement shall remain in effect until further notice.

We are issuing this determination and publishing these final results and notice in accordance with sections 751(b)(1) and 777(i)(1) and (2) of the Tariff Act of 1930, as amended, and 19 CFR 351.216 and 351.221(c)(3).

Dated: August 23, 2010.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. 2010–21418 Filed 8–26–10; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XY52**

### South Atlantic Fishery Management Council; Public Meetings

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of public meetings.

**SUMMARY:** The South Atlantic Fishery Management Council will hold a meeting of its Spiny Lobster Committee, King and Spanish Mackerel Committee, Personnel Committee (Closed Session), Ecosystem-Based Management Committee, Law Enforcement Committee, Joint Executive and Finance Committees, Southeast Data, Assessment, and Review (SEDAR) Committee, Snapper Grouper Committee, Advisory Panel Selection Committee (Closed Session), Golden Crab Committee, Standard Operating, Policy and Procedures (SOPPs) Committee and a meeting of the Full Council. The Council will take action as necessary.

The Council will also hold an informal public question and answer session, and a public comment session regarding agenda items. As part of the meeting, newly appointed Council members will take the Oath of Office. See **SUPPLEMENTARY INFORMATION** for additional details.

**DATES:** The meeting will be held September 13–17, 2010. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

**ADDRESSES:** The meeting will be held at the Charleston Marriott Hotel, 170 Lockwood Boulevard, Charleston, SC 29403; Telephone: 1–800/968–3569 or 843/723–3000; Fax 843–266–1479. Copies of documents are available from Kim Iverson, Public Information Officer, South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

**FOR FURTHER INFORMATION CONTACT:** Kim Iverson, Public Information Officer; telephone: 843/571–4366 or toll free at 866/SAFMC–10; fax: 843/769–4520; email: *kim.iverson@safmc.net*.

**SUPPLEMENTARY INFORMATION:**

**Meeting Dates**

*New Council member Oath of Office: September 13, 2010, 1:30 p.m. until 1:45 p.m.*

NOAA Fisheries' Regional Administrator will administer the Oath of Office to new members appointed to the Council by the Secretary of Commerce.

*Spiny Lobster Committee: September 13, 2010, 1:45 p.m. until 3:30 p.m.*

The Spiny Lobster Committee will continue to review actions for Amendment 10 to the joint Fishery Management Plan (FMP) for Spiny Lobster for Gulf of Mexico and South Atlantic. Amendment 10 will address the requirements of the Reauthorized Magnuson-Stevens Fishery Conservation and Management Act (MSA) including establishment of Annual Catch Limits (ACLs) and Accountability Measures (AMs). The Committee will review draft Spiny Lobster Amendment 10 and the Draft Environmental Impact Statement (DEIS) and provide direction to staff.

*King and Spanish Mackerel Committee Meeting: September 13, 2010, 3:30 p.m. until 5:30 p.m.*

The Mackerel Committee will continue to review actions for draft Amendment 18 to the FMP for Coastal Migratory Pelagic Resources for the Gulf

of Mexico and South Atlantic Region. Amendment 18 addresses requirements of the MSA to set ACLs and AMs for species managed in the FMP. The Committee will review the draft amendment and Environmental Assessment and provide direction to staff.

*Personnel Committee Meeting (CLOSED SESSION): September 13, 2010, 5:30 p.m. until 6 p.m.*

The personnel committee will meet in closed session to discuss the current status of staff positions and review the Executive Director's recommendations.

*Ecosystem-Based Management Committee Meeting: September 14, 2010, 8:30 a.m. until 10:30 a.m.*

The Ecosystem-Based Management Committee will receive an overview of the actions and alternatives currently in draft Comprehensive Ecosystem-Based Amendment 2, and the Comprehensive ACL Amendment, including the recommendations from the Council's Scientific and Statistical Committee (SSC), and provide guidance to staff. The Committee will also discuss invasive species issues, including input from its advisory panels, and provide guidance to staff.

*Law Enforcement Committee Meeting: September 14, 2010, 10:30 a.m. until 12 noon*

The Law Enforcement Committee will review recommendations from its advisory panel relative to law enforcement issues and discuss other issues as appropriate.

*Joint Executive/Finance Committees Meeting: September 14, 2010, 1:30 p.m. until 2:30 p.m.*

The joint Executive/Finance Committees will receive updates on the Calendar Year 2010 budget and additional SEDAR funding, discuss a letter relative to Florida's management of spiny lobster, octocorals, and several reef fish species, and future timeliness of recreational data for management purposes.

*SEDAR Committee Meeting: September 14, 2010, 2:30 p.m. until 4 p.m.*

The SEDAR Committee will develop recommendations for SEDAR participants and approve sea bass update documents, review the Council's research plan, develop recommendations relative to Council stock assessment priorities and other issues for the next SEDAR Steering Committee meeting, and review and provide recommendations regarding a SEDAR participant disclosure form.

*Snapper Grouper Committee Meeting: September 14, 2010, 4 p.m. until 5 p.m., and September 15, 2010, 8:30 a.m. until 5 p.m.*

The Snapper Grouper Committee will receive a report on outreach and research activities associated with the Oculina Bank Experimental Closed Area, a report from the Council's SSC, and a presentation on the analysis of closure alternatives relative to potential changes from the red snapper benchmark assessment. The Committee will provide direction to staff regarding approaches and mechanisms for consideration at the December 2010 Council meeting relative to red snapper.

The Committee will review Amendment 18 to the Snapper Grouper Fishery Management Plan (FMP) and provide recommendations for approval of the amendment for public hearings. Amendment 18 includes actions to extend the range of the snapper grouper management complex northward, modifications to the golden tilefish and black sea bass pot commercial fisheries, and improvements for fisheries statistics.

The Committee will review alternatives for Amendments 20, 24 and Regulatory Amendment 9 to the Snapper Grouper FMP and provide recommendations for staff. Amendment 20 will modify and update the current Individual Transferable Quota (ITQ) program for wreckfish. Amendment 24 addresses requirements under the MSA for red grouper and black grouper, including establishment of ACLs, AMs, and a rebuilding plan for red grouper. Regulatory Amendment 9 includes alternatives to specify trip limits for black sea bass, vermilion snapper, gag, and greater amberjack and to address possible changes for the requirement of sea turtle release gear within the snapper grouper fishery.

The Committee will also review options papers for Amendments 21 and 22, and provide guidance to staff. Amendment 21 addresses alternatives for management of the snapper grouper fishery including: implementation of trip limits, effort and participation reductions, endorsements, catch shares, and regional quotas.

Amendment 22 includes options for long-term management measures for red snapper in the South Atlantic as the stock rebuilds. The Committee will also review management alternatives for the Comprehensive ACL Amendment that will specify ACLs, AMs and other values as mandated in the MSA for species managed by the Council and not subject to overfishing. This includes species in the Snapper Grouper, Coral, Golden Crab, Sargassum, and Dolphin Wahoo fishery management units.

The Committee will also review a letter from the Florida Fish and Wildlife Conservation Commission to Dr. Bob Shipp, Chairman of the Gulf of Mexico Fishery Management Council relative to Florida management and provide guidance to staff.

**NOTE:** There will be an informal public question and answer session with NOAA Fisheries Services' Regional Administrator and the Council Chairman on September 15, 2010 beginning at 5:30 p.m.

*Advisory Panel Selection Committee Meeting: September 16, 2010, 8:30 a.m. until 10 a.m. (CLOSED SESSION)*

The Advisory Panel Selection Committee will review applications for open seats and provide recommendations to Council.

*Golden Crab Committee Meeting: September 16, 2010, 10 a.m. until 11 a.m.*

The Golden Crab Committee will discuss SSC actions relative to the golden crab fishery, review the results of the Golden Crab AP meeting, and receive an update on Amendment 5 to the Golden Crab FMP to implement a catch share program for the fishery.

*SOPPs Committee Meeting: September 16, 2010, 11 a.m. until 12 noon*

The SOPPs Committee will review the Final Rule addressing council SOPPs, develop changes to the SOPPs as necessary, and provide direction to staff.

*Council Session: September 16, 2010, 1:30 p.m. until 5:30 p.m. and September 17, 2010, 8:30 a.m. until 12 noon*

*Council Session: September 16, 2010, 1:30 p.m. until 5:30 p.m.*

From 1:30 p.m. – 2 p.m., the Council will call the meeting to order, adopt the agenda, approve the June 2010 meeting minutes, and elect a Chairman and Vice-Chairman.

**NOTE:** A public comment period on any of the September meeting agenda items will be held on September 16, 2010 beginning at 2 p.m.

From 3 p.m. – 3:45 p.m., the Council will receive a report from the Spiny Lobster Committee and take action as appropriate.

From 3:45 p.m. – 4 p.m., the Council will receive a report from the Mackerel Committee and take action as appropriate.

From 4 p.m. – 4:15 p.m., the Council will receive a report from the Ecosystem-Based Management

Committee and take action as appropriate.

From 4:15 p.m. – 4:30 p.m., the Council will receive a report from the Law Enforcement Committee and take action as appropriate.

From 4:30 p.m. – 5 p.m., the Council will receive a legal briefing (CLOSED SESSION).

*Council Session: September 17, 2010, 8:30 a.m. until 12 noon*

From 8:30 a.m. – 8:45 a.m., the Council will receive a report from the Executive/Finance Committees and take action as appropriate.

From 8:45 a.m. – 9 a.m., the Council will receive a report from the SEDAR Committee and take action as appropriate.

From 9 a.m. – 9:30 a.m., the Council will receive a report from the Snapper Grouper Committee and take action as appropriate.

From 9:30 a.m. – 9:45 a.m., the Council will receive a report from the Advisory Panel Selection Committee and take action as appropriate.

From 9:45 a.m. – 10 a.m., the Council will receive a report from the Golden Crab Committee and take action as appropriate.

From 10 a.m. – 10:15 a.m., the Council will receive a report from the SOPPs Committee and take action as appropriate.

From 10:15 a.m. 12 noon, the Council will receive status reports from NOAA Fisheries' Southeast Regional Office, NOAA Fisheries' Southeast Fisheries Science Center, review Experimental Fishing Permits as necessary, receive agency and liaison reports, and discuss other business including upcoming meetings.

Documents regarding these issues are available from the Council office (see **ADDRESSES**).

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal final Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305 (c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Except for advertised (scheduled) public hearings and public comment, the times and sequence specified on this agenda are subject to change.

**Special Accommodations**

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by September 8, 2010.

August 24, 2010.

**William D. Chappell,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2010–21340 Filed 8–26–10; 8:45 am]

**BILLING CODE 3510–22–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XX08**

### Marine Mammals; File No. 15471

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; issuance of permit.

**SUMMARY:** Notice is hereby given that Michael Adkesson, D.V.M., Chicago Zoological Society, 3300 Golf Rd., Brookfield, IL 60527, has been issued a permit to import specimens from South American fur seals for scientific research.

**ADDRESSES:** The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376; and

Northeast Region, NMFS, 55 Great Republic Drive, Gloucester, MA 01930; phone (978)281–9328; fax (978) 281–9394;

**FOR FURTHER INFORMATION CONTACT:** Laura Morse or Jennifer Skidmore, (301)713–2289.

**SUPPLEMENTARY INFORMATION:** On June 29, 2010, notice was published in the **Federal Register** (75 FR 37389) that a request for a permit to import biological samples taken for scientific research from South American fur seals (*Arctocephalus australis*) had been submitted by the above-named applicant. These samples are part of an ongoing health assessment studies in Punta San Juan, Peru. There will be no non-target species taken incidentally under this permit because the permit would only cover import and possession of samples from animals taken legally under other permits. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: August 23, 2010.

**P. Michael Payne,**

*Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2010–21407 Filed 8–26–10; 8:45 am]

**BILLING CODE 3510–22–S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[C–570–923]**

### Raw Flexible Magnets From the People's Republic of China: Notice of Rescission of Countervailing Duty New Shipper Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** August 27, 2010.

**SUMMARY:** In response to a request from Jingzhou Meihou Flexible Magnet Company, Ltd. (Jingzhou Meihou), the Department of Commerce (the Department) initiated a new shipper review of the countervailing duty (CVD) order on raw flexible magnets from the People's Republic of China (PRC) covering the period January 1, 2009, through February 28, 2010.

The Department has determined that Jingzhou Meihou is not eligible for a CVD new shipper review because of its affiliation with an exporter of subject merchandise to the United States during the CVD period of investigation (POI). As such, we are rescinding this CVD new shipper review with respect to Jingzhou Meihou.

**FOR FURTHER INFORMATION CONTACT:** Kristen Johnson, Antidumping and Countervailing Duty Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Room 4014, Washington, DC 20230, telephone: (202) 482–4793.

**SUPPLEMENTARY INFORMATION:**

**Background**

The CVD order on raw flexible magnets from the PRC was published on September 17, 2008. *See Raw Flexible*

*Magnets From the People's Republic of China: Countervailing Duty Order*, 73 FR 53849 (September 17, 2008). On March 29, 2010, pursuant to section 751(a)(2)(B)(i) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214(c), the Department received a timely request for a new shipper review from Jingzhou Meihou. On April 22, 2010, the Department found that the request for review with respect to Jinzhou Meihou met all of the regulatory requirements set forth in 19 CFR 351.214(b) and initiated a CVD new shipper review. S*ee Raw Flexible Magnets from the People's Republic of China: Initiation of Countervailing Duty New Shipper Review*, 75 FR 22741 (April 30, 2010).[1]

On May 5, 2010, we issued a CVD questionnaire to Jingzhou Meihou and received the company's response on June 21, 2010.[2] On June 28, 2010, Magnum Magnetics Corporation, the petitioner, submitted to the Department comments on Jinzhou Meihou's questionnaire response.[3] In its submission, petitioner argued that Jingzhou Meihou is not eligible for a new shipper review on the basis that there is a familial affiliation between it and Dongguan Maghard Flexible Magnet Co., Ltd. (Dongguan Maghard), a company that exported subject merchandise to the United States during the CVD POI, which was January 1, 2006, through December 31, 2006.

On July 30, 2010, we issued a memorandum detailing our analysis of the affiliation issue. See Memorandum to Edward C. Yang, Acting Deputy Assistant Secretary, for Antidumping and Countervailing Duty Operations, from Melissa G. Skinner, Director, Operations, Office 3, regarding "Jingzhou Meihou's Eligibility for a New Shipper," (July 30, 2010) (Affiliation Memorandum). We found that Jinzhou Meihou and Dongguan Maghard are affiliated companies on the basis of a familial connection. We also found that Dongguan Maghard was an exporter of subject merchandise to the United States during the CVD POI. We, therefore, determined that Jingzhou Meihou is not eligible for a CVD new shipper review. We provided interested parties the opportunity to submit comments on the Affiliation Memorandum. On August 6, 2010, Jingzhou Meihou submitted a letter to the Department expressing disagreement with the Department's decision regarding affiliation.[4] Jinzhou Meihou, however, stated that it would respect the Department's decision that the CVD new shipper review be rescinded.[5] Petitioner did not submit any comments on the Affiliation Memorandum to the Department. As such, we are rescinding the CVD new shipper review with respect to Jinzhou Meihou and are not calculating a company–specific rate for the company.

### Notification Regarding Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is published in accordance with section 777(i) of the Act and 19 CFR 351.214(f)(3).

Dated: August 23, 2010.

**Edward C. Yang,**

*Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2010–21412 Filed 8–26–10; 8:45 am]

**BILLING CODE 3510–DS–S**

[1] The Department also initiated an antidumping duty new shipper review wit*h respect to Jingzhou Meihou*. See Raw Flexible Magnets from the People's Republic of China: Initiation of Countervailing Duty New Shipper Review, 75 FR 22740 (April 30, 2010).

[2] *See* Department's Questionnaire addressed to Frost Brown Todd, counsel to Jingzhou Meihou, regarding "New Shipper Review: Raw Flexible Magnets from the People's Republic of China (May 5, 2010) and Jingzhou Meihou's Response to CVD Questionnaire (June 21, 2010).

[3] *See* Petitioner's "Rebuttal to Jingzhou Meihou Comments" submission (June 28, 2010).

[4] *See* Letter from Frost Brown Todd regarding "Jingzhou Meihou's Eligibility for a New Shipper Review" (August 6, 2010).

[5] *Id.*

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XY02**

### Taking and Importing of Marine Mammals

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; affirmative finding.

**SUMMARY:** The Assistant Administrator for Fisheries, NMFS, (Assistant Administrator) has granted a request for an affirmative finding to the Government of Spain under the Marine Mammal Protection Act (MMPA). This affirmative finding will allow yellowfin tuna harvested in the eastern tropical Pacific Ocean (ETP) in compliance with the International Dolphin Conservation Program (IDCP) by Spanish flag purse seine vessels or purse seine vessels operating under Spanish jurisdiction to be imported into the United States. The affirmative finding was based on review of documentary evidence submitted by the Government of Spain and obtained from the Inter-American Tropical Tuna Commission (IATTC) and the U.S. Department of State.

**DATES:** The affirmative finding is effective from April 1, 2010, through March 31, 2015, subject to annual review by NMFS.

**FOR FURTHER INFORMATION CONTACT:** Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213; 562–980–4000; (fax) 562–980–4018.

**SUPPLEMENTARY INFORMATION:** The MMPA, 16 U.S.C. 1361 *et seq.*, allows the entry into the United States of yellowfin tuna harvested by purse seine vessels in the ETP under certain conditions. If requested by the harvesting nation, the Assistant Administrator will determine whether to make an affirmative finding based upon documentary evidence provided by the government of the harvesting nation, the IATTC, or the Department of State.

The affirmative finding process requires that the harvesting nation is meeting its obligations under the IDCP and obligations of membership in the IATTC. Every 5 years, the government of the harvesting nation must request an affirmative finding and submit the required documentary evidence directly to the Assistant Administrator. On an annual basis, NMFS will review the affirmative finding and determine whether the harvesting nation continues to meet the requirements. A nation may provide information related to compliance with IDCP and IATTC measures directly to NMFS on an annual basis or may authorize the IATTC to release the information to NMFS to annually renew an affirmative finding determination without an application from the harvesting nation.

An affirmative finding will be terminated, in consultation with the Secretary of State, if the Assistant Administrator determines that the requirements of 50 CFR 216.24(f) are no longer being met or that a nation is

consistently failing to take enforcement actions on violations, thereby diminishing the effectiveness of the IDCP.

As a part of the affirmative finding process set forth in 50 CFR 216.24(f), the Assistant Administrator considered documentary evidence submitted by the Government of Spain and obtained from the IATTC and the Department of State and has determined that Spain has met the MMPA's requirements to receive an affirmative finding.

After consultation with the Department of State, the Assistant Administrator issued an affirmative finding to Spain, allowing the continued importation into the United States of yellowfin tuna and products derived from yellowfin tuna harvested in the ETP by Spanish-flag purse seine vessels or purse seine vessels operating under Spanish jurisdiction. Spain's affirmative finding will remain valid through March 31, 2015, subject to subsequent annual reviews by NMFS.

Dated: August 20, 2010.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

[FR Doc. 2010–21409 Filed 8–26–10; 8:45 am]

**BILLING CODE S**

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List Addition

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Addition to the Procurement List.

**SUMMARY:** This action adds a service to the Procurement List that will be provided by a nonprofit agency employing persons who are blind or have other severe disabilities.

**DATES:** *Effective Date:* 9/23/2010.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington Virginia, 22202–3259.

**FOR FURTHER INFORMATION CONTACT:** Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@AbilityOne.gov.*

**SUPPLEMENTARY INFORMATION:**

### Addition

On 7/9/2010 (75 FR 39497–39499), the Committee for Purchase From People Who Are Blind or Severely Disabled published a notice of proposed addition to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agency to provide a service and impact of the addition on the current or most recent contractors, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

### Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will provide the service to the Government.

2. The action will result in authorizing small entities to provide the service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List.

*End of Certification*

Accordingly, the following service is added to the Procurement List:

*Service*

*Service Type/Location:* Operations and Maintenance Service, Federal Aviation Administration, William J. Hughes Technical Center (Center-wide), Atlantic City International Airport, NJ.

*NPA:* Fedcap Rehabilitation Services, Inc., New York, NY.

*Contracting Activity:* Dept of Transportation, Federal Aviation Administration, Atlantic City Airport, NJ.

**Barry S. Lineback,**

*Director, Business Operations.*

[FR Doc. 2010–21378 Filed 8–26–10; 8:45 am]

**BILLING CODE 6353–01–P**

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List; Proposed Addition and Deletion

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Proposed addition to and deletion from the Procurement List.

**SUMMARY:** The Committee is proposing to add a service to the Procurement List that will be provided by nonprofit agency employing persons who are blind or have other severe disabilities and deletes a product previously furnished by such agency.

*Comments Must Be Received on or Before:* 9/27/2010.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

**FOR FURTHER INFORMATION CONTACT:** *For Further Information or To Submit Comments Contact:* Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@AbilityOne.gov*.

**SUPPLEMENTARY INFORMATION:** This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

### Addition

If the Committee approves the proposed addition, the entities of the Federal Government identified in this notice will be required to provide the service listed below from a nonprofit agency employing persons who are blind or have other severe disabilities.

### Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will provide a service to the government.

2. If approved, the action will result in authorizing small entities to provide a service to the government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

### End of Certification

The following service is proposed for addition to Procurement List for

production by the nonprofit agency listed:

**Service**

*Service Type/Location:* Property Management, Armed Forces Retirement Home-Gulfport, 1800 Beach Drive, Gulfport, MS.
*NPA:* AbilityWorks, Inc. of Harrison County, Gulfport, MS.
*Contracting Activity:* DEPARTMENT OF THE TREASURY, BUREAU OF THE PUBLIC DEBT, BPD/PSD3/ONDCP, PARKERSBURG, WV.

**Deletion**

*Regulatory Flexibility Act Certification*

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. If approved, the action may result in authorizing small entities to furnish a product to the government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the product proposed for deletion from the Procurement List.

**End of Certification**

The following product is proposed for deletion from the Procurement List:

*Product*

*NSN:* 7530–00–082–2663—Label, Pressure-Sensitive Adhesive.
*NPA:* North Central Sight Services, Inc., Williamsport, PA.
*Contracting Activity:* GSA/FSS OFC SUP CTR—PAPER PRODUCTS, NEW YORK, NY.

**Barry S. Lineback,**

*Director, Business Operations.*

[FR Doc. 2010–21379 Filed 8–26–10; 8:45 am]

**BILLING CODE 6353–01–P**

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List Additions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Additions to the Procurement List.

**SUMMARY:** This action adds products and services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

**DATES:** *Effective Date:* September 27, 2010.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

**FOR FURTHER INFORMATION CONTACT:** Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@AbilityOne.gov.*

**SUPPLEMENTARY INFORMATION:**

**Additions**

On 10/23/2009 (74 FR 54783–54784); 6/18/2010 (75 FR 34701–34702); 6/25/2010 (75 FR 36363–36371); and 7/9/2010 (75 FR 39497–39499), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and services and impact of the additions on the current or most recent contractors, the Committee has determined that the products and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

*Regulatory Flexibility Act Certification*

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. The action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services proposed for addition to the Procurement List.

*End of Certification*

Accordingly, the following products and services are added to the Procurement List:

**Products**

NSN: 7510–01–386–1609—Pen, Correction
NSN: 7520–01–207–4167—Markers, Paint, Oil Based, Med Pt, Asst Color 6/ST
NSN: 7520–01–207–4168—Marker, Paint, Oil Based, Med Pt, Asst Color 12/ST
NSN: 7520–01–207–4159—Marker, Paint, Oil Based, Fine Pt, White, 1 DZ
NSN: 7520–00–NIB–2075—Markers, Paint, Oil Based, Med Pt, White 6/PG
NSN: 7520–00–NIB–2076—Markers, Paint, Med Pt, Oil Based, Yellow 6/PG
NSN: 7520–00–NIB–2078—Markers, Paint, Med Pt, Oil Based, Rubber Grip, Green
NSN: 7520–00–NIB–2079—Markers, Paint, Med Pt, Oil Based, Black
Coverage: A-List for the Total Government Requirement as aggregated by the General Services Administration.
NSN: 7520–00–NIB–2077—Markers, Paint, Oil Based, Med Pt, Rubber Grip, Blue
NSN: 7520–00–NIB–2080—Markers, Paint, Med Pt, Oil Based, Red, 6/PG
Coverage: B-List for the Broad Government Requirement as aggregated by the General Services Administration.
NPA: Alphapointe Association for the Blind, Kansas City, MO.
Contracting Activity: GSA/Federal Acquisition Service, New York, NY.
NSN: 7920–00–NIB–0508—WetTask Wiping System—Bucket
NSN: 7920–00–NIB–0510—WetTask Wiping System—Canister
NPA: East Texas Lighthouse for the Blind, Tyler, TX
Contracting Activity: Department of Veterans Affairs, National Acquisition Center, Hines, IL
Coverage: C-List for 100% of the requirement of the Department of Veterans Affairs as aggregated by the Department of Veterans Affairs National Acquisition Center, Hines, IL.
NSN: 8540–00–NIB–0053—Hard Roll Paper Towel, Non-Perforated, 1-ply, 8″ x 600′ rolls, white
NSN: 8540–00–NIB–0054—Hard Roll Paper Towel, Non-Perforated, 1-ply, 8″ x 600′ rolls, natural
NSN: 8540–00–NIB–0055—Hard Roll Paper Towel, Non-Perforated, 1-ply, 8″ x 800′ rolls, white
NSN: 8540–00–NIB–0056—Hard Roll Paper Towel, Non-Perforated, 1-ply, 8″ x 800′ rolls, natural
NSN: 8540–00–NIB–0057—Hard Roll Paper Towel, Non-Perforated, 1-ply, 8″ x 350′ rolls, white
NSN: 8540–00–NIB–0061—Jumbo Roll Toilet Tissue, 1 ply, 3.7″ x 2000′
NSN: 8540–00–NIB–0063—Jumbo Roll Toilet Tissue, 2 ply, 3.7″ x 1000′
NSN: 8540–00–NIB–0007—Jumbo Roll Toilet Tissue, 2 ply, 3.7″ x 2000′, 12″ dia. roll
NSN: 8540–00–NIB–0064—Center-Pull Paper Towel, 2-ply, Perforated, 8.25 ″ x 12 ″ sheets, 600, white
NPA: Outlook-Nebraska, Incorporated, Omaha, NE
Contracting Activity: GSA/Federal Acquisition Service, New York, NY.
Coverage: A-List for the Total Government Requirement as aggregated by the General Services Administration.
NSN: MR 549—Sponge, Pop-Up, Small
NPA: Mississippi Industries for the Blind, Jackson, MS
Contracting Activity: Military Resale-Defense Commissary Agency, Fort Lee, VA
Coverage: C-List for the requirement of

military commissaries and exchanges as aggregated by the Defense Commissary Agency.
NSN: 8415–01–579–8677—Multi-Cam Trouser
NSN: 8415–01–579–8714—Multi-Cam Trouser
NSN: 8415–01–579–8719—Multi-Cam Trouser
NSN: 8415–01–579–8744—Multi-Cam Trouser
NSN: 8415–01–579–8766—Multi-Cam Trouser
NSN: 8415–01–579–8385—Multi-Cam Trouser
NSN: 8415–01–579–8551—Multi-Cam Trouser
NSN: 8415–01–579–8553—Multi-Cam Trouser
NSN: 8415–01–579–8558—Multi-Cam Trouser
NSN: 8415–01–579–8561—Multi-Cam Trouser
NSN: 8415–01–579–8570—Multi-Cam Trouser
NSN: 8415–01–579–8580—Multi-Cam Trouser
NSN: 8415–01–579–8684—Multi-Cam Trouser
NSN: 8415–01–579–8227—Multi-Cam Trouser
NSN: 8415–01–579–8263—Multi-Cam Trouser
NSN: 8415–01–579–8276—Multi-Cam Trouser
NSN: 8415–01–579–8354—Multi-Cam Trouser
NSN: 8415–01–579–8365—Multi-Cam Trouser
NSN: 8415–01–579–8788—Multi-Cam Trouser
NSN: 8415–01–579–8791—Multi-Cam Trouser
NSN: 8415–01–579–8771—Multi-Cam Trouser
NSN: 8415–01–579–9123—Multi-Cam Trouser
NSN: 8415–01–579–9119—Multi-Cam Trouser
NSN: 8415–01–579–8080—Multi-Cam Trouser
NSN: 8415–01–579–8098—Multi-Cam Trouser
NSN: 8415–01–579–8112—Multi-Cam Trouser
NSN: 8415–01–579–8126—Multi-Cam Trouser
NSN: 8415–01–582–4206—Multi-Cam Trouser
NSN: 8415–01–579–7850—Multi-Cam Trouser
NSN: 8415–01–579–9121—Multi-Cam Trouser
NSN: 8415–01–579–9130—Multi-Cam Trouser
NSN: 8415–01–579–9132—Multi-Cam Trouser
NSN: 8415–01–579–8591—Multi-Cam Trouser
NSN: 8415–01–579–8776—Multi-Cam Trouser
NSN: 8415–01–579–9120—Multi-Cam Trouser
NSN: 8415–01–579–8784—Multi-Cam Trouser
NPAs: ReadyOne Industries, Inc., El Paso, TX
Goodwill Industries of South Florida, Inc., Miami, FL
Contracting Activity: Department of the Army Research, Development, & Engineering Command, Natick, MA.
Coverage: C–List for 50% of the requirement of the U.S. Army, as aggregated by the Department of the Army Research, Development, & Engineering Command, Natick, MA.

*Kit, Pre-Cut Fabric*

NSN: 8405–00–FAB–0201—Man's, S/S, Air Force Shade 1550, Size 13½
NSN: 8405–00–FAB–0202—Man's, S/S, Air Force Shade 1550, Size 14
NSN: 8405–00–FAB–0203—Man's, S/S, Air Force Shade 1550, Size 14 ½
NSN: 8405–00–FAB–0204—Man's, S/S, Air Force Shade 1550, Size 15
NSN: 8405–00–FAB–0212—Man's, S/S, Air Force Shade 1550, Size 15 ½
NSN: 8405–00–FAB–0252—Man's, S/S, Air Force Shade 1550, Size 16
NSN: 8405–00–FAB–0253—Man's, S/S, Air Force Shade 1550, Size 16 ½
NSN: 8405–00–FAB–0254—Man's, S/S, Air Force Shade 1550, Size 17
NSN: 8405–00–FAB–0255—Man's, S/S, Air Force Shade 1550, Size 17 ½
NSN: 8405–00–FAB–0256—Man's, S/S, Air Force Shade 1550, Size 18
NSN: 8405–00–FAB–0257—Man's, S/S, Air Force Shade 1550, Size 18 ½
NSN: 8405–00–FAB–0258—Man's, S/S, Air Force Shade 1550, Size 19
NSN: 8405–00–FAB–0278—Man's, S/S, Air Force Shade 1550, Size 20
NSN: 8410–00–FAB–8362—Woman's, S/S, Air Force Shade 1550, Size 2
NSN: 8410–00–FAB–8361—Woman's, S/S, Air Force Shade 1550, Size 4
NSN: 8410–00–FAB–8360—Woman's, S/S, Air Force Shade 1550, Size 6
NSN: 8410–00–FAB–8359—Woman's, S/S, Air Force Shade 1550, Size 8
NSN: 8410–00–FAB–8358—Woman's, S/S, Air Force Shade 1550, Size 10
NSN: 8410–00–FAB–8357—Woman's, S/S, Air Force Shade 1550, Size 12
NSN: 8410–00–FAB–8356—Woman's, S/S, Air Force Shade 1550, Size 14
NSN: 8410–00–FAB–8355—Woman's, S/S, Air Force Shade 1550, Size 16
NSN: 8410–00–FAB–8354—Woman's, S/S, Air Force Shade 1550, Size 18
NSN: 8410–00–FAB–8353—Woman's, S/S, Air Force Shade 1550, Size 20
NSN: 8410–00–FAB–8395—Women's, L/S, Air Force Shade 1550, Size 4S
NSN: 8410–00–FAB–8396—Women's, L/S, Air Force Shade 1550, Size 4R
NSN: 8410–00–FAB–8398—Women's, L/S, Air Force Shade 1550, Size 6S
NSN: 8410–00–FAB–8399—Women's, L/S, Air Force Shade 1550, Size 6R
NSN: 8410–00–FAB–8409—Women's, L/S, Air Force Shade 1550, Size 6L
NSN: 8410–00–FAB–8411—Women's, L/S, Air Force Shade 1550, Size 8R
NSN: 8410–00–FAB–8412—Women's, L/S, Air Force Shade 1550, Size 8L
NSN: 8410–00–FAB–8413—Women's, L/S, Air Force Shade 1550, Size 10S
NSN: 8410–00–FAB–8414—Women's, L/S, Air Force Shade 1550, Size 10R
NSN: 8410–00–FAB–8415—Women's, L/S, Air Force Shade 1550, Size 10L
NSN: 8410–00–FAB–8416—Women's, L/S, Air Force Shade 1550, Size 12S
NSN: 8410–00–FAB–8417—Women's, L/S, Air Force Shade 1550, Size 12R
NSN: 8410–00–FAB–8418—Women's, L/S, Air Force Shade 1550, Size 12L
NSN: 8410–00–FAB–8420—Women's, L/S, Air Force Shade 1550, Size 14R
NSN: 8410–00–FAB–8421—Women's, L/S, Air Force Shade 1550, Size 14L
NSN: 8410–00–FAB–8423—Women's, L/S, Air Force Shade 1550, Size 16R
NSN: 8410–00–FAB–8424—Women's, L/S, Air Force Shade 1550, Size 16L
NSN: 8410–00–FAB–8426—Women's, L/S, Air Force Shade 1550, Size 18R
**NPA: Raleigh Lions Clinic for the Blind, Inc., Raleigh, NC**
NSN: 8405–00–COV–4602—Coveralls, Utility, US Navy, Blue, 34–XS
NSN: 8405–00–COV–4607—Coveralls, Utility, US Navy, Blue, 36–XS
NSN: 8405–00–COV–3482—Coveralls, Utility, US Navy, Blue, 36–S
NSN: 8405–00–COV–3483—Coveralls, Utility, US Navy, Blue, 36–R
NSN: 8405–00–COV–4609—Coveralls, Utility, US Navy, Blue, 38–XS
NSN: 8405–00–COV–3484—Coveralls, Utility, US Navy, Blue, 38–S
NSN: 8405–00–COV–3485—Coveralls, Utility, US Navy, Blue, 38–R
NSN: 8405–00–COV–3486—Coveralls, Utility, US Navy, Blue, 38–L
NSN: 8405–00–COV–4625—Coveralls, Utility, US Navy, Blue, 38–XL
NSN: 8405–00–COV–9497—Coveralls, Utility, US Navy, Blue, 40–XS
NSN: 8405–00–COV–3487—Coveralls, Utility, US Navy, Blue, 40–S
NSN: 8405–00–COV–3488—Coveralls, Utility, US Navy, Blue, 40–R
NSN: 8405–00–COV–3489—Coveralls, Utility, US Navy, Blue, 40–L
NSN: 8405–00–COV–4667—Coveralls, Utility, US Navy, Blue, 40–XL
NSN: 8405–00–COV–3490—Coveralls, Utility, US Navy, Blue, 42–S
NSN: 8405–00–COV–3491—Coveralls, Utility, US Navy, Blue, 42–R
NSN: 8405–00–COV–3492—Coveralls, Utility, US Navy, Blue, 42–L
NSN: 8405–00–COV–1553—Coveralls, Utility, US Navy, Blue, 42–XL
NSN: 8405–00–COV–3493—Coveralls, Utility, US Navy, Blue, 44–S
NSN: 8405–00–COV–3494—Coveralls, Utility, US Navy, Blue, 44–R
NSN: 8405–00–COV–5582—Coveralls, Utility, US Navy, Blue, 44–L
NSN: 8405–00–COV–1557—Coveralls, Utility, US Navy, Blue, 44–XL
NSN: 8405–00–COV–0572—Coveralls, Utility, US Navy, Blue, 44–2XL
NSN: 8405–00–COV–3495—Coveralls, Utility, US Navy, Blue, 46–S
NSN: 8405–00–COV–3496—Coveralls, Utility, US Navy, Blue, 46–R
NSN: 8405–00–COV–3497—Coveralls, Utility, US Navy, Blue, 46–L
NSN: 8405–00–COV–1560—Coveralls, Utility, US Navy, Blue, 46–XL
NSN: 8405–00–COV–0647—Coveralls, Utility, US Navy, Blue, 46–2XL

NSN: 8405–00–COV–3498—Coveralls, Utility, US Navy, Blue, 48–R
NSN: 8405–00–COV–3499—Coveralls, Utility, US Navy, Blue, 48–L
NSN: 8405–00–COV–1567—Coveralls, Utility, US Navy, Blue, 48–XL
NSN: 8405–00–COV–0650—Coveralls, Utility, US Navy, Blue, 48–2XL
NSN: 8405–00–COV–0354—Coveralls, Utility, US Navy, Blue, 50–R
NSN: 8405–00–COV–0636—Coveralls, Utility, US Navy, Blue, 50–L
NSN: 8405–00–COV–1569—Coveralls, Utility, US Navy, Blue, 50–XL
NSN: 8405–00–COV–0649—Coveralls, Utility, US Navy, Blue, 50–2XL
NSN: 8405–00–COV–0641—Coveralls, Utility, US Navy, Blue, 52–R
NSN: 8405–00–COV–0639—Coveralls, Utility, US Navy, Blue, 52–L
NSN: 8405–00–COV–1571—Coveralls, Utility, US Navy, Blue, 52–XL
NSN: 8405–00–COV–0651—Coveralls, Utility, US Navy, Blue, 52–2XL
NSN: 8405–00–COV–4670—Coveralls, Utility, US Navy, Blue, 54–L
NSN: 8405–00–COV–4672—Coveralls, Utility, US Navy, Blue, 54–XL
NSN: 8405–00–COV–0652—Coveralls, Utility, US Navy, Blue, 54–2XL
NSN: 8405–00–COV–9127—Coveralls, Utility, US Navy, Blue, 56–R
NSN: 8405–00–COV–4009—Coveralls, Utility, US Navy, Green, 36–S
NSN: 8405–00–COV–4011—Coveralls, Utility, US Navy, Green, 36–R
NSN: 8405–00–COV–4017—Coveralls, Utility, US Navy, Green, 38–S
NSN: 8405–00–COV–4022—Coveralls, Utility, US Navy, Green, 38–R
NSN: 8405–00–COV–4032—Coveralls, Utility, US Navy, Green, 38–L
NSN: 8405–00–COV–4038—Coveralls, Utility, US Navy, Green, 40–S
NSN: 8405–00–COV–4039—Coveralls, Utility, US Navy, Green, 40–R
NSN: 8405–00–COV–4058—Coveralls, Utility, US Navy, Green, 40–L
NSN: 8405–00–COV–4063—Coveralls, Utility, US Navy, Green, 42–S
NSN: 8405–00–COV–4143—Coveralls, Utility, US Navy, Green, 42–R
NSN: 8405–00–COV–4294—Coveralls, Utility, US Navy, Green, 42–L
NSN: 8405–00–COV–4298—Coveralls, Utility, US Navy, Green, 44–S
NSN: 8405–00–COV–4320—Coveralls, Utility, US Navy, Green, 44–R
NSN: 8405–00–COV–4346—Coveralls, Utility, US Navy, Green, 44–L
NSN: 8405–00–COV–4361—Coveralls, Utility, US Navy, Green, 46–S
NSN: 8405–00–COV–4375—Coveralls, Utility, US Navy, Green, 46–R
NSN: 8405–00–COV–4439—Coveralls, Utility, US Navy, Green, 46–L
NSN: 8405–00–COV–4679—Coveralls, Utility, US Navy, Green, 48–R
NSN: 8405–00–COV–4906—Coveralls, Utility, US Navy, Green, 48–L
NSN: 8405–00–COV–4911—Coveralls, Utility, US Navy, Green, 50–R
NSN: 8405–00–COV–4926—Coveralls, Utility, US Navy, Green, 50–L
NSN: 8405–00–COV–4930—Coveralls, Utility, US Navy, Green, 52–R
NSN: 8405–00–COV–4960—Coveralls, Utility, US Navy, Green, 52–L
NSN: 8415–00–FAB–6409—GEN III ECWCS, Trouser, UCamo, XL–XL
NSN: 8415–00–FAB–6410—GEN III ECWCS, Trouser, UCamo, XS–XS
NSN: 8415–00–FAB–6411—GEN III ECWCS, Trouser, UCamo, XS–S
NSN: 8415–00–FAB–6412—GEN III ECWCS, Trouser, UCamo, XS–R
NSN: 8415–00–FAB–6413—GEN III ECWCS, Trouser, UCamo, XS–L
NSN: 8415–00–FAB–6414—GEN III ECWCS, Trouser, UCamo, XS–XL
NSN: 8415–00–FAB–6416—GEN III ECWCS, Trouser, UCamo, S–XS
NSN: 8415–00–FAB–6417—GEN III ECWCS, Trouser, UCamo, S–S
NSN: 8415–00–FAB–6418—GEN III ECWCS, Trouser, UCamo, S–R
NSN: 8415–00–FAB–6419—GEN III ECWCS, Trouser, UCamo, S–L
NSN: 8415–00–FAB–6424—GEN III ECWCS, Trouser, UCamo, S–XL
NSN: 8415–00–FAB–6425—GEN III ECWCS, Trouser, UCamo, M–XS
NSN: 8415–00–FAB–6426—GEN III ECWCS, Trouser, UCamo, M–S
NSN: 8415–00–FAB–6427—GEN III ECWCS, Trouser, UCamo, M–R
NSN: 8415–00–FAB–6428—GEN III ECWCS, Trouser, UCamo, M–L
NSN: 8415–00–FAB–6429—GEN III ECWCS, Trouser, UCamo, M–XL
NSN: 8415–00–FAB–6430—GEN III ECWCS, Trouser, UCamo, L–S
NSN: 8415–00–FAB–6436—GEN III ECWCS, Trouser, UCamo, L–XS
NSN: 8415–00–FAB–6437—GEN III ECWCS, Trouser, UCamo, L–R
NSN: 8415–00–FAB–6441—GEN III ECWCS, Trouser, UCamo, L–L
NSN: 8415–00–FAB–6442—GEN III ECWCS, Trouser, UCamo, L–XL
NSN: 8415–00–FAB–6443—GEN III ECWCS, Trouser, UCamo, XL–XS
NSN: 8415–00–FAB–6445—GEN III ECWCS, Trouser, UCamo, XL–S
NSN: 8415–00–FAB–6446—GEN III ECWCS, Trouser, UCamo, XL–R
NSN: 8415–00–FAB–6448—GEN III ECWCS, Trouser, UCamo, XL–L
NSN: 8415–00–FAB–6529—GEN III ECWCS, Trouser, UCamo, 2XL–2XL
NSN: 8415–00–FAB–6537—GEN III ECWCS, Trouser, UCamo, 2XL–L
NSN: 8415–00–FAB–6536—GEN III ECWCS, Trouser, UCamo, 2XL–R
NSN: 8415–00–FAB–6535—GEN III ECWCS, Trouser, UCamo, 2XL–S
NSN: 8415–00–FAB–6538—GEN III ECWCS, Trouser, UCamo, 2XL–XL
NSN: 8415–00–FAB–6534—GEN III ECWCS, Trouser, UCamo, 2XL–XS
NSN: 8415–00–FAB–6533—GEN III ECWCS, Trouser, UCamo, L–2XL
NSN: 8415–00–FAB–6530—GEN III ECWCS, Trouser, UCamo, M–2XL
NSN: 8415–00–FAB–6532—GEN III ECWCS, Trouser, UCamo, S–2XL
NSN: 8415–00–FAB–6531—GEN III ECWCS, Trouser, UCamo, XL–2XL
NSN: 8415–00–FAB–6528—GEN III ECWCS, Trouser, UCamo, SX–2XL
NSN: 8405–00–NIB–0307—Man's, S/S, Army White, Athletic, 15.5R–A
NSN: 8405–00–NIB–0308—Man's, S/S, Army White, Athletic, 16R–A
NSN: 8405–00–NIB–0309—Man's, S/S, Army White, Athletic, 16L–A
NSN: 8405–00–NIB–0310—Man's, S/S, Army White, Athletic, 16.5R–A
NSN: 8405–00–NIB–0311—Man's, S/S, Army White, Athletic, 16.5L–A
NSN: 8405–00–NIB–0312—Man's, S/S, Army White, Athletic, 17R–A
NSN: 8405–00–NIB–0313—Man's, S/S, Army White, Athletic, 17L–A
NSN: 8405–00–NIB–0314—Man's, S/S, Army White, Athletic, 17.5R–A
NSN: 8405–00–NIB–0315—Man's, S/S, Army White, Athletic, 17.5L–A
NSN: 8405–00–NIB–0316—Man's, S/S, Army White, Athletic, 18R–A
NSN: 8405–00–NIB–0317—Man's, S/S, Army White, Athletic, 18L–A
NSN: 8405–00–NIB–0318—Man's, S/S, Army White, Athletic, 18.5L–A
NSN: 8405–00–NIB–0319—Man's, S/S, Army White, Athletic, 19L–A
NSN: 8405–00–NIB–0320—Man's, S/S, Army White, Classic, 13.5R–C
NSN: 8405–00–NIB–0321—Man's, S/S, Army White, Classic, 14R–C
NSN: 8405–00–NIB–0322—Man's, S/S, Army White, Classic, 14.5R–C
NSN: 8405–00–NIB–0323—Man's, S/S, Army White, Classic, 15R–C
NSN: 8405–00–NIB–0324—Man's, S/S, Army White, Classic, 15.5R–C
NSN: 8405–00–NIB–0325—Man's, S/S, Army White, Classic, 16R–C
NSN: 8405–00–NIB–0326—Man's, S/S, Army White, Classic, 16L–C
NSN: 8405–00–NIB–0327—Man's, S/S, Army White, Classic, 16.5R–C
NSN: 8405–00–NIB–0328—Man's, S/S, Army White, Classic, 16.5L–C
NSN: 8405–00–NIB–0329—Man's, S/S, Army White, Classic, 17R–C
NSN: 8405–00–NIB–0330—Man's, S/S, Army White, Classic, 17L–C
NSN: 8405–00–NIB–0331—Man's, S/S, Army White, Classic, 17.5R–C
NSN: 8405–00–NIB–0332—Man's, S/S, Army White, Classic, 17.5L–C
NSN: 8405–00–NIB–0333—Man's, S/S, Army White, Classic, 18R–C
NSN: 8405–00–NIB–0334—Man's, S/S, Army White, Classic, 18L–C
NSN: 8405–00–NIB–0335—Man's, S/S, Army White, Classic, 18.5R–C
NSN: 8405–00–NIB–0336—Man's, S/S, Army White, Classic, 18.5L–C
NSN: 8405–00–NIB–0337—Man's, S/S, Army White, Classic, 19R–C
NSN: 8405–00–NIB–0338—Man's, S/S, Army White, Classic, 19L–C
NSN: 8405–00–NIB–0339—Man's, L/S, Army White, Athletic, 15.5x32/33–A
NSN: 8405–00–NIB–0340—Man's, L/S, Army White, Athletic, 15.5x34/35–A
NSN: 8405–00–NIB–0341—Man's, L/S, Army White, Athletic, 16x30/31–A
NSN: 8405–00–NIB–0342—Man's, L/S, Army White, Athletic, 16x32/33–A
NSN: 8405–00–NIB–0343—Man's, L/S, Army White, Athletic, 16x34/35–A
NSN: 8405–00–NIB–0344—Man's, L/S, Army White, Athletic, 16.5x32/33–A
NSN: 8405–00–NIB–0345—Man's, L/S, Army White, Athletic, 16.5x34/35–A

NSN: 8405–00–NIB–0346—Man's, L/S, Army White, Athletic, 16.5x36/37–A
NSN: 8405–00–NIB–0347—Man's, L/S, Army White, Athletic, 17x32/33–A
NSN: 8405–00–NIB–0348—Man's, L/S, Army White, Athletic, 17x34/35–A
NSN: 8405–00–NIB–0349—Man's, L/S, Army White, Athletic, 17x36/37–A
NSN: 8405–00–NIB–0350—Man's, L/S, Army White, Athletic, 17x38–A
NSN: 8405–00–NIB–0351—Man's, L/S, Army White, Athletic, 17.5x32/33–A
NSN: 8405–00–NIB–0352—Man's, L/S, Army White, Athletic, 17.5x34/35–A
NSN: 8405–00–NIB–0353—Man's, L/S, Army White, Athletic, 17.5x36/37–A
NSN: 8405–00–NIB–0354—Man's, L/S, Army White, Athletic, 18x32/33–A
NSN: 8405–00–NIB–0355—Man's, L/S, Army White, Athletic, 18x34/35–A
NSN: 8405–00–NIB–0356—Man's, L/S, Army White, Athletic, 18x36/37–A
NSN: 8405–00–NIB–0357—Man's, L/S, Army White, Athletic, 18x38–A
NSN: 8405–00–NIB–0358—Man's, L/S, Army White, Athletic, 18.5x32/33–A
NSN: 8405–00–NIB–0359—Man's, L/S, Army White, Athletic, 18.5x34/35–A
NSN: 8405–00–NIB–0360—Man's, L/S, Army White, Athletic, 18.5x36/37–A
NSN: 8405–00–NIB–0361—Man's, L/S, Army White, Athletic, 18.5x38–A
NSN: 8405–00–NIB–0362—Man's, L/S, Army White, Athletic, 19x34/35–A
NSN: 8405–00–NIB–0363—Man's, L/S, Army White, Athletic, 19x36/37–A
NSN: 8405–00–NIB–0364—Man's, L/S, Army White, Athletic, 19x38–A
NSN: 8405–00–NIB–0365—Man's, L/S, Army White, Athletic, 19.5x34/35–A
NSN: 8405–00–NIB–0366—Man's, L/S, Army White, Athletic, 19.5x36/37–A
NSN: 8405–00–NIB–0367—Man's, L/S, Army White, Athletic, 20x34/35–A
NSN: 8405–00–NIB–0368—Man's, L/S, Army White, Athletic, 20x36/37–A
NSN: 8405–00–NIB–0369—Man's, L/S, Army White, Classic, 13.5x32/33–C
NSN: 8405–00–NIB–0370—Man's, L/S, Army White, Classic, 14x29–C
NSN: 8405–00–NIB–0371—Man's, L/S, Army White, Classic, 14x30/31–C
NSN: 8405–00–NIB–0372—Man's, L/S, Army White, Classic, 14x32/33–C
NSN: 8405–00–NIB–0373—Man's, L/S, Army White, Classic, 14.5x30/31–C
NSN: 8405–00–NIB–0374—Man's, L/S, Army White, Classic, 14.5x32/33–C
NSN: 8405–00–NIB–0375—Man's, L/S, Army White, Classic, 15x29–C
NSN: 8405–00–NIB–0376—Man's, L/S, Army White, Classic, 15x30/31–C
NSN: 8405–00–NIB–0377—Man's, L/S, Army White, Classic, 15x32/33–C
NSN: 8405–00–NIB–0378—Man's, L/S, Army White, Classic, 15x34/35–C
NSN: 8405–00–NIB–0379—Man's, L/S, Army White, Classic, 15.5x30/31–C
NSN: 8405–00–NIB–0380—Man's, L/S, Army White, Classic, 15.5x32/33–C
NSN: 8405–00–NIB–0381—Man's, L/S, Army White, Classic, 15.5x34/35–C
NSN: 8405–00–NIB–0382—Man's, L/S, Army White, Classic, 15.5x36/37–C
NSN: 8405–00–NIB–0383—Man's, L/S, Army White, Classic, 16x29–C
NSN: 8405–00–NIB–0384—Man's, L/S, Army White, Classic, 16x30/31–C
NSN: 8405–00–NIB–0385—Man's, L/S, Army White, Classic, 16x32/33–C
NSN: 8405–00–NIB–0386—Man's, L/S, Army White, Classic, 16x34/35–C
NSN: 8405–00–NIB–0387—Man's, L/S, Army White, Classic, 16x36/37–C
NSN: 8405–00–NIB–0388—Man's, L/S, Army White, Classic, 16x38–C
NSN: 8405–00–NIB–0389—Man's, L/S, Army White, Classic, 16.5x30/31–C
NSN: 8405–00–NIB–0390—Man's, L/S, Army White, Classic, 16.5x32/33–C
NSN: 8405–00–NIB–0391—Man's, L/S, Army White, Classic, 16.5x34/35–C
NSN: 8405–00–NIB–0392—Man's, L/S, Army White, Classic, 16.5x36/37–C
NSN: 8405–00–NIB–0393—Man's, L/S, Army White, Classic, 16.5x38–C
NSN: 8405–00–NIB–0394—Man's, L/S, Army White, Classic, 17x32/33–C
NSN: 8405–00–NIB–0395—Man's, L/S, Army White, Classic, 17x34/35–C
NSN: 8405–00–NIB–0396—Man's, L/S, Army White, Classic, 17x36/37–C
NSN: 8405–00–NIB–0397—Man's, L/S, Army White, Classic, 17.5x32/33–C
NSN: 8405–00–NIB–0398—Man's, L/S, Army White, Classic, 17.5x34/35–C
NSN: 8405–00–NIB–0399—Man's, L/S, Army White, Classic, 17.5x36/37–C
NSN: 8405–00–NIB–0400—Man's, L/S, Army White, Classic, 18x32/33–C
NSN: 8405–00–NIB–0401—Man's, L/S, Army White, Classic, 18x34/35–C
NSN: 8405–00–NIB–0402—Man's, L/S, Army White, Classic, 18x36/37–C
NSN: 8405–00–NIB–0403—Man's, L/S, Army White, Classic, 18x38–C
NSN: 8405–00–NIB–0404—Man's, L/S, Army White, Classic, 18.5x34/35–C
NSN: 8405–00–NIB–0405—Man's, L/S, Army White, Classic, 18.5x36/37–C
NSN: 8405–00–NIB–0406—Man's, L/S, Army White, Classic, 18.5x38–C
NSN: 8405–00–NIB–0407—Man's, L/S, Army White, Classic, 19x34/35–C
NSN: 8405–00–NIB–0408—Man's, L/S, Army White, Classic, 19x36/37–C
NSN: 8405–00–NIB–0409—Man's, L/S, Army White, Classic, 19x38–C

**NPA: Winston-Salem Industries for the Blind, Winston-Salem, NC**

NSN: 8415–00–FAB–5722—ACU Coat, XS–XS
NSN: 8415–00–FAB–5723—ACU Coat, XS–S
NSN: 8415–00–FAB–5724—ACU Coat, XS–R
NSN: 8415–00–FAB–5725—ACU Coat, S–XXS
NSN: 8415–00–FAB–5726—ACU Coat, S–XS
NSN: 8415–00–FAB–5728—ACU Coat, S–R
NSN: 8415–00–FAB–5727—ACU Coat, S–S
NSN: 8415–00–FAB–5729—ACU Coat, S–L
NSN: 8415–00–FAB–5731—ACU Coat, M–XXS
NSN: 8415–00–FAB–5730—ACU Coat, S–XL
NSN: 8415–00–FAB–5732—ACU Coat, M–XS
NSN: 8415–00–FAB–5733—ACU Coat, M–S
NSN: 8415–00–FAB–5734—ACU Coat, M–R
NSN: 8415–00–FAB–5735—ACU Coat, M–L
NSN: 8415–00–FAB–5736—ACU Coat, M–XL
NSN: 8415–00–FAB–5737—ACU Coat, L–XS
NSN: 8415–00–FAB–5738—ACU Coat, L–S
NSN: 8415–00–FAB–5739—ACU Coat, L–R
NSN: 8415–00–FAB–5740—ACU Coat, L–L
NSN: 8415–00–FAB–5741—ACU Coat, L–XL
NSN: 8415–00–FAB–5745—ACU Coat, XL–XL
NSN: 8415–00–FAB–5744—ACU Coat, XL–L
NSN: 8415–00–FAB–5742—ACU Coat, L–XXL
NSN: 8415–00–FAB–5746—ACU Coat, XXL–XL
NSN: 8415–00–FAB–5743—ACU Coat, XL–R
NSN: 8415–00–FAB–0521—ACU Coat, XS–L
NSN: 8415–00–FAB–0523—ACU Coat, XS–XL
NSN: 8415–00–FAB–1733—ACU Coat, XL–S
NSN: 8415–00–FAB–0531—ACU Coat, XXL–R
NSN: 8415–00–FAB–1734—ACU Coat, XXL–L
NSN: 8415–00–FAB–1730—ACU Coat, XS–XXS
NSN: 8415–00–FAB–1731—ACU Coat, M–XXL
NSN: 8415–00–FAB–0525—ACU Coat, L–XXS
NSN: 8415–00–FAB–0529—ACU Coat, XL–XXS
NSN: 8415–00–FAB–1732—ACU Coat, XL–XS
NSN: 8415–00–FAB–0542—ACU Coat, XL–XXL
NSN: 8415–00–FAB–0541—ACU Coat, XXL–XXL
NSN: 8415–00–FAB–5747—ACU Trouser, XS–XS
NSN: 8415–00–FAB–6701—ACU Trouser, XS–XXL
NSN: 8415–00–FAB–5748—ACU Trouser, XS–S
NSN: 8415–00–FAB–6700—ACU Trouser, XS–XL
NSN: 8415–00–FAB–5749—ACU Trouser, XS–R
NSN: 8415–00–FAB–5752—ACU Trouser, S–S
NSN: 8415–00–FAB–5751—ACU Trouser, S–XS
NSN: 8415–00–FAB–5754—ACU Trouser, S–L
NSN: 8415–00–FAB–5755—ACU Trouser, S–XL
NSN: 8415–00–FAB–5756—ACU Trouser, M–XS
NSN: 8415–00–FAB–5753—ACU Trouser, S–R
NSN: 8415–00–FAB–5757—ACU Trouser, M–S
NSN: 8415–00–FAB–5750—ACU Trouser, XS–L
NSN: 8415–00–FAB–5758—ACU Trouser, M–R
NSN: 8415–00–FAB–5759—ACU Trouser, M–L
NSN: 8415–00–FAB–5760—ACU Trouser, M–XL
NSN: 8415–00–FAB–5761—ACU Trouser, L–S
NSN: 8415–00–FAB–5763—ACU Trouser, L–L
NSN: 8415–00–FAB–5762—ACU Trouser, L–R
NSN: 8415–00–FAB–5764—ACU Trouser, L–XL
NSN: 8415–00–FAB–5765—ACU Trouser, XL–S
NSN: 8415–00–FAB–5766—ACU Trouser, XL–R
NSN: 8415–00–FAB–5767—ACU Trouser,

XL–L
NSN: 8415–00–FAB–5768—ACU Trouser, XXL–R
NSN: 8415–00–FAB–4667—ACU Trouser, S–XXL
NSN: 8415–00–FAB–4674—ACU Trouser, M–XXL
NSN: 8415–00–FAB–8074—ACU Trouser, L–XS
NSN: 8415–00–FAB–4673—ACU Trouser, L–XXL
NSN: 8415–00–FAB–4672—ACU Trouser, XL–XS
NSN: 8415–00–FAB–4671—ACU Trouser, XL–XL
NSN: 8415–00–FAB–4669—ACU Trouser, XL–XXL
NSN: 8415–00–FAB–4668—ACU Trouser, XXL–XS
NSN: 8415–00–FAB–8075—ACU Trouser, XXL–S
NSN: 8415–00–FAB–8080—ACU Trouser, XXL–L
NSN: 8415–00–FAB–4650—ACU Trouser, XXL–XL
NSN: 8415–00–FAB–4649—ACU Trouser, XXL–XXL
NSN: 8405–00–FAB–4220—HDU Trouser, 28X32
NSN: 8405–00–FAB–4221—HDU Trouser, 30X28
NSN: 8405–00–FAB–4222—HDU Trouser, 30X30
NSN: 8405–00–FAB–4223—HDU Trouser, 30X32
NSN: 8405–00–FAB–4224—HDU Trouser, 30X34
NSN: 8405–00–FAB–4225—HDU Trouser, 30X36
NSN: 8405–00–FAB–4226—HDU Trouser, 32X28
NSN: 8405–00–FAB–4227—HDU Trouser, 32X30
NSN: 8405–00–FAB–4228—HDU Trouser, 32X32
NSN: 8405–00–FAB–4229—HDU Trouser, 32X34
NSN: 8405–00–FAB–4230—HDU Trouser, 32X36
NSN: 8405–00–FAB–4231—HDU Trouser, 34X28
NSN: 8405–00–FAB–4232—HDU Trouser, 34X30
NSN: 8405–00–FAB–4233—HDU Trouser, 34X32
NSN: 8405–00–FAB–4234—HDU Trouser, 34X34
NSN: 8405–00–FAB–4235—HDU Trouser, 34X36
NSN: 8405–00–FAB–4236—HDU Trouser, 36X28
NSN: 8405–00–FAB–4237—HDU Trouser, 36X30
NSN: 8405–00–FAB–4238—HDU Trouser, 36X32
NSN: 8405–00–FAB–4239—HDU Trouser, 36X34
NSN: 8405–00–FAB–4240—HDU Trouser, 36X36
NSN: 8405–00–FAB–4241—HDU Trouser, 38X28
NSN: 8405–00–FAB–4242—HDU Trouser, 38X30
NSN: 8405–00–FAB–4243—HDU Trouser, 38X32
NSN: 8405–00–FAB–4244—HDU Trouser, 38X34
NSN: 8405–00–FAB–4245—HDU Trouser, 38X36
NSN: 8405–00–FAB–4246—HDU Trouser, 40X28
NSN: 8405–00–FAB–4247—HDU Trouser, 40X30
NSN: 8405–00–FAB–4248—HDU Trouser, 40X32
NSN: 8405–00–FAB–4249—HDU Trouser, 40X34
NSN: 8405–00–FAB–4250—HDU Trouser, 40X36
NSN: 8405–00–FAB–4251—HDU Trouser, 42X28
NSN: 8405–00–FAB–4252—HDU Trouser, 42X30
NSN: 8405–00–FAB–4253—HDU Trouser, 42X32
NSN: 8405–00–FAB–4254—HDU Trouser, 42X34
NSN: 8405–00–FAB–4255—HDU Trouser, 42X36
NSN: 8405–00–FAB–4256—HDU Trouser, 44X28
NSN: 8405–00–FAB–4257—HDU Trouser, 44X30
NSN: 8405–00–FAB–4258—HDU Trouser, 44X32
NSN: 8405–00–FAB–4259—HDU Trouser, 44X34
NSN: 8405–00–FAB–4260—HDU Trouser, 44X36
NSN: 8405–00–FAB–4261—HDU Trouser, 46X28
NSN: 8405–00–FAB–4262—HDU Trouser, 46X30
NSN: 8405–00–FAB–4263—HDU Trouser, 46X32
NSN: 8405–00–FAB–4264—HDU Trouser, 46X34
NSN: 8405–00–FAB–4265—HDU Trouser, 46X36
NSN: 8415–00–NIB–0827—Mock Turtleneck, XS
NSN: 8415–00–NIB–0828—Mock Turtleneck, S
NSN: 8415–00–NIB–0829—Mock Turtleneck, M
NSN: 8415–00–NIB–0830—Mock Turtleneck, L
NSN: 8415–00–NIB–0831—Mock Turtleneck, XL
NSN: 8415–00–NIB–0832—Mock Turtleneck, 2X
NSN: 8415–00–NIB–0833—Mock Turtleneck, 3X
NSN: 8415–00–FAB–9788—BDU Coat, Woodland, Type I, XS/XS
NSN: 8415–00–FAB–9789—BDU Coat, Woodland, Type I, XS/S
NSN: 8415–00–FAB–9790—BDU Coat, Woodland, Type I, S/XS
NSN: 8415–00–FAB–9791—BDU Coat, Woodland, Type I, S/S
NSN: 8415–00–FAB–9792—BDU Coat, Woodland, Type I, S/R
NSN: 8415–00–FAB–9793—BDU Coat, Woodland, Type I, S/L
NSN: 8415–00–FAB–9794—BDU Coat, Woodland, Type I, M/XS
NSN: 8415–00–FAB–9795—BDU Coat, Woodland, Type I, M/S
NSN: 8415–00–FAB–9796—BDU Coat, Woodland, Type I, M/R
NSN: 8415–00–FAB–9797—BDU Coat, Woodland, Type I, M/L
NSN: 8415–00–FAB–9798—BDU Coat, Woodland, Type I, L/S
NSN: 8415–00–FAB–9799—BDU Coat, Woodland, Type I, L/L
NSN: 8415–00–FAB–9800—BDU Coat, Woodland, Type I, XL/R
NSN: 8415–00–FAB–9801—BDU Coat, Woodland, Type I, XL/L
NSN: 8415–00–FAB–9802—BDU Coat, Woodland, Type I, S/XXS
NSN: 8415–00–FAB–9803—BDU Coat, Woodland, Type I, M/XXS
NSN: 8415–00–FAB–9804—BDU Coat, Woodland, Type I, L/XS
NSN: 8415–00–FAB–9805—BDU Coat, Woodland, Type I, L/R
NSN: 8415–00–FAB–9806—BDU Coat, Woodland, Type I, XS/R
NSN: 8415–00–FAB–9807—BDU Coat, Woodland, Type I, S/XL
NSN: 8415–00–FAB–9808—BDU Coat, Woodland, Type I, M/XL
NSN: 8415–00–FAB–9809—BDU Coat, Woodland, Type I, L/XL
NSN: 8415–00–FAB–5070—BDU Coat, Woodland, Type I, XS/XXS
NSN: 8415–00–FAB–5071—BDU Coat, Woodland, Type I, XS/L
NSN: 8415–00–FAB–5072—BDU Coat, Woodland, Type I, S/XXXS
NSN: 8415–00–FAB–5073—BDU Coat, Woodland, Type I, L/XXL
NSN: 8415–00–FAB–5075—BDU Coat, Woodland, Type I, XXL/XL
NSN: 8415–00–FAB–5074—BDU Coat, Woodland, Type I, XL/XL
NSN: 8415–00–FAB–9835—BDU Coat, Woodland, Type VI, XS/XS
NSN: 8415–00–FAB–9836—BDU Coat, Woodland, Type VI, XS/R
NSN: 8415–00–FAB–9837—BDU Coat, Woodland, Type VI, S/S
NSN: 8415–00–FAB–9838—BDU Coat, Woodland, Type VI, S/XL
NSN: 8415–00–FAB–9839—BDU Coat, Woodland, Type VI, M/XS
NSN: 8415–00–FAB–9840—BDU Coat, Woodland, Type VI, M/XXS
NSN: 8415–00–FAB–9841—BDU Coat, Woodland, Type VI, S/L
NSN: 8415–00–FAB–9842—BDU Coat, Woodland, Type VI, M/R
NSN: 8415–00–FAB–9843—BDU Coat, Woodland, Type VI, S/R
NSN: 8415–00–FAB–9844—BDU Coat, Woodland, Type VI, XS/S
NSN: 8415–00–FAB–9845—BDU Coat, Woodland, Type VI, M/XL
NSN: 8415–00–FAB–9846—BDU Coat, Woodland, Type VI, M/S
NSN: 8415–00–FAB–9847—BDU Coat, Woodland, Type VI, M/L
NSN: 8415–00–FAB–9848—BDU Coat, Woodland, Type VI, L/R
NSN: 8415–00–FAB–9849—BDU Coat, Woodland, Type VI, L/XL
NSN: 8415–00–FAB–9850—BDU Coat, Woodland, Type VI, XL/L
NSN: 8415–00–FAB–9851—BDU Coat, Woodland, Type VI, L/L
NSN: 8415–00–FAB–9852—BDU Coat, Woodland, Type VI, XL/R
NSN: 8415–00–FAB–9853—BDU Coat, Woodland, Type VI, L/XS
NSN: 8415–00–FAB–9854—BDU Coat,

Woodland, Type VI, S/XXS
NSN: 8415–00–FAB–9855—BDU Coat, Woodland, Type VI, S/XS
NSN: 8415–00–FAB–9856—BDU Coat, Woodland, Type VI, L/S
NSN: 8415–00–FAB–5079—BDU Coat, Woodland, Type VI, XS/XXS
NSN: 8415–00–FAB–5078—BDU Coat, Woodland, Type VI, XS/L
NSN: 8415–00–FAB–5080—BDU Coat, Woodland, Type VI, S/XXXS
NSN: 8415–00–FAB–5077—BDU Coat, Woodland, Type VI, L/XXL
NSN: 8415–00–FAB–5076—BDU Coat, Woodland, Type VI, XL/XL
NSN: 8415–00–FAB–5081—BDU Coat, Woodland, Type VI, XXL/XL
NSN: 8415–00–FAB–9813—BDU Coat, Desert, Type VII, XS/XS
NSN: 8415–00–FAB–9814—BDU Coat, Desert, Type VII, XS/S
NSN: 8415–00–FAB–9815—BDU Coat, Desert, Type VII, XS/R
NSN: 8415–00–FAB–9816—BDU Coat, Desert, Type VII, S/XXS
NSN: 8415–00–FAB–9817—BDU Coat, Desert, Type VII, S/XS
NSN: 8415–00–FAB–9818—BDU Coat, Desert, Type VII, S/S
NSN: 8415–00–FAB–9819—BDU Coat, Desert, Type VII, S/R
NSN: 8415–00–FAB–9820—BDU Coat, Desert, Type VII, S/L
NSN: 8415–00–FAB–9821—BDU Coat, Desert, Type VII, S/XL
NSN: 8415–00–FAB–9822—BDU Coat, Desert, Type VII, M/XXS
NSN: 8415–00–FAB–9823—BDU Coat, Desert, Type VII, M/XS
NSN: 8415–00–FAB–9824—BDU Coat, Desert, Type VII, M/S
NSN: 8415–00–FAB–9825—BDU Coat, Desert, Type VII, M/R
NSN: 8415–00–FAB–9826—BDU Coat, Desert, Type VII, M/L
NSN: 8415–00–FAB–9827—BDU Coat, Desert, Type VII, M/XL
NSN: 8415–00–FAB–9828—BDU Coat, Desert, Type VII, L/XS
NSN: 8415–00–FAB–9829—BDU Coat, Desert, Type VII, L/S
NSN: 8415–00–FAB–9830—BDU Coat, Desert, Type VII, L/R
NSN: 8415–00–FAB–9831—BDU Coat, Desert, Type VII, L/L
NSN: 8415–00–FAB–9832—BDU Coat, Desert, Type VII, L/XL
NSN: 8415–00–FAB–9833—BDU Coat, Desert, Type VII, XL/R
NSN: 8415–00–FAB–9834—BDU Coat, Desert, Type VII, XL/L
NSN: 8415–00–FAB–9736—BDU Coat, Desert, Type VII, XS/XXS
NSN: 8415–00–FAB–9737—BDU Coat, Desert, Type VII, L/XXL
NSN: 8415–00–FAB–9738—BDU Coat, Desert, Type VII, XL/XL
NSN: 8415–00–FAB–9739—BDU Coat, Desert, Type VII, XXL/XL
NSN: 8415–00–FAB–5329—BDU Coat, Desert, Type VII, S/XXS
NSN: 8415–00–FAB–9769—BDU Trouser, Woodland, Type I, L/S
NSN: 8415–00–FAB–8253—BDU Trouser, Woodland, Type I, L/R
NSN: 8415–00–FAB–8204—BDU Trouser, Woodland, Type I, XS/XS
NSN: 8415–00–FAB–8299—BDU Trouser, Woodland, Type I, XS/R
NSN: 8415–00–FAB–8300—BDU Trouser, Woodland, Type I, S/XS
NSN: 8415–00–FAB–8205—BDU Trouser, Woodland, Type I, S/S
NSN: 8415–00–FAB–8301—BDU Trouser, Woodland, Type I, S/R
NSN: 8415–00–FAB–8206—BDU Trouser, Woodland, Type I, S/L
NSN: 8415–00–FAB–8302—BDU Trouser, Woodland, Type I, M/XS
NSN: 8415–00–FAB–8207—BDU Trouser, Woodland, Type I, M/S
NSN: 8415–00–FAB–8208—BDU Trouser, Woodland, Type I, M/R
NSN: 8415–00–FAB–8209—BDU Trouser, Woodland, Type I, L/L
NSN: 8415–00–FAB–8303—BDU Trouser, Woodland, Type I, XL/R
NSN: 8415–00–FAB–8304—BDU Trouser, Woodland, Type I, XS/S
NSN: 8415–00–FAB–8210—BDU Trouser, Woodland, Type I, M/L
NSN: 8415–00–FAB–8305—BDU Trouser, Woodland, Type I, XL/S
NSN: 8415–00–FAB–8306—BDU Trouser, Woodland, Type I, XS/L
NSN: 8415–00–FAB–8307—BDU Trouser, Woodland, Type I, S/XL
NSN: 8415–00–FAB–8308—BDU Trouser, Woodland, Type I, M/XL
NSN: 8415–00–FAB–8211—BDU Trouser, Woodland, Type I, L/XL
NSN: 8415–00–FAB–8212—BDU Trouser, Woodland, Type I, XL/L
NSN: 8415–00–FAB–8271—BDU Trouser, Woodland, Type I, M/XXL
NSN: 8415–00–FAB–8272—BDU Trouser, Woodland, Type I, L/XXL
NSN: 8415–00–FAB–8273—BDU Trouser, Woodland, Type I, XXL/XXL
NSN: 8415–00–FAB–8578—BDU Trouser, Woodland, Type VI, XS/XS
NSN: 8415–00–FAB–8577—BDU Trouser, Woodland, Type VI, XS/S
NSN: 8415–00–FAB–8254—BDU Trouser, Woodland, Type VI, XS/L
NSN: 8415–00–FAB–8255—BDU Trouser, Woodland, Type VI, S/XS
NSN: 8415–00–FAB–8247—BDU Trouser, Woodland, Type VI, S/L
NSN: 8415–00–FAB–8256—BDU Trouser, Woodland, Type VI, S/XL
NSN: 8415–00–FAB–8257—BDU Trouser, Woodland, Type VI, S/R
NSN: 8415–00–FAB–8258—BDU Trouser, Woodland, Type VI, M/S
NSN: 8415–00–FAB–8259—BDU Trouser, Woodland, Type VI, M/XS
NSN: 8415–00–FAB–8260—BDU Trouser, Woodland, Type VI, M/L
NSN: 8415–00–FAB–8248—BDU Trouser, Woodland, Type VI, M/XL
NSN: 8415–00–FAB–8249—BDU Trouser, Woodland, Type VI, M/R
NSN: 8415–00–FAB–8261—BDU Trouser, Woodland, Type VI, L/R
NSN: 8415–00–FAB–8250—BDU Trouser, Woodland, Type VI, L/S
NSN: 8415–00–FAB–8262—BDU Trouser, Woodland, Type VI, L/XL
NSN: 8415–00–FAB–8263—BDU Trouser, Woodland, Type VI, XL/S
NSN: 8415–00–FAB–8264—BDU Trouser, Woodland, Type VI, XL/L
NSN: 8415–00–FAB–8265—BDU Trouser, Woodland, Type VI, XL/R
NSN: 8415–00–FAB–8266—BDU Trouser, Woodland, Type VI, XS/R
NSN: 8415–00–FAB–8267—BDU Trouser, Woodland, Type VI, S/S
NSN: 8415–00–FAB–8251—BDU Trouser, Woodland, Type VI, L/L
NSN: 8415–00–FAB–8268—BDU Trouser, Woodland, Type VI, XXL/XXL
NSN: 8415–00–FAB–8269—BDU Trouser, Woodland, Type VI, L/XXL
NSN: 8415–00–FAB–8270—BDU Trouser, Woodland, Type VI, M/XXL
NSN: 8415–00–FAB–8227—BDU Trouser, Desert, Type VII, XS/XS
NSN: 8415–00–FAB–8228—BDU Trouser, Desert, Type VII, XS/S
NSN: 8415–00–FAB–8229—BDU Trouser, Desert, Type VII, XS/R
NSN: 8415–00–FAB–8230—BDU Trouser, Desert, Type VII, XS/L
NSN: 8415–00–FAB–8231—BDU Trouser, Desert, Type VII, S/XS
NSN: 8415–00–FAB–8232—BDU Trouser, Desert, Type VII, S/S
NSN: 8415–00–FAB–8233—BDU Trouser, Desert, Type VII, S/R
NSN: 8415–00–FAB–8234—BDU Trouser, Desert, Type VII, S/L
NSN: 8415–00–FAB–8235—BDU Trouser, Desert, Type VII, S/XL
NSN: 8415–00–FAB–8236—BDU Trouser, Desert, Type VII, M/XS
NSN: 8415–00–FAB–8237—BDU Trouser, Desert, Type VII, M/S
NSN: 8415–00–FAB–8238—BDU Trouser, Desert, Type VII, M/R
NSN: 8415–00–FAB–8239—BDU Trouser, Desert, Type VII, M/L
NSN: 8415–00–FAB–8240—BDU Trouser, Desert, Type VII, M/XL
NSN: 8415–00–FAB–8241—BDU Trouser, Desert, Type VII, L/S
NSN: 8415–00–FAB–8242—BDU Trouser, Desert, Type VII, L/R
NSN: 8415–00–FAB–8243—BDU Trouser, Desert, Type VII, L/L
NSN: 8415–00–FAB–8244—BDU Trouser, Desert, Type VII, L/XL
NSN: 8415–00–FAB–8313—BDU Trouser, Desert, Type VII, XL/S
NSN: 8415–00–FAB–8245—BDU Trouser, Desert, Type VII, XL/R
NSN: 8415–00–FAB–8246—BDU Trouser, Desert, Type VII, XL/L
NSN: 8415–00–FAB–0101—BDU Trouser, Desert, Type VII, M/2XL
NSN: 8415–00–FAB–0113—BDU Trouser, Desert, Type VII, L/2XL
NSN: 8415–00–FAB–0105—BDU Trouser, Desert, Type VII, 2XL/2XL
NSN: 8470–00–FAB–7241—IOTV Front, X–SM
NSN: 8470–00–FAB–7242—IOTV Front, SM
NSN: 8470–00–FAB–7243—IOTV Front, MD–REG
NSN: 8470–00–FAB–7244—IOTV Front, MD–LNG
NSN: 8470–00–FAB–7262—IOTV Front, LG–REG
NSN: 8470–00–FAB–7245—IOTV Front, LG–LNG
NSN: 8470–00–FAB–7246—IOTV Front, XL–REG

NSN: 8470–00–FAB–7247—IOTV Front, XL–LNG
NSN: 8470–00–FAB–7248—IOTV Front, 2XL
NSN: 8470–00–FAB–7249—IOTV Front, 3XL
NSN: 8470–00–FAB–7250—IOTV Front, 4XL
NSN: 8470–00–FAB–7251—IOTV Back, X–SM
NSN: 8470–00–FAB–7252—IOTV Back, SM
NSN: 8470–00–FAB–7253—IOTV Back, MD–REG
NSN: 8470–00–FAB–7254—IOTV Back, MD–LNG
NSN: 8470–00–FAB–7255—IOTV Back, LG–REG
NSN: 8470–00–FAB–7256—IOTV Back, LG–LNG
NSN: 8470–00–FAB–7257—IOTV Back, XL–REG
NSN: 8470–00–FAB–7258—IOTV Back, XL–LNG
NSN: 8470–00–FAB–7259—IOTV Back, 2XL
NSN: 8470–00–FAB–7260—IOTV Back, 3XL
NSN: 8470–00–FAB–7261—IOTV Back, 4XL
NSN: 8470–00–FAB–2391—OTV Vest, Desert, Small
NSN: 8470–00–FAB–2392—OTV Vest, Desert, Medium
NSN: 8470–00–FAB–2393—OTV Vest, Desert, Large
NSN: 8470–00–FAB–2394—OTV Vest, Desert, X–Large
NSN: 8470–00–FAB–0756—OTV Vest, Desert, 2X–Large
NSN: 8470–00–FAB–0881—OTV Vest, Desert, 3X–Large
NSN: 8470–00–FAB–2283—OTV Throat, Desert
NSN: 8470–00–FAB–2279—OTV Groin, Desert, Small–Medium
NSN: 8470–00–FAB–2237—OTV Groin, Desert, Large–3XLarge
NSN: 8470–00–FAB–5670—OTV Vest, Woodland, X–Small
NSN: 8470–00–FAB–5671—OTV Vest, Woodland, Small
NSN: 8470–00–FAB–5669—OTV Vest, Woodland, Medium
NSN: 8470–00–FAB–5668—OTV Vest, Woodland, Large
NSN: 8470–00–FAB–5667—OTV Vest, Woodland, X–Large
NSN: 8470–00–FAB–4440—OTV Vest, Woodland, 2X–Large
NSN: 8470–00–FAB–4441—OTV Vest, Woodland, 3X–Large
NSN: 8470–00–FAB–4442—OTV Vest, Woodland, 4X–Large
NSN: 8470–00–FAB–0882—OTV Throat, Woodland
NSN: 8470–00–FAB–0883—OTV Groin, Woodland, XSmall–Medium
NSN: 8470–00–FAB–0884—OTV Groin, Woodland, Large–4XLarge
NSN: 8470–00–FAB–3566—OTV Vest, Pantone, X–Small
NSN: 8470–00–FAB–3572—OTV Vest, Pantone, Small
NSN: 8470–00–FAB–3573—OTV Vest, Pantone, Medium
NSN: 8470–00–FAB–3571—OTV Vest, Pantone, Large
NSN: 8470–00–FAB–3570—OTV Vest, Pantone, X–Large
NSN: 8470–00–FAB–3569—OTV Vest, Pantone, 2X–Large
NSN: 8470–00–FAB–3568—OTV Vest, Pantone, 3X–Large
NSN: 8470–00–FAB–3567—OTV Vest, Pantone, 4X–Large
NSN: 8470–00–FAB–3624—OTV Throat, Pantone
NSN: 8470–00–FAB–3625—OTV Groin, Pantone, XSmall–Medium
NSN: 8470–00–FAB–3626—OTV Groin, Pantone, Large–4XLarge
NSN: 8470–00–FAB–2390—OTV Vest, Desert, XSmall
NSN: 8470–00–NIB–0031—OTV Vest, Desert, 4X
NSN: 8415–00–FAB–4705—Army IPFU Jacket, XS–S
NSN: 8415–00–FAB–4714—Army IPFU Jacket, XS–R
NSN: 8415–00–FAB–4712—Army IPFU Jacket, XS–L
NSN: 8415–00–FAB–4706—Army IPFU Jacket, S–S
NSN: 8415–00–FAB–4715—Army IPFU Jacket, S–R
NSN: 8415–00–FAB–4713—Army IPFU Jacket, S–L
NSN: 8415–00–FAB–4707—Army IPFU Jacket, M–S
NSN: 8415–00–FAB–4716—Army IPFU Jacket, M–R
NSN: 8415–00–FAB–4721—Army IPFU Jacket, M–L
NSN: 8415–00–FAB–4708—Army IPFU Jacket, L–S
NSN: 8415–00–FAB–4717—Army IPFU Jacket, L–R
NSN: 8415–00–FAB–4722—Army IPFU Jacket, L–L
NSN: 8415–00–FAB–4709—Army IPFU Jacket, XL–S
NSN: 8415–00–FAB–4718—Army IPFU Jacket, XL–R
NSN: 8415–00–FAB–4723—Army IPFU Jacket, XL–L
NSN: 8415–00–FAB–4710—Army IPFU Jacket, 2XL–S
NSN: 8415–00–FAB–4719—Army IPFU Jacket, 2XL–R
NSN: 8415–00–FAB–4724—Army IPFU Jacket, 2XL–L
NSN: 8415–00–FAB–4711—Army IPFU Jacket, 3XL–S
NSN: 8415–00–FAB–4720—Army IPFU Jacket, 3XL–R
NSN: 8415–00–FAB–4725—Army IPFU Jacket, 3XL–L
NSN: 8415–00–NIB–0858—Army IPFU Jacket (w/Digital Reflective), XS–S
NSN: 8415–00–NIB–0859—Army IPFU Jacket (w/Digital Reflective), XS–R
NSN: 8415–00–NIB–0860—Army IPFU Jacket (w/Digital Reflective), XS–L
NSN: 8415–00–NIB–0861—Army IPFU Jacket (w/Digital Reflective), S–S
NSN: 8415–00–NIB–0862—Army IPFU Jacket (w/Digital Reflective), S–R
NSN: 8415–00–NIB–0863—Army IPFU Jacket (w/Digital Reflective), S–L
NSN: 8415–00–NIB–0864—Army IPFU Jacket (w/Digital Reflective), M–S
NSN: 8415–00–NIB–0865—Army IPFU Jacket (w/Digital Reflective), M–R
NSN: 8415–00–NIB–0866—Army IPFU Jacket (w/Digital Reflective), M–L
NSN: 8415–00–NIB–0867—Army IPFU Jacket (w/Digital Reflective), L–S
NSN: 8415–00–NIB–0868—Army IPFU Jacket (w/Digital Reflective), L–R
NSN: 8415–00–NIB–0869—Army IPFU Jacket (w/Digital Reflective), L–L
NSN: 8415–00–NIB–0870—Army IPFU Jacket (w/Digital Reflective), XL–S
NSN: 8415–00–NIB–0871—Army IPFU Jacket (w/Digital Reflective), XL–R
NSN: 8415–00–NIB–0872—Army IPFU Jacket (w/Digital Reflective), XL–L
NSN: 8415–00–NIB–0873—Army IPFU Jacket (w/Digital Reflective), 2XL–S
NSN: 8415–00–NIB–0874—Army IPFU Jacket (w/Digital Reflective), 2XL–R
NSN: 8415–00–NIB–0875—Army IPFU Jacket (w/Digital Reflective), 2XL–L
NSN: 8415–00–NIB–0876—Army IPFU Jacket (w/Digital Reflective), 3XL–S
NSN: 8415–00–NIB–0877—Army IPFU Jacket (w/Digital Reflective), 3XL–R
NSN: 8415–00–NIB–0878—Army IPFU Jacket (w/Digital Reflective), 3XL–L
NSN: 8415–00–FAB–5407—Army IPFU Pants, L–R
NSN: 8415–00–FAB–5416—Army IPFU Pants, XL–R
NSN: 8415–00–FAB–5401—Army IPFU Pants, 2XL–R
NSN: 8415–00–FAB–5404—Army IPFU Pants, 3XL–R
NSN: 8415–00–FAB–5412—Army IPFU Pants, S–L
NSN: 8415–00–FAB–5409—Army IPFU Pants, M–L
NSN: 8415–00–FAB–5406—Army IPFU Pants, L–L
NSN: 8415–00–FAB–5415—Army IPFU Pants, XL–L
NSN: 8415–00–FAB–5400—Army IPFU Pants, 2XL–L
NSN: 8415–00–FAB–5403—Army IPFU Pants, 3XL–L
NSN: 8415–00–FAB–5420—Army IPFU Pants, XS–S
NSN: 8415–00–FAB–5414—Army IPFU Pants, S–S
NSN: 8415–00–FAB–5411—Army IPFU Pants, M–S
NSN: 8415–00–FAB–5408—Army IPFU Pants, L–S
NSN: 8415–00–FAB–5417—Army IPFU Pants, XL–S
NSN: 8415–00–FAB–5402—Army IPFU Pants, 2XL–S
NSN: 8415–00–FAB–5405—Army IPFU Pants, 3XL–S
NSN: 8415–00–FAB–5419—Army IPFU Pants, XS–R
NSN: 8415–00–FAB–5413—Army IPFU Pants, SS–R
NSN: 8415–00–FAB–5410—Army IPFU Pants, M–R

**NPA: Blind Industries & Services of Maryland, Baltimore, MD**

Contracting Activity: Department of Justice, Federal Prison System, Unicor, Washington, DC

Coverage: C-List for 100% of the requirements of UNICOR as aggregated by Federal Prison Industries.

NSN: 7510–00–NIB–1792—Laser Toner Cartridge, HP 53A & 53X compatible
NSN: 7510–00–NIB–1794—Laser Toner Cartridge, HP 12A compatible
NSN: 7510–00–NIB–1795—Laser Toner Cartridge, HP 13A & 13X compatible
NSN: 7510–00–NIB–1800—Laser Toner

Cartridge, HP 42A and 42X compatible
NSN: 7510–00–NIB–1801—Laser Toner Cartridge, HP 49A compatible
NSN: 7510–00–NIB–1802—Laser Toner Cartridge, HP 49X compatible
Coverage: A-List for the Total Government Requirement as aggregated by the General Services Administration.
NSN: 7510–00–NIB–1793—Laser Toner Cartridge, HP 10A compatible
NSN: 7510–00–NIB–1796—Laser Toner Cartridge, HP 39A compatible
NSN: 7510–00–NIB–1797—Laser Toner Cartridge, HP 96A compatible
NSN: 7510–00–NIB–1798—Laser Toner Cartridge, HP 51A & 51X compatible
NSN: 7510–00–NIB–1799—Laser Toner Cartridge, 43X compatible
Coverage: B-List for the Broad Government Requirement as aggregated by the General Services Administration.
**NPA: Alabama Industries for the Blind, Talladega, AL**
Contracting Activity: GSA/Federal Acquisition Service, New York, NY.
NSN: 7530–00–NIB–0921—Thermal Paper, Calculator and Printing Machine
Coverage: A-List for the Total Government Requirement as aggregated by the General Services Administration.
NSN: 7530–00–NIB–0922—Thermal Paper Rolls, Cash Register/Point of Sale
NSN: 7530–00–NIB–0923—Thermal Paper Roll
Coverage: B-List for the Broad Government Requirement as aggregated by the General Services Administration.
NPA: Cincinnati Association for the Blind, Cincinnati, OH
Contracting Activity: GSA/Federal Acquisition Service, New York, NY.
NSN: 4510–01–426–4187—SKILCRAFT–Zep Meter Mist 3000 Plus Dispenser
**NPA: Envision, Inc., Wichita, KS**
NSN: 6840–01–368–4785—SKILCRAFT–Zep Meter Mist Refill
NSN: 6840–01–368–4787—SKILCRAFT–Zep Meter Mist Refill
NSN: 6840–01–368–4789—SKILCRAFT–Zep Meter Mist Refill
NSN: 6840–01–425–8232—SKILCRAFT–Zep Meter Mist Refill
NSN: 6840–01–429–5864—SKILCRAFT–Zep Meter Mist Refill
**NPA: Lighthouse for the Blind, St. Louis, MO**
Contracting Activity: GSA/Federal Acquisition Service, Fort Worth, TX.
Coverage: A-List for the Total Government Requirement as aggregated by the General Services Administration.
NSN: 9905–00–NIB–0046—Wet Floor Sign.
NPA: New York City Industries for the Blind, Inc., Brooklyn, NY.
Contracting Activity: GSA/Federal Acquisition Service, Fort Worth, TX.
Coverage: A-List for the Total Government Requirement as aggregated by the General Services Administration.
NSN: 7195–00–NIB–0018—Foot Rest, Ergonomic Adjustable
NSN: 7195–00–NIB–0019—Foot Rest, Ergonomic Adjustable
NSN: 7110–00–NIB–0063—Monitor Arm, Column Mount, Ergonomic
Coverage: A-List for the Total Government Requirement as aggregated by the General Services Administration.
NSN: 7110–00–NIB–0064—Double Monitor Arm, Column Mount, Ergonomic
Coverage: B-List for the Broad Government Requirement as aggregated by the General Services Administration.
NPA: The Chicago Lighthouse for People Who Are Blind or Visually Impaired, Chicago, IL
Contracting Activity: GSA/Federal Acquisition Service, Arlington, VA.

**Services**

Service Type/Location: Custodial Service, National Weather Service, 587 Aero Drive, Buffalo, NY.
NPA: Suburban Adult Services, Inc., Elma, NY.
Contracting Activity: Dept of Comm/Nat Ocean and Atmos Admin, Norfolk, VA.
Service Type/Location: Custodial Service, Marine Corps Air Station, Cherry Point, NC.
NPA: Coastal Enterprises of Jacksonville, Inc., Jacksonville, NC
Contracting Activity: Dept of the Navy, Naval FAC Engineering CMD MID LANT, Norfolk, VA.
Service Type/Location: Custodial Service, Hickam AFB, HI.
NPA: Opportunities for the Retarded, Inc., Wahiawa, HI.
Contracting Activity: Dept of the Air Force, FA5215 15 CONS LGC, Hickam AFB, HI.
Service Type/Location: Mail Service, DFAS, Indianapolis, IN, (Offsite: AWRC, 2762 Rand Road, Indianapolis, IN)
NPA: Anthony Wayne Rehabilitation Center for Handicapped and Blind, Inc., Fort Wayne, IN
Contracting Activity: Defense Finance and Accounting Service (DFAS), Indianapolis, IN.

**Barry S. Lineback,**

*Director, Business Operations.*

[FR Doc. 2010–21380 Filed 8–26–10; 8:45 am]

**BILLING CODE 6353–01–P**

## COMMODITY FUTURES TRADING COMMISSION

### Agency Information Collection Activities Under OMB Review: Notice of Intent To Renew Collection 3038–0054, Establishing Procedures To Implement the Notification Requirements for Entities Operating as Exempt Markets

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice.

**SUMMARY:** The Commodity Futures Trading Commission (CFTC) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.,* Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, and to allow 60 days for comment in response to the notice. This notice solicits comments on requirements relating to information collected to assist the Commission in the prevention of market manipulation.

**DATES:** Comments must be submitted on or before October 26, 2010.

**FOR FURTHER INFORMATION OR A COPY, CONTACT:** Riva Spear Adriance, Division of Market Oversight, U.S. Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581, (202) 418–5494; *FAX:* (202) 418–5527; *e-mail: radriance@cftc.gov* and refer to OMB Control No. 3038–0054.

**SUPPLEMENTARY INFORMATION:** Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of Information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 350(c)(2)(A) of the PRA, 44 Section 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB to approve. To comply with this requirement, the CFTC is publishing notice of the proposed collection of the information below.

With respect to the following collection of information, the CFTC invites comments on:

Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;

The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

Ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.,* permitting electronic submission of responses.

**Establishing Procedures To Implement the Notification Requirements for Entities Operating as Exempt—Markets OMB Control No. 3038–0054—Extension**

Sections 2(h)(3) through (5) of the Commodity Exchange Act (Act) add exempt commercial markets as markets excluded from the Act's other requirements. The rules implement the qualifying conditions of the exemption. Rule 36.3(a) implements the notification requirements, and rule 36.3(b)(1) establishes information requirements for exempt commercial markets consistent with sections 2(h)(5)(B) of the Act. An exempt commercial markets consistent with Section 2(h)(5)(B) of the Act. An exempt commercial market may provide the Commission with access to transactions conducted on the facility or it can satisfy its reporting requirements by complying with the Commission's reporting requirements. The Act affirmatively vests the Commission's reporting requirements. The Act affirmatively vests the Commission with comprehensive antimanipulation enforcement authority over these trading facilities. The Commission is charged with monitoring these markets for manipulation and enforcing the antimanipulation provisions of the Act. The informational requirements imposed by proposed rules are designed to ensure that the Commission can effectively perform these functions.

Section 5d of the Act establishes a category of market exempt from proposed rules are designed to ensure that the Commission can effectively perform these functions.

Section 5d of the Act establishes a category of market exempt from Commission oversight referred to as an "exempt board of trade." Rule 36.2 implements regulations that define those commodities that are eligible to trade on an exempt board of trade. Rule 36.2(b) implements the notification requirements of Section 5d of the Act. Rule 36.2(b)(1) requires exempt boards of trade relying on this exemption to disclose to traders that the facility and trading on the facility are not regulated by the Commission. This requirement is necessary to make manifest the nature of the market and to avoid misleading the public. The Commission estimates the burden of this collection of information as follows:

**Estimated Annual Reporting Burden**

*Number of Respondents:* 25.
*Total Annual Responses:* 25.
*Total Annual Hours:* 250.

Send comments regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden, to the addresses listed below. Please refer to OMB Control No. 3038–0054 in any correspondence.

Riva Spear Adriance, Division of Market Oversight, U.S. Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581, and Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for CFTC, 725 17th Street, Washington, DC 20503.

Dated: August 19, 2010.

**David Stawick,**

*Secretary of the Commission.*

[FR Doc. 2010–21144 Filed 8–26–10; 8:45 am]

**BILLING CODE P**

## CONSUMER PRODUCT SAFETY COMMISSION

### Sunshine Act Meetings

**TIME AND DATE:** Wednesday, September 1, 2010, 10 a.m.–11 a.m.

**PLACE:** Hearing Room 420, Bethesda Towers, 4330 East West Highway, Bethesda, Maryland.

**STATUS:** Commission Meeting—Open to the Public.

**MATTERS TO BE CONSIDERED:**

1. Final Interpretative Rule: Interpretation of Children's Product.

A live Webcast of the Meeting can be viewed at *http://www.cpsc.gov/webcast.*

For a recorded message containing the latest agenda information, call (301) 504–7948.

**CONTACT PERSON FOR MORE INFORMATION:** Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, (301) 504–7923.

Dated: August 24, 2010.

**Todd A. Stevenson,**

*Secretary.*

[FR Doc. 2010–21510 Filed 8–25–10; 4:15 pm]

**BILLING CODE 6355–01–P**

## CONSUMER PRODUCT SAFETY COMMISSION

### Sunshine Act Meetings

**TIME AND DATE:** Wednesday, September 1, 2010; 11 a.m.–12 Noon.

**PLACE:** Hearing Room 420, Bethesda Towers, 4330 East West Highway, Bethesda, Maryland.

**STATUS:** Closed to the Public.

**MATTERS TO BE CONSIDERED:** Compliance Status Report.

The Commission staff will brief the Commission on the status of compliance matters.

For a recorded message containing the latest agenda information, call (301) 504–7948.

**CONTACT PERSON FOR MORE INFORMATION:** Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, (301) 504–7923.

Dated: August 24, 2010.

**Todd A. Stevenson,**

*Secretary.*

[FR Doc. 2010–21511 Filed 8–25–10; 4:15 pm]

**BILLING CODE 6355–01–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Renewal of Department of Defense Federal Advisory Committee; Missile Defense Advisory Committee

**AGENCY:** Department of Defense (DoD).

**ACTION:** Renewal of Federal Advisory Committee.

**SUMMARY:** Under the provisions of the Federal Advisory Committee Act of 1972, (5 U.S.C. Appendix), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b), and 41 CFR 102–3.50, the Department of Defense gives notice that it is renewing the charter for the Missile Defense Advisory Committee (hereafter referred to as the Committee).

**FOR FURTHER INFORMATION CONTACT:** Jim Freeman, Deputy Committee Management Officer for the Department of Defense, 703–601–6128.

**SUPPLEMENTARY INFORMATION:** The Committee is a discretionary Federal advisory committee established to provide the Secretary of Defense, through the Under Secretary of Defense for Acquisition, Technology & Logistics and the Director, Missile Defense Agency, independent advice and recommendations on all matters relating to missile defense, including system development, technology, program maturity and readiness of configurations for the Ballistic Missile Defense System.

The Under Secretary of Defense for Acquisition, Technology and Logistics or designee may act upon the Committee's advice and recommendations.

The Committee shall be composed of not more than fifteen Committee members, who are eminent authorities in the field of national defense policy, acquisition and technical areas relating

to Ballistic Missile Defense System Programs.

Committee members appointed by the Secretary of Defense, who are not full-time or permanent part-time Federal officers or employees, shall serve as special government employees under the authority of 5 U.S.C. 3109. With the exception of travel and per diem for official travel, Committee members shall normally serve without compensation, unless the Secretary of Defense authorizes compensation for a particular member(s).

Committee members shall be appointed by the Secretary of Defense to serve an initial two-year term not to exceed four years on the Committee. Committee members shall be renewed on an annual basis by the Secretary of Defense. The Under Secretary of Defense for Acquisition, Technology & Logistics or designee, in keeping with Department of Defense procedures for appointments, may extend a members term on the Committee. Member appointments will be staggered among the Committee membership to ensure an orderly turnover in the Committee's overall composition on a periodic basis.

The Secretary of Defense, based upon the recommendation of the Under Secretary of Defense for Acquisition, Technology & Logistics, shall appoint the Committee's Chairperson. The Under Secretary of Defense for Acquisition, Technology & Logistics shall appoint the Vice Chairperson, based on the recommendation of the Director, Missile Defense Agency. The Committee Chairperson and Vice Chairperson shall serve two-year terms and, with the concurrence of the appointing authority, may be reappointed in these positions for additional terms.

With DOD approval, the Committee is authorized to establish subcommittees, as necessary and consistent with its mission. These subcommittees or working groups shall operate under the provisions of the Federal Advisory Committee Act of 1972, the Government in the Sunshine Act of 1976 (5 U.S.C. 552b), and other appropriate Federal statutes and regulations.

Such subcommittees or workgroups shall not work independently of the chartered Committee, and shall report all their recommendations and advice to the Committee for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered Committee nor, can they report directly to the Department of Defense or any Federal officers or employees who are not Committee members.

Subcommittee members, who are not Committee members, shall be appointed in the same manner as the Committee members.

The Committee shall meet at the call of the Committee's Designated Federal Officer, in consultation with the Chairperson. The estimated number of Committee meetings is four per year.

The Designated Federal Officer, pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies and procedures. In addition, the Designated Federal Officer is required to be in attendance at all Committee and subcommittee meetings, however, in the absence of the Designated Federal Officer, the Alternate Designated Federal Officer shall attend the meeting.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the Missile Defense Advisory Committee membership about the Committee's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Missile Defense Advisory Committee.

All written statements shall be submitted to the Designated Federal Officer for the Missile Defense Advisory Committee, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Missile Defense Advisory Committee Designated Federal Officer can be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp*.

The Designated Federal Officer, pursuant to 41 CFR 102–3.150, will announce planned meetings of the Missile Defense Advisory Committee. The Designated Federal Officer, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

Dated: August 24, 2010.

**Mitchell S. Bryman,**

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

[FR Doc. 2010–21377 Filed 8–26–10; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Department of the Army

### Record of Decision (ROD) for Fort Bliss Army Growth and Force Structure Realignment

**AGENCY:** Department of the Army, DoD.

**ACTION:** Notice of availability.

**SUMMARY:** The Department of the Army announces the availability of a ROD that documents and summarizes the implementation of the preferred alternative described in the Fort Bliss Army Growth and Force Structure Realignment Final Environmental Impact Statement (hereinafter referred to as the FEIS). The preferred alternative consists of actions in three different categories (stationing/training, land use changes, and training infrastructure improvements) of interrelated alternatives.

The following actions will be implemented as elements of the preferred alternative: The stationing of two Infantry Brigade Combat Teams (IBCTs), up to two Stryker Brigade Combat Teams (SBCTs), and various support units to Fort Bliss (Stationing Action Alternative 4); land use changes that allow fixed site bivouac areas, mission support facilities, live-fire ranges and off-road vehicle grounds in new locations in the vicinity of the Sacramento Mountains and areas of McGregor Range (Land Use Alternative 5); and training infrastructure improvements, including construction of new ranges to support the stationing of IBCTs and SBCTs, expansion of existing range camps, construction of 16 Contingency Operating Locations (COLs), and construction of a rail line connecting the Fort Bliss Cantonment to the Fort Bliss Training Complex (Training Infrastructure Alternative 4).

**ADDRESSES:** Copies of the ROD are available from Mr. John F. Barrera, IMWE–BLS–PWE, Building 624, Taylor Road, Fort Bliss, TX 79916–6812; e-mail: *bliss.eis@conus.army.mil.*

**FOR FURTHER INFORMATION CONTACT:** Ms. Jean Offutt, Public Affairs Officer, IMWE–BLS–PA; Fort Bliss, TX 79916–6812; telephone: (915) 568–4505; fax: (915) 568–2995; e-mail: *jean.offutt@us.army.mil.*

**SUPPLEMENTARY INFORMATION:** The ROD supports Army expansion, future stationing actions, and land use changes and training infrastructure improvements. These changes take advantage of Fort Bliss's varied terrain and full suite of training ranges which will allow collocation of heavy, light, and aviation combat units and support units.

Land use analysis focused primarily on the McGregor Range's northeast terrain, with minor changes in the southeast and Tularosa Basin portions to support light infantry training. None of the land use changes involve the Culp Canyon Wilderness Study Area or the

Black Grama Grassland Area of Critical Environmental Concern.

Construction of additional firing ranges and the expansion or construction of administrative and training support facilities were also analyzed.

The effects of implementing the ROD alternatives included substantial erosion to interior range roads, requiring increased maintenance. Frequent overseas deployments will require an increase in training, which may reduce public and Native American access to some areas of the installation. Use of restricted airspace for military training will increase, making military scheduling of the airspace more complex. Training-related noise remains significant in areas adjacent to Dona Ana Range and portions of McGregor Range. The Army has identified measures in the FEIS to mitigate most of the significant environmental effects. The preferred alternatives may result in a small increase in the economic benefit provided by growth of the installation, and a small decrease in certain quality of life indicators (*e.g.,* traffic, air quality).

The ROD, FEIS and other environmental documents are available on the Fort Bliss Web site (*http://www.bliss.army.mil*) or at the following locations: El Paso, TX: Richard Burges Regional Library, 9600 Dyer; Irving Schwartz Branch Library, 1865 Dean Martin; the Clardy Fox Branch Library, 5515 Robert Alva; Doris van Doren Regional Branch Library, 551 Redd Road; Las Cruces, NM: New Mexico State University Zuhl Library, 2999 McFie Circle; Alamogordo, NM: Alamogordo Public Library, 920 Oregon Avenue.

Dated: August 12, 2010.

**Addison D. Davis, IV,**

*Deputy Assistant Secretary of the Army (Environment, Safety, and Occupational Health).*

[FR Doc. 2010–21376 Filed 8–26–10; 8:45 am]

**BILLING CODE 3710–08–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OW–2008–0719, FRL–9194–1]**

## Agency Information Collection Activities; Submission to OMB for Review and Approval; Cooling Water Intake Structure Phase II Existing Facilities (Renewal), EPA ICR No. 2060.04, OMB Control No. 2040–0257

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

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR describes the nature of the information collection and its estimated burden and cost.

**DATES:** Comments must be submitted on or before September 27, 2010.

**ADDRESSES:** Submit your comments, referencing Docket ID No. EPA–HQ–OW–2008–0719 to (1) EPA online using *http://www.regulations.gov* (our preferred method), by e-mail to *ow-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Water Docket, Mail Code 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *Attention:* Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Amelia Letnes, State and Regional Branch, Water Permits Division, OWM Mail Code: 4203M, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; *telephone number:* (202) 564–5627; *e-mail address: letnes.amelia@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### How Can I Access the Docket and/or Submit Comments?

EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On June 21, 2010 (75 FR 35022), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received 1 comment during the comment period, which is addressed in the ICR. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OW–2008–0719, which is available for online viewing at *http://www.regulations.gov,* or in person viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Water Docket is 202–566–2426.

Use EPA's electronic docket and comment system at *http://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified in this document. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at www.regulations.gov as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

*Title:* Cooling Water Intake Structure Phase II Existing Facilities (Renewal).

*ICR Numbers:* EPA ICR No. 2060.04, OMB Control No. 2040–0257.

*ICR Status:* This ICR is currently scheduled to expire on August 31, 2010. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR Part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR Part 9.

*Abstract:* The section 316(b) Phase II Existing Facility rule requires the collection of information from existing point source facilities that generate and transmit electric power (as a primary activity) or generate electric power but sell it to another entity for transmission, use a cooling water intake structure (CWIS) that uses at least 25 percent of the water it withdraws from waters of the U.S. for cooling purposes, and have a design intake flow of 50 million gallons per day (MGD) or more. Section 316(b) of the Clean Water Act (CWA) requires that any standard established under section 301 or 306 of the CWA and applicable to a point source must require that the location, design, construction and capacity of CWISs at that facility reflect the best technology available (BTA) for minimizing adverse environmental impact. Such impact occurs as a result of impingement (where fish and other aquatic life are trapped on technologies at the entrance

to CWIS) and entrainment (where aquatic organisms, eggs, and larvae are taken into the cooling system, passed through the heat exchanger, and then pumped back out with the discharge from the facility). The 316(b) Phase II rule establishes requirements applicable to the location, design, construction, and capacity of CWISs at Phase II existing facilities. These requirements establish the BTA for minimizing adverse environmental impact associated with the use of CWISs.

The 316(b) Phase II rule was signed on February 16, 2004. Industry and environmental groups, and a number of states filed legal challenges to the rule. Several issues were heard by the Second Circuit's Court of Appeals, which issued a decision on January 25, 2007 remanding portions of the rule (*see Riverkeeper, Inc.* v. *U.S. EPA, No. 04–6692–ag(L) [2d Cir. Jan. 25, 2007]*). Industry groups also petitioned the Supreme Court on several issues, which issued a decision on April 1, 2009. (*Entergy Corp.* v. *Riverkeeper, Inc., No. 07–588*). EPA subsequently suspended the 316(b) Phase II rule on July 9, 2007 and is currently in the process of developing a revised rule for existing facilities. However, permitting authorities are still required under section 301 of the CWA to establish BTA permit limits using best professional judgment. The existing Phase II rule provides a framework for the type of information a permit authority needs to establish appropriate BTA limits for CWISs. This ICR does not address the results of court decisions or any proposed regulation.

*Burden Statement:* The annual average reporting and recordkeeping burden for the collection of information by facilities responding to the Section 316(b) Phase II Existing Facility rule is estimated to be 2,071 hours per respondent. The state Director reporting and recordkeeping burden for the review, oversight, and administration of the rule is estimated to average 1,101 hours per respondent. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and use technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose information.

*Respondents/Affected Entities:* Electric power generating facilities, State governments.

*Estimated Number of Respondents:* 514 (472 facilities and 42 states).

*Frequency of Response:* Bi-annually, every five years.

*Estimated Total Annual Hour Burden:* 1,023,521 hours.

*Estimated Total Annual Cost:* $74,199,667. This includes an estimated burden cost of $64,224,198 and an estimated cost of $9,975,469 for capital investment or operation & maintenance.

*Changes in the Estimates:* The change in burden results mainly from the shift from the approval period to the renewal period of the 316(b) Phase II Existing Facilities rule. The currently approved ICR (EPA ICR No. 2060.03) covers the last 2 years of the permit approval period (*i.e.,* years 4 and 5 after implementation) and the first year of the renewal period (*i.e.,* year 6 after implementation). This proposed ICR covers renewal of permits only (years 7 to 9 after implementation). Activities for renewing an NPDES permit already issued under the 316(b) Phase II Existing Facilities rule are less burdensome than those for issuing a permit for the first time.

Dated: August 23, 2010.

**Richard T. Westlund,**

*Acting Director, Collection Strategies Division.*

[FR Doc. 2010–21426 Filed 8–26–10; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–9189–7]**

## Clean Water Act Section 303(d): Availability of List Decisions

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

**ACTION:** Notice and request for comments.

**SUMMARY:** This notice announces the availability of EPA's decision identifying 12 water quality limited waterbodies and associated pollutants in South Dakota to be listed pursuant to the Clean Water Act Section 303(d)(2), and requests public comment. Section 303(d)(2) requires that States submit and EPA approve or disapprove lists of waters for which existing technology-based pollution controls are not stringent enough to attain or maintain State water quality standards and for which total maximum daily loads (TMDLs) must be prepared.

On July 9, 2010, EPA partially approved and partially disapproved South Dakota's Section 303(d) list submittal for the 2010 listing cycle. Specifically, EPA approved South Dakota's listing of 151 waters, associated pollutants, and associated priority rankings. EPA disapproved South Dakota's decision to not include 12 lakes that had been on the 2008 list. EPA evaluated all the existing and readily available data and information on the lakes and concluded that the beneficial uses for these lakes are not being fully met. Based on this evaluation EPA has determined that the following 12 lakes are not fully attaining the water quality standards established by the State of South Dakota and should be included on the State's list of impaired waters: Waggoner Lake (Haakon County), Bierman Dam (Spink County), Lake Carthage (Miner County), Lake Isabel (Dewey County), Twin Lakes (Sanborn County), Wilmarth Lake (Aurora County), Rahn Lake (Tripp County), Cottonwood Lake (Sully County), East Vermillion Lake (McCook County), Bullhead Lake (Deuel County), Lake Campbell (Campbell County), and Lake Pocasse (Campbell County).

EPA is providing the public the opportunity to review its decision to add these lakes to South Dakota's 2010 Section 303(d) list, as required by EPA's Public Participation regulations. EPA will consider public comments in reaching its final decision to add these lakes to the State's list.

**DATES:** Comments must be submitted to EPA on or before September 27, 2010.

**ADDRESSES:** Comments on the proposed decision should be sent to Tom Johnson, Water Quality Unit (8EPR–EP), U.S. Environmental Protection Agency Region 8, 1595 Wynkoop Street, Denver, CO 80202–1129, telephone (303) 312–6226, facsimile (303) 312–7206, e-mail *johnson.tom@epa.gov.* Oral comments will not be considered. Copies of EPA's letter concerning South Dakota's list that explains the rationale for EPA's decision can be obtained at EPA Region 8's Web site at *http://www.epa.gov/region08/water/tmdl,* or by writing or calling Mr. Johnson at the above address. Underlying documents from the administrative record for these decisions are available for public inspection at the above address. Please contact Mr. Johnson to schedule an inspection.

**FOR FURTHER INFORMATION CONTACT:** Tom Johnson at (303) 312–6226 or *johnson.tom@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Section 303(d) of the Clean Water Act (CWA) requires that each State identify those waters for which existing technology-based pollution controls are not stringent enough to attain or maintain State water quality standards. For those waters, States are required to establish TMDLs according to a priority ranking.

EPA's Water Quality Planning and Management regulations include requirements related to the implementation of Section 303(d) of the CWA (40 CFR 130.7). The regulations require States to identify water-quality-limited waters still requiring TMDLs every two years. The lists of waters still needing TMDLs must also include priority rankings, identify the pollutants causing the impairment, and must identify the waters targeted for TMDL development during the next two years (40 CFR 130.7).

Consistent with EPA's regulations, South Dakota submitted to EPA its listing decisions under Section 303(d)(2) in correspondence dated March 29, 2010. On July 9, 2010, EPA approved South Dakota's listing of 151 waters and associated priority rankings. EPA disapproved South Dakota's decision not to include 12 lakes in its list. EPA solicits public comment on the addition of these 12 lakes to the State's list, as required by EPA's Public Participation regulations (40 CFR Part 25).

**Authority:** Clean Water Act, 33 U.S.C. 1251 *et seq.*

Dated: August 4, 2010.

**Martin Hestmark,**

*Acting Assistant Regional Administrator, Office of Ecosystems Protection and Remediation.*

[FR Doc. 2010–21390 Filed 8–26–10; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[ER–FRL–8992–4]**

### Environmental Impacts Statements; Notice of Availability

*Responsible Agency:* Office of Federal Activities, General Information (202) 564–1399 or *http://www.epa.gov/compliance/nepa/3.*

Weekly receipt of Environmental Impact Statements.

Filed 08/16/2010 Through 08/20/2010.

Pursuant to 40 CFR 1506.9.

### Notice

In accordance with Section 309(a) of the Clean Air Act, EPA is required to make its comments on EISs issued by other Federal agencies public. Historically, EPA has met this mandate by publishing weekly notices of availability of EPA comments, which includes a brief summary of EPA's comment letters, in the **Federal Register**. Since February 2008, EPA has been including its comment letters on EISs on its Web site at: *http://www.epa.gov/compliance/nepa/eisdata.html.* Including the entire EIS comment letters on the website satisfies the Section 309(a) requirement to make EPA's comments on EISs available to the public. Accordingly, on March 31, 2010, EPA discontinued the publication of the notice of availability of EPA comments in the **Federal Register**.

*EIS No. 20100317, Final EIS, NOAA, 00,* PROGRAMMATIC—Coral Restoration in the Florida Keys and Flower Garden Banks National Marine Sanctuaries, Implementation, FL, TX, and LA, Wait Period Ends: 09/27/2010, Contact: Alice Stratton 203–882–6515.

*EIS No. 20100330, Final EIS, USFS, OR,* Off-Highway Vehicle (OHV) Management Plan, Including Forest Plan Amendment #17, Designation of Roads, Trails and Areas for OHV Use on Mt. Hood National Forest, Implementation, Clackamas, Hood River, Multnomah, and Wasco Counties, OR, Wait Period Ends: 09/27/2010, Contact: Michelle Lombardo 503–668–1796.

*EIS No. 20100331, Draft EIS, NOAA, 00,* Harvest Specifications and Management Measures for the 2011–2012 Pacific Coast Groundfish Fishery and Amendment 16–5 to the Pacific Coast Groundfish Fishery Management Plan, and Adopt a Rebuilding Plan for Petrale Sole, RIN–0648–BA01, WA, OR and CA, Comment Period Ends: 10/12/2010, Contact: William W. Steele, Jr. 206–526–6150.

*EIS No. 20100332, Final EIS, NPS, MD,* Monocacy National Battlefield, General Management Plan, Implementation, Frederick County, MD, Wait Period Ends: 09/27/2010, Contact: Susan Trail 301–694–3147.

*EIS No. 20100333, Final EIS, NPS, 00,* Harpers Ferry National Historical Park, General Management Plan, Implementation, Harpers Ferry, Jefferson County, WV; Loudoun County, VA; and Washington County, MD, Wait Period Ends: 09/27/2010, Contact: Rebecca L. Harriett 304–535–6224.

*EIS No. 20100334, Final EIS, FAA, PA,* Philadelphia International Airport (PHL) Capacity Enhancement Program (CEP) To Accommodate Current and Future Aviation Demand, Funding and U.S. Army COE Section 404 Permit, Philadelphia, PA, Wait Period Ends: 09/27/2010, Contact: Susan McDonald 717–730–2841.

*EIS No. 20100335, Draft Supplement, NOAA, 00,* Amendment 11 to the Atlantic Mackerel, Squid, and Butterfish (MSB), Update Information MSB Essential Fish Habitat; Establish a Mackerel Recreational Allocation; Establish a Cap to Limit the At-Sea Processing of Mackerel, Fishery Management Plan (FMP), Establish an Atlantic Mackerel Limited Access Program, Implementation, Comment Period Ends: 10/12/2010, Contact: Patricia A. KurKul 978–281–9250.

*EIS No. 20100336, Draft EIS, FTA, NC,* LYNX—Blue Line Extension Northeast Corridor Light Rail Project, Proposed Light Rail Extension from Center City Charlotte to I–485 near the Mecklenburg-Cabarrus County Line, Charlotte-Mecklenburg County, NC, Comment Period Ends: 10/12/2010, Contact: Keith Melton 404–856–5600 This document is available on the Internet at: *http://charmeck.org/city/charlotte/cats/planning/BLE/Pages/deisstudy.aspx.*

*EIS No. 20100337, Final EIS, NRC, WY,* Moore Ranch In-Situ Uranium Recovery (ISR) Project, Proposal to Construct, Operate, Conduct Aquifer Restoration, and Decommission an In-Situ Recovery (ISR) Facility, NUREG–1910, Campbell County, WY, Wait Period Ends: 09/27/2010, Contact: Behram Shroff 301–415–0666.

*EIS No. 20100338, Draft EIS, BLM, CA,* First Solar Desert Sunlight Solar Farm (DSSF) Project, Proposing To Develop a 550-Megawatt Photovoltaic Solar Project, Also Proposes to Facilitate the Construction and Operation of the Red Bluff Substation, California Desert Conservation Area (CDCA Plan, Riverside County, CA, Comment Period Ends: 11/26/2010, Contact: Allison Shaffer 760–833–7100.

*EIS No. 20100339, Final EIS, BLM, CA,* Genesis Solar Energy Project, Application for a Right-of-Way Grant to Construct, Operate and Decommission a Solar Thermal Facility on Public Lands, California Desert Conservation Area Plan, Riverside County, CA, Wait Period Ends: 09/27/2010, Contact: Allison Shaffer 760–833–7104.

*EIS No. 20100340, Final EIS, USA, WA,* Fort Lewis Army Growth and Force Structures Realignment, Implementation, Fort Lewis and Yakima Training Center, Kittitas, Pierce, Thurston and Yakima Counties, WA, Wait Period Ends: 09/27/2010, Contact: Lisa Booher 410–436–2405.

**Amended Notices**

*EIS No. 20100305, Draft EIS, NPS, AK,* Nabesna Off-Road Vehicle Management Plan, Implementation, Wrangell-St. Elias National Park and Preserve, AK, Comment Period Ends: 11/10/2010, Contact: Bruce Rogers 907–822–7276, Revision to FR Notice Published 08/13/2010: Correction to Title and Extending the Comment Period from 09/27/2010 to 11/10/2010.

*EIS No. 20100328, Final EIS, DOE, KS,* Abengoa Biorefinery Project, To Support the Design, Construction, and Startup of a Commercial-Scale Integrated Biorefinery, Federal Funding, Located near the City Hugoton, Stevens County, KS, Comment Period Ends: 09/20/2010, Contact: Kristin Kerwin 720–356–1564.

Revision to FR Notice Published 8/20/2010: Correction to Wait Period from 09/09/2010 to 09/20/2010.

Dated: August 24, 2010.

**Robert W. Hargrove,**

*Director, NEPA Compliance Division, Office of Federal Activities.*

[FR Doc. 2010–21439 Filed 8–26–10; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–9193–9]**

### Meeting of the Mobile Sources Technical Review Subcommittee

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

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Mobile Sources Technical Review Subcommittee (MSTRS) will meet in October 2010. The MSTRS is a subcommittee under the Clean Air Act Advisory Committee. This is an open meeting. The meeting will include discussion of current topics and presentations about activities being conducted by EPA's Office of Transportation and Air Quality. The preliminary agenda for the meeting and any notices about change in venue will be posted on the Subcommittee's Web Site: *http://www.epa.gov/air/caaac/mobile_sources.html.* MSTRS listserver subscribers will receive notification when the agenda is available on the Subcommittee web site. To subscribe to the MSTRS listserver, send a blank e-mail to *lists-mstrs@lists.epa.gov.*

**DATES:** Tuesday, October 5, 2010 from 9 a.m. to 4 p.m. Registration begins at 8:30 a.m.

**ADDRESSES:** *The meeting is tentatively scheduled to be held at EPA's National Vehicle Fuels and Emissions Laboratory (NVFEL), 2000 Traverwood, Ann Arbor, Michigan 48105.* However, this date and location are subject to change and interested parties should monitor the Subcommittee Web site for the latest logistical information.

**FOR FURTHER INFORMATION CONTACT:** *For technical information:* John Guy, Designated Federal Officer, Transportation and Regional Programs Division, Mailcode 6403J, U.S. EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20460; Ph: 202–343–9276; e-mail: *guy.john@epa.gov. For logistical and administrative information:* Ms. Cheryl Jackson, U.S. EPA, Transportation and Regional Programs Division, Mailcode 6405J, U.S. EPA, 1200 Pennsylvania Ave. NW., Washington, DC 20460; 202–343–9653; e-mail: *jackson.cheryl@epa.gov.*

Background on the work of the Subcommittee is available at: *http://www.epa.gov/air/caaac/mobile_sources.html.* Individuals or organizations wishing to provide comments to the Subcommittee should submit them to Mr. Guy at the address above by September 27, 2010. The Subcommittee expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

**SUPPLEMENTARY INFORMATION:** During the meeting, the Subcommittee may also hear progress reports from some of its workgroups as well as updates and announcements on activities of general interest to attendees.

*For Individuals With Disabilities:* For information on access or services for individuals with disabilities, please contact Mr. Guy or Ms. Jackson (*see* above). To request accommodation of a disability, please contact Mr. Guy or Ms. Jackson, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: August 23, 2010.

**Margo Tsirigotis Oge,**

*Director, Office of Transportation and Air Quality.*

[FR Doc. 2010–21391 Filed 8–26–10; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPP–2010–0213; FRL–8839–2]**

### Pesticide Product Registrations; Unconditional and Conditional Approvals

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

**ACTION:** Notice.

**SUMMARY:** This notice announces the Agency's issuance, pursuant to the provisions of section 3(c)(5) and 3(c)(7) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), of registrations for pesticide products containing active ingredients that were not in any registered pesticide products at the time of their respective submissions.

**FOR FURTHER INFORMATION CONTACT:** A contact person is listed at the end of each registration approval summary and may be contacted by telephone or e-mail. The mailing address for each contact person listed is: Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this Action Apply to Me?*

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

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

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

*B. How Can I Get Copies of this Document and Other Related Information?*

1. *Docket*. EPA has established a docket for each action under the docket identification (ID) number specified for the pesticide of interest as shown in the registration approval summaries. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

Pursuant to section 3(c)(2) of FIFRA, a copy of the approved label, the list of data references, the data and other scientific information used to support each registration, except for material specifically protected by section 10 of FIFRA, are also available for public inspection. Requests for data must be made pursuant to the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001. Such requests should: Identify the product name and registration number and specify the data or information desired.

Paper copies of the fact sheets, which provide more detail on these registrations, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22161.

**II. New Active Ingredients**

1. *2-Methyl-1-butanol. Docket number*: EPA–HQ–OPP–2009–0125. *Description of new active ingredient*: EPA received an application from Bull Run Scientific, VBT, Beaufont Springs Dr., Suite 300, Richmond, VA 23225, to register a pesticide product (EPA File Symbol 84565–T) containing the active ingredient, 2-methyl-1-butanol. At the time of submission of the application for registration, this active ingredient was not contained in any pesticide products registered with the Agency.

*Regulatory conclusions*: The application was approved on February 3, 2010, for Disposable Bull Run Yellowjacket Trap E (EPA Registration Number 84565–7) for use as an attractant in traps intended to capture hornets and wasps. The Agency approved the application considering data on risks associated with the proposed use of 2-methyl-1-butanol, and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the biochemical pesticide and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations that show use of 2-methyl-1-butanol, when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects on the environment.

*Missing data & conditions for submission*: All data requirements have been satisfied, and this pesticide product has been granted an unconditional registration.

*Response to comments*: EPA published a notice of receipt in the **Federal Register** of March 16, 2009 (74 FR 11098), which announced that Bull Run Scientific VBT had submitted an application to register a pesticide product containing the new active ingredient, 2-methyl-1-butanol, for use as an attractant in traps intended to capture hornets and wasps. Moreover, in order to increase the transparency of the Agency's pesticide registration decisions, the Agency began to implement a public participation process for certain registration actions (i.e., new active ingredients, first food uses, first outdoor uses, first residential uses, and other actions of significant interest to the public) on October 1, 2009. As this application was for a pesticide product containing a new active ingredient, the proposed decision, risk assessment, and draft label associated with this pesticide product were added to the docket prior to registration to allow a meaningful opportunity for the public to provide substantive comments. The start of the 30–day public participation comment period was announced on the Agency's web site *http://www.epa.gov/pesticides/regulating/registration-public-involvement.html* on December 15, 2009. There were no comments received in response to the notice of receipt or during the 30–day public participation process occurring immediately prior to the final registration decision. *Contact*: Chris Pfeifer, (703) 308–0031, *pfeifer.chris@epa.gov*.

2. *Calcium acetate. Docket number*: EPA–HQ–OPP–2009–0125. *Description of new active ingredient*: EPA received an application from Bull Run Scientific, VBT, Beaufont Springs Dr., Suite 300, Richmond, VA 23225, to register a pesticide product (EPA File Symbol 84565–T) containing the active ingredient, calcium acetate. At the time of submission of the application for registration, this active ingredient was not contained in any pesticide products registered with the Agency.

*Regulatory conclusions*: The application was approved on February 3, 2010, for Disposable Bull Run Yellowjacket Trap E (EPA Registration Number 84565–7) for use as an attractant in traps intended to capture hornets and wasps. The Agency approved the application considering data on risks associated with the proposed use of calcium acetate, and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the biochemical pesticide and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations that show use of calcium acetate, when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects on the environment.

*Missing data & conditions for submission*: All data requirements have been satisfied, and this pesticide product has been granted an unconditional registration.

*Response to comments*: EPA published a notice of receipt in the **Federal Register** of March 16, 2009 (74 FR 11098), which announced that Bull Run Scientific, VBT had submitted an application to register a pesticide product containing the new active ingredient, calcium acetate, for use as an attractant in traps intended to capture hornets and wasps. Moreover, in order to increase the transparency of the Agency's pesticide registration decisions, the Agency began to implement a public participation process for certain registration actions (i.e., new active ingredients, first food uses, first outdoor uses, first residential uses, and other actions of significant interest to the public) on October 1, 2009. As this application was for a pesticide product containing a new active ingredient, the proposed decision, risk assessment, and draft label associated with this pesticide product were added to the docket prior to registration to allow a meaningful opportunity for the public to provide substantive comments. The start of the 30–day public participation comment period was announced on the Agency's web site *http://www.epa.gov/pesticides/regulating/registration-public-involvement.html* on December 15, 2009. There were no comments received

in response to the notice of receipt or during the 30–day public participation process occurring immediately prior to the final registration decision. *Contact*: Chris Pfeifer, (703) 308–0031, *pfeifer.chris@epa.gov*.

3. *Laminarin. Docket number*: EPA–HQ–OPP–2009–0126. *Description of new active ingredient*: EPA received an application from Laboratoires Goemar SA, Z.AC La Madeline, Avenue General Patton, 35400 Saint-Malo, France c/o SciReg, Inc. 12733 Director's Loop, Woodbridge, VA 22192, to register a pesticide product (EPA File Symbol 83941–E) containing the active ingredient, laminarin. At the time of submission of the application for registration, this active ingredient was not contained in any pesticide products registered with the Agency.

*Regulatory conclusions*: The application was approved on February 15, 2010, for vacciplant (EPA Registration Number 83941–2) for use as a Systemic Acquired Resistance (SAR) Inducer. The Agency approved the application considering data on risks associated with the proposed use of laminarin, and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the biochemical pesticide and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations that show use of laminarin, when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects on the environment.

*Missing data & conditions for submission*: All data requirements have been satisfied, and this pesticide product has been granted an unconditional registration.

*Response to comments*: EPA published a notice of receipt in the **Federal Register** of March 16, 2009 (74 FR 11098), which announced that Laboratoires Goemar SA, Z.AC La Madeline, Ave. General Patton, 35400 Saint-Malo, France c/o SciReg, Inc. 12733 Director's Loop, Woodbridge, VA 22192 had submitted an application to register a pesticide product containing the new active ingredient, laminarin, for use on crops as a SAR Inducer. Moreover, in order to increase the transparency of the Agency's pesticide registration decisions, the Agency began to implement a public participation process for certain registration actions (i.e., new active ingredients, first food uses, first outdoor uses, first residential uses, and other actions of significant interest to the public) on October 1, 2009. As this application was for a pesticide product containing a new active ingredient, the proposed decision, risk assessment, and draft label associated with this pesticide product were added to the docket prior to registration to allow a meaningful opportunity for the public to provide substantive comments. The start of the 30–day public participation comment period was announced on the Agency's web site *http://www.epa.gov/pesticides/regulating/registration-public-involvement.html* on January 5, 2010. There were no comments received in response to the notice of receipt or during the 30–day public participation process occurring immediately prior to the final registration decision. *Contact*: Chris Pfeifer, (703) 308–0031, *pfeifer.chris@epa.gov*.

4. *S-Abscisic acid (ABA). Docket number*: EPA–HQ–OPP–2009–0127. *Description of new active ingredient*: EPA received an application from Valent Biosciences Corporation, 870 Technology Way, Libertyville, IL 60048, to register a pesticide product (EPA File Symbol 73049–UAE) containing the active ingredient, S-abscisic acid. At the time of submission of the application for registration, this active ingredient was not contained in any pesticide products registered with the Agency.

*Regulatory conclusions*: The application was approved on February 28, 2010, for ConTego Pro SL (EPA Registration Number 73049–462) for use as a plant growth regulator. The Agency approved the application considering data on risks associated with the proposed use of S-abscisic acid, and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the biochemical pesticide and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations that show use of S-abscisic acid, when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects on the environment.

*Missing data & conditions for submission*: All data requirements have been satisfied, and this pesticide product has been granted an unconditional registration.

*Response to comments*: EPA published a notice of receipt in the **Federal Register** of March 16, 2009 (74 FR 11098), which announced that Valent Biosciences Corporation, 870 Technology Way, Libertyville, IL 60048 had submitted an application to register a pesticide product containing the new active ingredient, S-abscisic acid, for use on crops as a plant growth regulator. Moreover, in order to increase the transparency of the Agency's pesticide registration decisions, the Agency began to implement a public participation process for certain registration actions (i.e., new active ingredients, first food uses, first outdoor uses, first residential uses, and other actions of significant interest to the public) on October 1, 2009. As this application was for a pesticide product containing a new active ingredient, the proposed decision, risk assessment, and draft label associated with this pesticide product were added to the docket prior to registration to allow a meaningful opportunity for the public to provide substantive comments. The start of the 30–day public participation comment period was announced on the Agency's web site *http://www.epa.gov/pesticides/regulating/registration-public-involvement.html* on January 26, 2010. There were no comments received in response to the notice of receipt or during the 30–day public participation process occurring immediately prior to the final registration decision. *Contact*: Chris Pfeifer, (703) 308–0031, *pfeifer.chris@epa.gov*.

*5. Terpene constituents of the extract of Chenopodium ambrosioides near ambrosioides (ECANA) as synthetically manufactured. Docket number*: EPA–HQ–OPP–2009–0237. *Description of new active ingredient*: EPA received an application from AgraQuest, Inc., 1540 Drew Ave., Davis, CA 95618–6320, to register a pesticide product (EPA File Symbol 69592–EL) containing the active ingredient, Extract of *Chenopodium ambrosioides* near *ambrosioides* (ECANA) Mimic. (During the application process, the active ingredient name was subsequently changed to Terpene Constituents of the Extract of *Chenopodium ambrosioides* near *ambrosioides* (ECANA) as Synthetically Manufactured to more accurately describe its synthetic origin.) At the time of submission of the application for registration, this active ingredient was not contained in any pesticide products registered with the Agency.

*Regulatory conclusions*: The application was approved on June 30, 2010 for QRD 452 (EPA Registration Number 69592–25) for use as an insecticide/acaracide. The Agency approved the application considering data on risks associated with the proposed use of Terpene Constituents of ECANA as Synthetically Manufactured, and information on social, economic,

and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the biochemical pesticide and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations that show use of Terpene Constituents of ECANA as Synthetically Manufactured, when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects on the environment.

*Missing data & conditions for submission*: QRD 452, EPA Registration Number 69592–22, was conditionally registered. A conditional registration may be granted under section 3(c)(7)(C) of FIFRA for a new active ingredient where certain data are lacking, on condition that such data are received by the end of the conditional registration period and do not meet or exceed the risk criteria set forth in 40 CFR 154.7; that use of the pesticide during the conditional registration period will not cause unreasonable adverse effects; and that use of the pesticide is in the public interest. The Agency has considered the available data on the risks associated with the proposed use of Terpene Constituents of ECANA as Synthetically Manufactured, and information on social, economic, and environmental benefits to be derived from such use. Specifically, the Agency has considered the nature and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of Terpene Constituents of ECANA as Synthetically Manufactured during the period of conditional registration will not cause any unreasonable adverse effect on the environment, and that use of the pesticide is, in the public interest.

Consistent with section 3(c)(7)(C) of FIFRA, the Agency has determined that these conditional registrations are in the public interest. Use of the pesticides are of significance to the user community, and appropriate labeling, use directions, and other measures have been taken to ensure that use of the pesticides will not result in unreasonable adverse effects to man and the environment.

All data requirements, except one product chemistry requirement, have been fully satisfied; and this pesticide product has been granted a conditional registration. The Agency has required submission of an additional Preliminary Analysis per 40 CFR 158.2030 (OPPTS Guideline 830.1700) by June 21, 2011 for QRD 452 (EPA Registration Number 69592–25).

*Response to Comments*: EPA published a notice of receipt in the **Federal Register** of July 22, 2009 (74 FR 36215) (FRL–8425–9), which announced that AgraQuest, Inc., 1540 Drew Ave., Davis, CA 95618–6320 had submitted an application to register a pesticide product containing the new active ingredient, Terpene Constituents of ECANA as Synthetically Manufactured, for use on crops as an insecticide and an acaricide. Moreover, in order to increase the transparency of the Agency's pesticide registration decisions, the Agency began to implement a public participation process for certain registration actions (i.e., new active ingredients, first food uses, first outdoor uses, first residential uses, and other actions of significant interest to the public) on October 1, 2009. As this application was for a pesticide product containing a new active ingredient, the proposed decision, risk assessment, and draft label associated with this pesticide product were added to the docket prior to registration to allow a meaningful opportunity for the public to provide substantive comments. The start of the 30–day public participation comment period was announced on the Agency's web site *http://www.epa.gov/pesticides/regulating/registration-public-involvement.html* on April 30, 2010. There were no comments received in response to the notice of receipt or during the 30–day public participation process occurring immediately prior to the final registration decision. *Contact*: Chris Pfeifer, (703) 308–0031, *pfeifer.chris@epa.gov*.

*6. (Z,Z,E)-7,11,13-Hexadecatrienal*. *Docket number*: EPA–HQ–OPP–2009–0930. *Description of new active ingredient*: EPA received applications from ISCA Technologies, Inc., 1230 Riverside, CA, 92507, to register pesticide products (EPA File Symbols 80286–RU and 80286–RL) containing the active ingredient (Z,Z,E)-7,11,13-hexadecatrienal. At the time of submission of the applications for registration, this active ingredient was not contained in any pesticide products registered with the Agency.

*Regulatory conclusions*: The applications were approved on April 19, 2010, for SPLAT CLM MP (EPA Registration Number 80286–RU) for manufacturing or formulating use only and SPLAT CLM (EPA Registration Number 80286–RL) for use on ornamental and agricultural crops. The Agency approved the applications considering data on risks associated with the proposed use of (Z,Z,E)-7,11,13-hexadecatrienal, and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the biochemical pesticide and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations that show use of (Z,Z,E)-7,11,13-hexadecatrienal, when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects on the environment.

*Missing data & conditions for submission*: All data requirements have been satisfied, and these pesticide products have been granted unconditional registrations.

*Response to comments*: EPA published a notice of receipt in the **Federal Register** of January 27, 2010 (75 FR 4383) (FRL–8806–5), which announced that ISCA Technologies, Inc. had submitted applications to register pesticide products containing the new active ingredient, (Z,Z,E)-7,11,13-hexadecatrienal, for use on ornamental and agricultural crops. Moreover, in order to increase the transparency of the Agency's pesticide registration decisions, the Agency began to implement a public participation process for certain registration actions (i.e., new active ingredients, first food uses, first outdoor uses, first residential uses, and other actions of significant interest to the public) on October 1, 2009. As these applications were for pesticide products containing a new active ingredient, the proposed decision, risk assessments, and draft labels associated with these pesticide products were added to the docket prior to registration to allow a meaningful opportunity for the public to provide substantive comments. The start of the 30–day public participation comment period was announced on the Agency's web site *http://www.epa.gov/pesticides/regulating/registration-public-involvement.html* on March 15, 2010. EPA has received 10 comments regarding the applications, all in support of the registration of (Z,Z,E)-7,11,13-hexadecatrienal. *Contact*: Gina Casciano, (703) 605–0513, *casciano.gina@epa.gov.*

*7. Homobrassinolide. Docket number*: EPA–HQ–OPP–2007–1187. *Description of new active ingredient*: EPA received an application from Repar Corporation of P.O. Box 4321, Silver Spring, MD 20914, to register a pesticide product (EPA File Symbol 69361–17) containing the active ingredient, homobrassinolide. At the time of submission of the

application for registration, this active ingredient was not contained in any pesticide products registered with the Agency.

*Regulatory conclusions*: The application was approved on June 14, 2010, for Homobrassinolide Technical (EPA Registration Number 69361–17) for manufacturing or formulating use only.

*Missing data & conditions for submission*: All data requirements have been satisfied, and this pesticide product has been granted an unconditional registration.

*Response to comments*: EPA published a notice of receipt in the **Federal Register** of January 16, 2008 (73 FR 2915) (FRL–8346–7), which announced that Repar Corporation had submitted an application to register a pesticide product containing the new active ingredient, homobrassinolide, for use on all food commodities. Moreover, in order to increase the transparency of the Agency's pesticide registration decisions, the Agency began to implement a public participation process for certain registration actions (i.e., new active ingredients, first food uses, first outdoor uses, first residential uses, and other actions of significant interest to the public) on October 1, 2009. As this application was for a pesticide product containing a new active ingredient, the proposed decision, risk assessment, and draft label associated with this pesticide product were added to the docket prior to registration to allow a meaningful opportunity for the public to provide substantive comments. The start of the 30–day public participation comment period was announced on the Agency's web site *http://www.epa.gov/pesticides/regulating/registration-public-involvement.html* on April 30, 2010. There were no substantive comments received in response to the notice of receipt or during the 30–day public participation process occurring immediately prior to the final registration decision. *Contact*: John Fournier, (703) 308–0169, *fournier.john@epa.gov.*

8. *Ulocladium oudemansii* (U3 Strain). *Docket number*: EPA–HQ–OPP–2010–0553. *Description of new active ingredient*: EPA received applications from Botry-Zen, Ltd., 21 Willis St., P.O. Box 5664, Dunedin, New Zealand, to register pesticide products (EPA File Symbols 75747–R, and 75747–E) containing the active ingredient, *Ulocladium oudemansii* (U3 Strain). At the time of submission of the applications for registration, this active ingredient was not contained in any pesticide products registered with the Agency.

*Regulatory conclusions*: The applications were approved on October 19, 2009, for *Ulocladium oudemansii* Technical (EPA Registration Number 75747–1) for manufacturing or formulating use only and BOTRY-Zen® (EPA Registration Number 75747–2) for use on fruit and vegetable crops and ornamental plants. The Agency approved the applications considering data on risks associated with the proposed use of *Ulocladium oudemansii* (U3 Strain), and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the microbial pesticide and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations that show use of *Ulocladium oudemansii* (U3 Strain), when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects on the environment.

*Missing data & conditions for submission*: All data requirements have been satisfied, and these pesticide products have been granted unconditional registrations.

*Response to comments*: EPA published a notice of receipt in the **Federal Register** of October 29, 2008 (73 FR 64325) (FRL–8386–5), which announced that Botry-Zen, Ltd. had submitted applications to register pesticide products containing the new active ingredient, *Ulocladium oudemansii* (U3 Strain), for use on fruit and vegetable crops and ornamental plants. Moreover, in order to increase the transparency of the Agency's pesticide registration decisions, the Agency began to implement a public participation process for certain registration actions (i.e., new active ingredients, first food uses, first outdoor uses, first residential uses, and other actions of significant interest to the public) on October 1, 2009. As these applications were for pesticide products containing a new active ingredient, the proposed decision, risk assessments, and draft labels associated with these pesticide products were to have been added to the docket prior to registration to allow a meaningful opportunity for the public to provide substantive comments. However, given the Agency finding that *Ulocladium oudemansii* (U3 strain) has very low toxicity and presents little if any risk to non-target organisms, EPA concluded in October of 2009 that it was in the best interests of the public and the environment to issue the registration for *Ulocladium oudemansii* (U3 strain) without delay. Therefore, consistent with the Agency's approach for making these registration actions more transparent, EPA issued these two registrations for an initial period of 1 year and, concurrent with such issuance, provided a 30–day public comment period. The start of the 30–day public participation comment period was announced on the Agency's web site *http://www.epa.gov/pesticides/regulating/registration-public-involvement.html* on October 20, 2009. As there were no comments received in response to the notice of receipt or during the 30–day public participation process occurring concurrently with the final registration decision, the 1 year time-limitation was removed for EPA Registration Number 75747–1 and EPA Registration Number 75747–2 on January 7, 2010. *Contact*: Denise Greenway, (703) 308–8263, *greenway.denise@epa.gov*.

9. *Coat protein gene of plum pox virus also known as the CPG-PPV, or plum pox resistance gene (plum pox viral coat protein gene). Docket number*: EPA–HQ–OPP–2010–0554. *Description of new active ingredient*: EPA received an application from Interregional Research Project Number 4 (IR-4) of Rutgers University, 500 College Rd. East, Suite 201 W., Princeton, NJ 08540 on behalf of the United States Department of Agriculture-Agricultural Research Service-Appalachian Fruit Research Station (USDA-ARS-AFRS), 2217 Wiltshire Rd., Kearneysville, WV 25430, to register a pesticide product (EPA File Symbol 11312-I) containing the active ingredient, coat protein gene of plum pox virus. At the time of submission of the application for registration, this active ingredient was not contained in any pesticide products registered with the Agency.

*Regulatory conclusions*: The application was approved on May 7, 2010 for C5 HoneySweet Plum (EPA Registration Number 11312–8) for resistance to plum pox virus infection. The Agency approved the application considering data on risks associated with the proposed use of the coat protein gene of plum pox virus, and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the plant-incorporated protectant and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations showing that the coat protein gene of plum pox virus,

when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects on the environment.

*Missing data & conditions for submission*: C5 HoneySweet Plum, EPA Registration Number 11312–8, was conditionally registered. A conditional registration may be granted under section 3(c)(7)(C) of FIFRA for a new active ingredient where certain data are lacking, on condition that such data are received by the end of the conditional registration period and do not meet or exceed the risk criteria set forth in 40 CFR 154.7; that use of the pesticide during the conditional registration period will not cause unreasonable adverse effects; and that use of the pesticide is in the public interest. The Agency has considered the available data on the risks associated with the proposed use of the coat protein gene of plum pox virus, and information on social, economic, and environmental benefits to be derived from such use. Specifically, the Agency has considered the nature and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of the coat protein gene of plum pox virus during the period of conditional registration will not cause any unreasonable adverse effect on the environment, and that use of the pesticide is, in the public interest.

Consistent with section 3(c)(7)(C) of FIFRA, the Agency has determined that these conditional registrations are in the public interest. Use of the pesticides are of significance to the user community, and appropriate labeling, use directions, and other measures have been taken to ensure that use of the pesticides will not result in unreasonable adverse effects to man and the environment.

All data requirements, except one product analysis requirement, have been fully satisfied; and this pesticide product has been granted a 1 year conditional registration, to expire at midnight of May 7, 2011. The Agency has required submission of an Analysis of Samples validation per 40 CFR 158.2120 (OPPTS Guideline 885.1400) by November 7, 2008 for C5 HoneySweet Plum (EPA Registration Number 11312–8).

*Response to comments*: EPA published a notice of receipt in the **Federal Register** of October 29, 2008 (73 FR 64325) (FRL–8386–5), which announced that IR-4 (on behalf of USDA-ARS-AFRS) had submitted an application to register a pesticide product containing the new active ingredient, the coat protein gene of plum pox virus, which induces resistance to plum pox virus infection in C5 HoneySweet Plums. Moreover, in order to increase the transparency of the Agency's pesticide registration decisions, the Agency began to implement a public participation process for certain registration actions (i.e., new active ingredients, first food uses, first outdoor uses, first residential uses, and other actions of significant interest to the public) on October 1, 2009. As this application was for a pesticide product containing a new active ingredient, the proposed decision, risk assessment, and draft label associated with this pesticide product were added to the docket prior to registration to allow a meaningful opportunity for the public to provide substantive comments. The start of the 30–day public participation comment period was announced on the Agency's web site *http://www.epa.gov/pesticides/regulating/registration-public-involvement.html* on April 1, 2010. EPA received 66 comments regarding the application and has prepared a response, which can be found in the docket EPA–HQ–OPP–2010–0554, as discussed in this notice for this particular active ingredient. *Contact*: Denise Greenway, (703) 308–8263, *greenway.denise@epa.gov*.

10. *Bacillus firmus I-1582*. *Docket number*: EPA–HQ–OPP–2007–0161. *Description of new active ingredient*: EPA received an application from AgroGreen, Biological Division of Minrav Infrastructures (1993) Ltd. (AgroGreen), 3 Habossem Str, P.O. Box 153, Ashdod 77101, Israel, to register a pesticide product (EPA File Symbol 82608–R) containing the active ingredient, *Bacillus firmus* I-1582. At the time of submission of the application for registration, this active ingredient was not contained in any pesticide products registered with the Agency.

*Regulatory conclusions*: The application was approved on April 28, 2008 for Chancellor (EPA Registration Number 82608–1) for use on all food and non-food commodities (agricultural, commercial and residential sites) as a soil and seed treatment as a nematode suppressant. The Agency approved the application considering data on risks associated with the proposed use of *Bacillus firmus* I-1582, and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the microbial pesticide and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations that show use of *Bacillus firmus* I-1582, when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects on the environment.

*Missing data & conditions for submission*: All data requirements have been satisfied, and this pesticide product has been granted an unconditional registration.

*Response to comments*: EPA published a notice of receipt in the **Federal Register** of March 7, 2007 (72 FR 10210) (FRL–8117-7), which announced that RegWest Company, LLC, 30856 Rocky Rd., Greeley, CO 80631–9375 had submitted an application on behalf of AgroGreen, Biological Division of Minrav Infrastructures (1993) Ltd. (AgroGreen), 3 Habossem Str, P.O. Box 153, Ashdod 77101, Israel to register a pesticide product containing the new active ingredient, *Bacillus firmus* I-1582, for use on all food and non-food commodities (agricultural, commercial and residential sites) as a soil and seed treatment as a nematode suppressant. Subsequently, the company representing the registrant was changed to SciReg, Inc., 12733 Director's Loop, Woodbridge, VA 22192. There were no comments received in response to the notice of receipt. *Contact*: Shanaz Bacchus, (703) 308–8097, *bacchus.shanaz@epa.gov*.

11. *Cold pressed neem oil docket number*: EPA–HQ–OPP–2007–0996. *Description of new active ingredient*: EPA received an application from Plasma Power Limited of India, c/o OMC Ag Consulting, 828 Tanglewood Lane, East Lancing, MI 48823, to register pesticide products: (EPA File Symbols 84185–G, 84185–U and 84185–G) containing the active ingredient, Cold Pressed Neem Oil. At the time of submission of the application for registration, this active ingredient was not contained in any pesticide products registered with the Agency.

*Regulatory conclusions*: The application was approved on October 15, 2009, for the registration of two products: Plasma Neem Oil Manufacturing Use Product EPA Registration Number 84185–3 for manufacturing or formulating use only and one end–use product was registered: Plasma Neem Oil Biological insecticide, EPA Registration Number 84185–4 for use on several food and non–food crop. The Agency approved the application considering data on risks associated with the proposed use

of Cold Pressed Neem Oil, and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the biochemical pesticide and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations that show use of Cold Pressed Neem Oil, when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects on the environment.

*Missing data & conditions for submission*: None of the pesticide product(s) have missing data: All data requirements have been satisfied, and these pesticide products have been granted unconditional registrations.

*Response to comments*: EPA published a notice of receipt in the **Federal Register** of October 24, 2007 (72 FR 60365) (FRL–8152–7), which announced that Plasma Power Limited of India had submitted an application to register pesticide products containing the new active ingredient, Cold Pressed Neem Oil, for use on food and non–food crops. Moreover, in order to increase the transparency of the Agency's pesticide registration decisions, the Agency began to implement a public participation process for certain registration actions (i.e., new active ingredients, first food uses, first outdoor uses, first residential uses, and other actions of significant interest to the public) on October 1, 2009. As this application was for pesticide products containing a new active ingredient, the proposed decision, risk assessment, and draft labels associated with these pesticide products were added to the docket prior to registration to allow a meaningful opportunity for the public to provide substantive comments. However, given the Agency finding that Cold Pressed Neem Oil has very low toxicity and presents little if any risk to non-target organisms, EPA concluded in October of 2009 that it was in the best interests of the public and the environment to issue the registration for Cold Pressed Neem Oil without delay. Therefore, consistent with the Agency's approach for making these registration actions more transparent, EPA issued these two registrations for an initial period of 1–year and, concurrent with such issuance, provided a 30–day public comment period. The start of the 30–day public participation comment period was announced on the Agency's web site *http://www.epa.gov/pesticides/regulating/registration-public-involvement.html* on October 15, 2009. As there were no comments received in response to the notice of receipt or during the 30–day public participation process occuring concurrently with the final registration decision, the 1–year time-limitation was removed from EPA Registration No. 84185–3 and EPA Registration No. 84185–4 on February 02, 2010. *Contact*: Driss Benmhend, (703) 308–9525, *benmhend.driss@epa.gov.*

12. *(E,Z)–7,9–Dodecadien–1–yl acetate. Docket number*: EPA–HQ–OPP–2010–0020. *Description of new active ingredient*: EPA received an application from Pacific Biocontrol Corporation, 575 Viewridge Dr., Angwin, CA 94508, to register a pesticide product (EPA File Symbol 53575-GA (containing the active ingredient, (E,Z)-7,9-dodecadien-1-yl acetate. At the time of submission of the application for registration, this active ingredient was not contained in any pesticide products registered with the Agency.

*Regulatory conclusions*: The application was approved on March 05, 2010, for only one end-use product was registered: Isomate®-EGVM (EPA Registration Number 53575–36) for use on grapes. The Agency approved the application considering data on risks associated with the proposed use of (E,Z)-7,9-dodecadien-1-yl acetate, and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the biochemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations that show use of (E,Z)-7,9-dodecadien-1-yl acetate, when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects on the environment.

*Missing data & conditions for submission*: All data requirements have been satisfied, and this pesticide product has been granted an unconditional registration.

*Response to comments*: EPA published a notice of receipt in the **Federal Register** of February 1, 2010 (75 FR 5077) (FRL–8808–3), which announced that Pacific Biocontrol Corporation had submitted an application to register a pesticide product containing the new active ingredient, (E,Z)-7,9-Dodecadien-1-yl acetate, for use on grapes. Moreover, in order to increase the transparency of the Agency's pesticide registration decisions, the Agency began to implement a public participation process for certain registration actions (i.e., new active ingredients, first food uses, first outdoor uses, first residential uses, and other actions of significant interest to the public) on October 1, 2009. As this application was for a pesticide product containing a new active ingredient, the proposed decision, risk assessment, and draft label associated with this pesticide product were added to the docket prior to registration to allow a meaningful opportunity for the public to provide substantive comments. The start of the 30–day public participation comment period was announced on the Agency's web site *http://www.epa.gov/pesticides/regulating/registration-public-involvement.html* on February 1, 2010. EPA received a total of 13 comments on the notice of receipt. Twelve comments supported immediate registration of Isomate®EGVM. One comment opposed the registration of Isomate®EGVM, but did not provide any substantive basis supporting that position regarding the application. EPA has prepared a response, which can be found in the docket as discussed above for this particular active ingredient. *Contact*: Driss Benmhend, (703) 308–9525, *benmhend.driss@epa.gov.*

13. *Lavandulyl senecioate. Docket number*: EPA–HQ–OPP–2009–0044. *Description of new active ingredient*: EPA received an application from Suterra, LLC, 213 SW Columbia Street, Bend, OR, 97702–1013, to register pesticide products: (EPA File Symbols 56336–LA, 56336–LL) containing the active ingredient, lavandulyl senecioate. At the time of submission of the application for registration, this active ingredient was not contained in any pesticide products registered with the Agency.

*Regulatory conclusions*: The application was approved on March 1, 2010, for the registration of two products: CheckMate®VMB Technical Pheromone (EPA Registration Number 56336–55) for manufacturing or formulating use only and one end–use product was registered: CheckMate®VMB Dispenser, (EPA Registration Number 56336–57) for use on raisins, table and wine grapes. The Agency approved the application considering data on risks associated with the proposed use of lavandulyl senecioate, and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the biochemical pesticide and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations that show use of

lavandulyl senecioate, when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects on the environment.

*Missing data & conditions for submission*: None of the pesticide product(s) have missing data: All data requirements have been satisfied, and these pesticide products have been granted unconditional registrations.

*Response to comments*: EPA published a notice of receipt in the **Federal Register** of February 18, 2009 (74 FR 7600) (FRL–8400–3), which announced that Suterra, LLC had submitted an application to register pesticide products containing the new active ingredient, lavandulyl senecioate, for use on raisins, table and wine grapes.

Moreover, in order to increase the transparency of the Agency's pesticide registration decisions, the Agency began to implement a public participation process for certain registration actions (i.e., new active ingredients, first food uses, first outdoor uses, first residential uses, and other actions of significant interest to the public) on October 1, 2009. As this application was for pesticide products containing a new active ingredient, the proposed decision, risk assessment, and draft labels associated with these pesticide products were added to the docket prior to registration to allow a meaningful opportunity for the public to provide substantive comments. The start of the 30–day public participation comment period was announced on the Agency's web site *http://www.epa.gov/pesticides/regulating/registration–public–involvement.html* on January 29, 2010. There were no comments received in response to the notice of receipt or during the 30–day public participation process occurring immediately prior to the final registration decision. *Contact*: Driss Benmhend, (703) 308–9525, *benmhend.driss@epa.gov.*

14. *Trichoderma hamatum* isolate 382. *Docket number*: EPA–HQ–OPP–2010–0489. *Description of new active ingredient*: EPA received an application from IR-4 of Rutgers University, 500 College Rd., East, Suite 201W, Princeton, NJ 08540 acting as the authorized agent for Sellew and Associates, LLC, 84 Shadybrook Ln., Carlisle, MA 01741, to register a pesticide product (EPA File Symbol 74205–G) containing the active ingredient, *trichoderma hamatum* isolate 382. At the time of submission of the application for registration, this active ingredient was not contained in any pesticide products registered with the Agency.

*Regulatory conclusions*: The application was approved on July 14, 2010 for *Trichoderma hamatum* isolate 382 (EPA Registration Number 74205–3) for use on soilless potting media and compost in nurseries and greenhouses, for potting seeds and seedlings of ornamentals and vegetables. The Agency approved the application considering data on risks associated with the proposed use of *Trichoderma hamatum* isolate 382, and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the microbial pesticide and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations that show use of *Trichoderma hamatum* isolate 382, when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects on the environment.

*Missing data & conditions for submission*: All data requirements have been satisfied, and this pesticide product has been granted an unconditional registration.

*Response to comments*: EPA published a notice of receipt in the **Federal Register** of July 22, 2009 (74 FR 36215) (FRL–8425–9), which announced that IR-4 of Rutgers University, 500 College Rd., East, Suite 201W, Princeton, NJ 08540, acting as the authorized agent for Sellew and Associates, LLC, 84 Shadybrook Ln., Carlisle, MA 01741 had submitted an application to register a pesticide product containing the new active ingredient, *Trichoderma hamatum* isolate 382, for use on soilless potting media and compost in nurseries and greenhouses, for potting seeds and seedlings of ornamentals and food crops. Moreover, in order to increase the transparency of the Agency's pesticide registration decisions, the Agency began to implement a public participation process for certain registration actions (i.e., new active ingredients, first food uses, first outdoor uses, first residential uses, and other actions of significant interest to the public) on October 1, 2009. As this application was for a pesticide product containing a new active ingredient, the proposed decision, risk assessment, and draft label associated with this pesticide product were added to the docket prior to registration to allow a meaningful opportunity for the public to provide substantive comments. The start of the 30–day public participation comment period was announced on the Agency's web site *http://www.epa.gov/pesticides/regulating/registration-public-involvement.html* on June 1, 2010. There were no comments received in response to the notice of receipt or during the 30–day public participation process occurring immediately prior to the final registration decision. There were no comments received in response to the notice of receipt. *Contact*: Ann Sibold, (703) 305–6502, *sibold.ann@epa.gov*.

15. *Trichoderma gamsii* (strain ICC 080). *Docket number*: EPA–HQ–OPP–2009–1003. *Description of new active ingredient*: EPA received applications from Isagro S.p.A., Centro Uffici San-Edifico D-ala 3, Via Caldera, 21-20153 Milan, Italy, to register pesticide products: (EPA File Symbols 80289–O and 80289–RN) containing the active ingredient, *Trichoderma gamsii* (strain ICC 080). At the time of submission of the applications for registration, this active ingredient was not contained in any pesticide products registered with the Agency.

*Regulatory conclusions*: The applications were approved on February 5, 2010, for: *Trichoderma gamsii* strain ICC 080 Technical (EPA Registration Number 80289–10) for manufacturing or formulating use only and BiotenTM WP (EPA Registration Number 80289–9) for use on several food and non-food crops, including ornamentals, fruiting vegetables, leafy vegetables, cole crops, legumes, aromatic herbs, cucurbits, berries and small fruits, and turf. The Agency approved the applications considering data on risks associated with the proposed use of *Trichoderma gamsii* (strain ICC 080), and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the microbial pesticide and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations that show use of *Trichoderma gamsii* (strain ICC 080), when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects on the environment.

*Missing data & conditions for submission*: All data requirements have been satisfied, and these pesticide products have been granted unconditional registrations.

*Response to comments*: EPA published a notice of receipt in the **Federal Register** of October 29, 2008 (73 FR 64325) (FRL–8386–5), which announced that Isagro S.p.A had submitted applications to register

pesticide products containing the new active ingredient, *Trichoderma gamsii* (strain ICC. 080), for use on: Fruit and vegetable crops, ornamentals, and turf. Moreover, in order to increase the transparency of the Agency's pesticide registration decisions, the Agency began to implement a public participation process for certain registration actions (i.e., new active ingredients, first food uses, first outdoor uses, first residential uses, and other actions of significant interest to the public) on October 1, 2009. As these applications were for pesticide products containing a new active ingredient, the proposed decision, risk assessment, and draft labels associated with these pesticide products were added to the docket prior to registration to allow a meaningful opportunity for the public to provide substantive comments. The start of the 30–day public participation comment period was announced on the Agency's web site *http://www.epa.gov/pesticides/regulating/registration-public-involvement.html* on December 30, 2009. There were no comments for *Trichoderma gamsii* (strain ICC. 080) received in response to the notice of receipt or during the 30–day public participation process occurring immediately prior to the final registration decision. *Contact*: Susanne Cerrelli, (703) 308–8077, *cerrelli.susanne@epa.gov*.

16. *Trichoderma asperellum* (strain ICC 012). *Docket number*: EPA–HQ–OPP–2009–1004. *Description of new active ingredient*: EPA received applications from Isagro S.p.A., Centro Uffici San-Edifico D-ala 3, Via Caldera, 21-20153 Milan, Italy, to register pesticide products: (EPA File Symbols 80289–O and 80289–RR) containing the active ingredient, *Trichoderma asperellum* (strain ICC 012). At the time of submission of the applications for registration, this active ingredient was not contained in any pesticide products registered with the Agency.

*Regulatory conclusions*: The applications were approved on February 5, 2010, for: *Trichoderma asperellum* strain ICC 012 Technical (EPA Registration Number 80289–11) for manufacturing or formulating use only and BiotenTM WP (EPA Registration Number 80289–9) for use on several food and non-food crops, including ornamentals, fruiting vegetables, leafy vegetables, cole crops, legumes, aromatic herbs, cucurbits, berries and small fruits, and turf. The Agency approved the applications considering data on risks associated with the proposed use of *Trichoderma asperellum* (strain ICC 012), and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the microbial pesticide and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations that show use of *Trichoderma asperellum* (strain ICC 012), when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects on the environment.

*Missing data & conditions for submission*: All data requirements have been satisfied, and these pesticide products have been granted unconditional registrations.

*Response to comments*: EPA published a notice of receipt in the **Federal Register** of October 29, 2008 (73 FR 64325) (FRL–8386–5), which announced that Isagro S.p.A had submitted applications to register pesticide products containing the new active ingredient, *Trichoderma asperellum* (strain ICC 012), for use on: Fruit and vegetable crops, herbs, ornamentals, and turf. Moreover, in order to increase the transparency of the Agency's pesticide registration decisions, the Agency began to implement a public participation process for certain registration actions (i.e., new active ingredients, first food uses, first outdoor uses, first residential uses, and other actions of significant interest to the public) on October 1, 2009. As these applications were for pesticide products containing a new active ingredient, the proposed decision, risk assessment, and draft labels associated with these pesticide products were added to the docket prior to registration to allow a meaningful opportunity for the public to provide substantive comments. The start of the 30–day public participation comment period was announced on the Agency's web site *http://www.epa.gov/pesticides/regulating/registration-public-involvement.html* on December 30, 2009: There were no comments for *Trichoderma asperellum* (strain ICC 012) received in response to the notice of receipt or during the 30–day public participation process occurring immediately prior to the final registration decision. *Contact*: Susanne Cerrelli, (703) 308–8077, *cerrelli.susanne@epa.gov*.

**List of Subjects**

Environmental protection, Chemicals, Pests and pesticides.

August 18, 2010.

**W. Michael McDavit,**

*Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.*

[FR Doc. 2010–21290 Filed 8–26–10; 8:45 am]

**BILLING CODE 6560–50–S**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–9194–4]**

## Proposed Administrative Settlement Agreement Under Section 122 of the Comprehensive Environmental Response, Compensation, and Liability Act for the Crown Vantage Landfill Superfund Site Located in Alexandria Township, Hunterdon County, NJ

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of proposed administrative settlement and opportunity for public comment.

**SUMMARY:** The United States Environmental Protection Agency ("EPA") is proposing to enter into an administrative settlement agreement ("Settlement Agreement") with Georgia-Pacific Consumer Products, LP and International Paper Company (collectively "Settling Parties") pursuant to Section 122 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9622. The Settlement Agreement provides for Settling Parties' payment of certain response costs incurred by EPA at the Crown Vantage Landfill Superfund Site located in Alexandria Township, Hunterdon County, New Jersey.

In accordance with Section 122(i) of CERCLA, 42 U.S.C. 9622(i), this notice is being published to inform the public of the proposed Settlement Agreement and of the opportunity to comment. For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the proposed Settlement Agreement. EPA will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations that indicate that the proposed settlement is inappropriate, improper or inadequate. EPA's response to any comments received will be available for public inspection at EPA Region 2, 290 Broadway, 17th floor, New York, New York 10007–1866.

**DATES:** Comments must be provided by September 27, 2010.

**ADDRESSES:** Comments should reference the Crown Vantage Landfill Superfund

Site, EPA Index No. 02–2010–2021 and should be sent to the U.S. Environmental Protection Agency, Office of Regional Counsel, New Jersey Superfund Branch, 290 Broadway—17th Floor, New York, NY 10007.

**SUPPLEMENTARY INFORMATION:** A copy of the proposed administrative settlement, as well as background information relating to the settlement, may be obtained from Elizabeth La Blanc, Assistant Regional Counsel, New Jersey Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, 17th Floor, 290 Broadway, New York, New York 10007–1866. Telephone: 212–637–3106.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth La Blanc, Assistant Regional Counsel, New Jersey Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, 17th Floor, 290 Broadway, New York, New York 10007–1866. *Telephone:* 212–637–3106.

Dated: August 2, 2010.

**Walter Mugdan,**

*Director, Emergency and Remedial Response Division.*

[FR Doc. 2010–21381 Filed 8–26–10; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL COMMUNICATIONS COMMISSION

### Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

August 19, 2010.

**SUMMARY:** The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501 – 3520. Comments are requested concerning: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, and (e) ways to further reduce the information collection burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a currently valid OMB control number.

**DATES:** Written Paperwork Reduction Act (PRA) comments should be submitted on or before October 26, 2010. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at 202–395–5167 or via the Internet at Nicholas_A._Fraser@omb.eop.gov and to the Federal Communications Commission via email to PRA@fcc.gov.

**FOR FURTHER INFORMATION CONTACT:** Benish Shah, Office of Managing Director, (202) 418–7866. For additional information, contact Benish Shah, OMD, 418–7866 or email benish.shah@fcc.gov

**SUPPLEMENTARY INFORMATION:**

OMB Control Number: 3060–0788.

Title: DTV Showings/Interference Agreements.

Form No.: N/A

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for–profit; Not–for–profit institutions.

Number of Respondents and Responses: 300 Respondents; 300 Responses.

Estimated Time Per Response: 5 hours.

Frequency of Response: On occasion reporting requirement, 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 154(i), 303 and 308.

Total Annual Burden: 1,500 hours.

Total Annual Cost: $2,400,000.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The Commission will submit this expiring information collection after this comment period to the Office of Management and Budget (OMB) to obtain the three year clearance from them. There is no change to the Commission's reporting requirement. There is no change to the Commission's burden estimates.

Section 73.623 (c) requires applicants to submit a technical showing to establish that their proposed facilities will not result in additional interference to TV broadcast and Digital TV (DTV) operations. The Commission permits broadcasters to agree to proposed DTV facilities that do not conform to the initial allotment parameters, even though they might be affected by potential new interference. The Commission will consider granting applications on the basis of interference agreements if it finds that such grants will serve the public interest. These agreements must be signed by all parties to the agreement. In addition, the Commission needs the following information to enable such public interest determinations: a list of parties predicted to receive additional interference from the proposed facility; a showing as to why a grant based on the agreements would serve the public interest; and technical studies depicting the additional interference. The technical showings and interference agreements will be used by FCC staff to determine if the public interest would be served by the grant of the application and to ensure that the proposed facilities will not result in additional interference.

The technical showings and interference agreements will be used by FCC staff to determine if the public interest will be served by the grant of the application and to ensure that the proposed DTV broadcast facilities will not result in additional interference to existing TV and DTV broadcast facilities' operations and earlier filed applications for new or modified DTV facilities.

Federal Communications Commission.

**Bulah P. Wheeler,**

*Deputy Manager,*

*Office of the Secretary,*

*Office of Managing Director.*

[FR Doc. 2010–21304 Filed 8–26–10; 8:45 am]

**BILLING CODE 6712–01–S**

## FEDERAL COMMUNICATIONS COMMISSION

### Notice of Public Information Collection(s) Being Submitted for Review and Approval to the Office of Management and Budget (OMB), Comments Requested

August 20, 2010.

**SUMMARY:** The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this

opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501 – 3520. Comments are requested concerning: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information collection burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid 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 [September 27, 2010]. 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 email to Nicholas_A._Fraser@omb.eop.gov and to the Federal Communications Commission via email 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: 3060–0844.

Title: Carriage of the Transmission of Digital Television Broadcast Stations, R&O, and FNPRM.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for–profit entities.

Number of Respondents and Responses: 20,322 respondents and 78,422 responses.

Estimated Time per Response: 30 minutes to 40 hrs.

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 1, 4(i) and (j), 325, 336, 614 and 615 of the Communications Act of 1934, as amended.

Total Annual Burden: 75,202 hours.

Total Annual Cost: $2,759,872.

Nature and Extent of Confidentiality: No need for confidentiality required with this collection of information.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The FCC adopted a Report and Order (R&O) on January 23, 2001 and Further Notice of Proposed Rulemaking (FNPRM). The R&O modified 47 CFR 76.64(f) to provide that stations that return their analog spectrum and broadcast only in digital format, as well as new digital–only stations, are entitled to elect must–carry or retransmission consent status following the procedures previously applicable to new television stations. Furthermore, the R&O established a framework for voluntary retransmission consent agreements between DTV station licensees and multi–channel video programming distributors and modified several sections of the rules accordingly. The FNPRM sought additional comments on carriage requirements relating to digital television stations generally, as proposed in the initial NPRM.

Federal Communications Commission.

**Bulah P. Wheeler,**

*Deputy Manager,*

*Office of the Secretary,*

*Office of Managing Director.*

[FR Doc. 2010–21306 Filed 8–26–10; 8:45 am]

**BILLING CODE 6712–01–S**

## FEDERAL HOUSING FINANCE AGENCY

**[No. 2010–N–12]**

### Proposed Collection; Comment Request

**AGENCY:** Federal Housing Finance Agency.

**ACTION:** 30-Day notice of submission of information collection for approval from the Office of Management and Budget.

**SUMMARY:** In accordance with the requirements of the Paperwork Reduction Act of 1995, the Federal Housing Finance Agency (FHFA) is seeking public comments concerning a currently approved information collection "Monthly Survey of Rates and Terms on Conventional 1-Family Non-Farm Mortgage Loans," known as the Monthly Interest Rate Survey or MIRS. The Office of Management and Budget (OMB) assigned MIRS control number 2590–0004, which is due to expire on September 30, 2010. FHFA will submit the information collection to OMB for review and approval for a three-year extension of the control number.

**DATES:** Interested persons may submit comments on or before September 27, 2010.

**COMMENTS:** Submit comments to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for the Federal Housing Finance Agency, Washington, DC 20503, *Fax:* 202–395–6974, *E-mail: OIRA_Submission@omb.eop.gov.* Please also submit the comments to FHFA using any one of the following methods:

- *E-mail: regcomments@fhfa.gov.* Please include "Proposed Collection; Comment Request: Monthly Interest Rate Survey (No. 2010–N–12)" in the subject line of the message.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comment to the *Federal eRulemaking Portal,* please also send it by *e-mail* to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by the agency. Please include "Proposed Collection; Comment Request: Monthly Interest Rate Survey (No. 2010–N–12)" in the subject line of the message.
- *Mail/Hand Delivery:* Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552, ATTENTION: Public Comments Proposed Collection; Comment Request: "Monthly Interest Rate Survey," (No. 2010–N–12).

FHFA will post all public comments it receives without change, including

any personal information you provide, such as your name and address, on FHFA's Web site at *http://www.fhfa.gov.* In addition, copies of all comments received will be available for examination by the public on business days between the hours of 10 a.m. and 3 p.m., at the Federal Housing Finance Agency, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. To make an appointment to inspect comments, please call the Office of General Counsel at 202–414–6924.

**FOR FURTHER INFORMATION CONTACT:** David L. Roderer, Senior Financial Analyst, 202–408–2540 (not a toll-free number), *david.l.roderer@fhfa.gov.* The telephone number for the Telecommunications Device for the Deaf is 800–877–8339.

**SUPPLEMENTARY INFORMATION:**

**A. Need For and Use of the Information Collection**

The Housing and Economic Recovery Act of 2008 (HERA), Public Law 110–289, 122 Stat. 2654, amended the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Safety and Soundness Act) (12 U.S.C. 4501 *et seq.*) and the Federal Home Loan Bank Act (12 U.S.C. 1421 *et seq.*) to establish FHFA as an independent agency of the Federal government.[1] One of FHFA's predecessor agencies, the former Federal Housing Finance Board (Finance Board), provided data concerning a survey of mortgage interest rates until HERA transferred those responsibilities to FHFA. This survey, known as the Monthly Interest Rate Survey or MIRS, is described in 12 CFR 906.5.

The information collection is used by FHFA to produce the MIRS and for general statistical purposes and program evaluation. The MIRS provides monthly information on interest rates, loan terms, and house prices by property type (all, new, previously occupied), by loan type (fixed- or adjustable-rate), and by lender type (savings associations, mortgage companies, commercial banks, and savings banks), as well as information on 15-year and 30-year fixed-rate loans. In addition, the MIRS provides quarterly information on conventional loans by major metropolitan area and by FHLBank district.

To conduct the MIRS, FHFA asks a sample of mortgage lenders to report voluntarily the terms and conditions on all single-family, fully amortized, purchase-money, non-farm loans that they close during the last five business days of the month. The MIRS excludes FHA-insured and VA-guaranteed loans, multifamily loans, mobile home loans, and loans created by refinancing another mortgage.

Information concerning the MIRS is published regularly on FHFA's Web site, *http://www.fhfa.gov*, in FHFA press releases, in the popular and trade press, including a monthly 1-page ARM index release, a monthly 8- or 12-page release with mortgage rate and term data, an annual summary all available via FHFA's Web site, and in publications of other Federal agencies, including The Economic Report of the President and Statistical Abstract of the United States. FHFA publishes on its Web site the phone number for an automated telephone answering system that provides callers a recorded message about the ARM index and other MIRS information.

Economic policy makers use the MIRS data to determine trends in the mortgage markets, including interest rates, down payments, terms to maturity, terms on ARMs, and initial fees and charges on mortgage loans. Other federal banking agencies, such as the Board of Governors of the Federal Reserve System and the Council of Economic Advisors, use the MIRS results for research purposes.

FHFA considers MIRS, among other indexes or measures FHFA determines are appropriate, in establishing and maintaining a method to assess the national average one-family house price for use for adjusting the conforming loan limitations of Freddie Mac and Fannie Mae. 12 U.S.C. 4542. Other statutory references of the MIRS include the following:

- In 1989, Congress required the Chairperson of the Finance Board to take necessary actions to ensure that indices used to calculate the interest rate on adjustable-rate mortgages (ARMs) remain available. *See* FIRREA, tit. IV, section 402, paragraphs (e)(3)–(4), 103 Stat. 183, codified at 12 U.S.C. 1437 *note.* At least one ARM index, known as the National Average Contract Mortgage Rate for the Purchase of Previously Occupied Homes by Combined Lenders, is derived from the MIRS data. The statute permits FHFA to substitute a different ARM index after notice and comment only if the new ARM index is based upon data substantially similar to that of the original ARM index and substitution of the new ARM index will result in an interest rate substantially similar to the rate in effect at the time the new ARM index replaces the existing ARM index. *See* 12 U.S.C. 1437 *note.*
- Statutes in several states and U.S. territories, including California, Michigan, Minnesota, New Jersey, Wisconsin, and the Virgin Islands, refer to, or rely upon, the MIRS. *See, e.g.,* Cal. Civ. Code §§ 1916.7 and 1916.8 (mortgage rates); Mich. Comp. Laws § 445.1621(d) (mortgage index rates); Minn. Stat. § 92.06 (payments for state land sales); N.J. Rev. Stat. 31:1–1 (interest rates); Wis. Stat. § 138.056 (variable loan rates); V.I. Code Ann. tit. 11, § 951 (legal rate of interest).

The respondents include a sample of major mortgage lenders, such as savings institutions, commercial banks, and mortgage loan companies. Most of the respondents submit the requested information electronically using the MIRS software in a format similar to FHFA Form #075 (supersedes FHFB Form 10–91). Some respondents elect to complete FHFA Form #075 and submit it by facsimile. Respondents are requested to submit the information on a monthly basis.

The OMB number for the information collection is 2590–0004. The OMB clearance for the information collection expires on September 30, 2010.

**B. Burden Estimate**

FHFA estimates the total annual number of respondents at 76 with 8 responses per respondent. The estimate for the average hours per response is 20 minutes. The estimate for the total annual hour burden is 200 hours (76 respondents × 8 responses × 0.33 hours).

**C. Comment Request**

In accordance with the requirements of 5 CFR 1320.8(d), FHFA published a request for public comments regarding this information collection in the **Federal Register** on January 10, 2001. *See* 75 FR 26756 (May 12, 2010). The 60-day comment period closed on July 12, 2010. FHFA received comments from three organizations, which are posted on its Web site at *http://www.fhfa.gov/Default.aspx?Page=89&ListNumber=5&ListID=14707&ListYear=2010&SortBy=#14707.* All three commenters support continuation of the MIRS. One of the three commenters suggested enhancing the utility of the MIRS by including mortgages that are backed by FHA or the Department of Veterans Affairs. Another commenter suggested a new sampling frame using HMDA data to enhance the utility of the MIRS data. FHFA has determined not to make any changes to the MIRS at this time but will consider the recommendations when the MIRS is reviewed for enhancement as part of a

[1] *See* Division A, titled the "Federal Housing Finance Regulatory Reform Act of 2008," tit. I, section 1101 of HERA.

comprehensive review of data collection.

FHFA requests written comments on the following: (1) Whether the collection of information is necessary for the proper performance of FHFA functions, including whether the information has practical utility; (2) the accuracy of FHFA estimates of the burdens of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology.

Dated: August 19, 2010.

**Edward J. DeMarco,**

*Acting Director, Federal Housing Finance Agency.*

[FR Doc. 2010–21422 Filed 8–26–10; 8:45 am]

**BILLING CODE 8070–01–P**

## FEDERAL TRADE COMMISSION

### Privacy Act of 1974; System of Records Notices

**AGENCY:** Federal Trade Commission (FTC).

**ACTION:** Notice of revised Privacy Act system notices.

**SUMMARY:** The FTC is revising several of the notices that it is required to publish under the Privacy Act of 1974 to describe its systems of records about individuals. This action is intended to make these notices clearer, more accurate, and up-to-date.

**DATES:** This notice shall become final and effective on August 27, 2010.

**FOR FURTHER INFORMATION CONTACT:** Alex Tang, G. Richard Gold, or Lorielle L. Pankey, Attorneys, Office of the General Counsel, FTC, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326-2424.

**SUPPLEMENTARY INFORMATION:** To inform the public, the FTC publishes in the **FEDERAL REGISTER** and posts on its Web site a "system of records notice" (SORN) for each system of records about individuals that the FTC currently maintains within the meaning of the Privacy Act of 1974, as amended, 5 U.S.C. 552a. *See* (*http://www.ftc.gov/foia/listofpaysystems.shtm*). Each SORN describes the records maintained in that particular system, including the categories of individuals that the records in the system are about (*e.g.*, FTC employees or consumers). Each system notice also contains information explaining how individuals can find out if that particular system contains any records about them.

On June 12, 2008, the FTC republished and updated all of the FTC's SORNs, describing all of the agency's systems of records covered by the Privacy Act in a single document for ease of use and reference. 73 FR 33592. To ensure the SORNs remain accurate, FTC staff engages in a comprehensive review of each SORN on a periodic basis. As a result of this systematic review, the FTC made revisions to several of its SORNs on April 17, 2009. 74 FR 17863. Based on subsequent review, the FTC is making the following revisions to several of its SORNs.[1]

#### I. FTC Law Enforcement Systems of Records

*FTC-I-1 (Nonpublic Investigational and Other Nonpublic Legal Program Records—FTC).* This SORN includes nonpublic investigational and other nonpublic program records. We have added language clarifying that certain debt collection-related records contained within this system are also legally part of the Government-wide system of records notice published for this system by the Department of Treasury, Financial Management System. *See* TREASURY/FMS.014, or any successor TREASURY/FMS system notice at (*http://www.ustreas.gov*) for more information. Therefore, these types of records also have the same purposes and routine uses as set forth in the Government-wide SORN.

#### II. FTC Personnel Systems of Records

*FTC-II-6 (Discrimination Complaint System—FTC).* This SORN covers complaints, affidavits, supporting documents, memoranda, correspondence, and notes relevant to and compiled during pre-complaint matters, complaint investigations and other personnel matters at the FTC. We are revising the purpose section of this SORN in order to more fully describe the various issues that give rise to discrimination complaints.

*FTC-II-7 (Ethics Program Records–FTC).* This SORN covers annual financial statements and other filings or requests made by FTC officials and employees under the FTC's ethics program. The FTC is including an additional means of disposing of these records.

*FTC-II-12 (Training Reservation System–FTC).* This SORN covers records used in the employee training program administered by the FTC's Human Resources Management Office. The FTC is changing the name of this system and revising the categories of records, purpose, and retrievability sections. We are also clarifying that this system is legally part of the OPM's Government-wide system of records notice for this system, OPM/GOVT-1, which covers all official personnel training data; hence, it is subject to the same purposes and routine uses set forth for that system by OPM. *See* OPM/GOVT-1, or any successor OPM system notice that may be published for this system (visit (*www.opm.gov*) for more information). There are also some minor editorial changes.

#### III. FTC Financial Systems of Records

*FTC-III-2 (Travel Management System-FTC).* This SORN covers travel documentation for FTC employees and other authorized individuals on official travel for the FTC. To the extent these travel data are collected and maintained by the FTC's travel management contractor, they are already covered by a Government-wide General Services Administration (GSA) SORN, GSA/GOVT-4 (Contracted Travel Services Program). See 71 FR 48764 (2006). Nonetheless, the FTC maintains this SORN to include those data as well as any other miscellaneous data that various FTC offices may collect and maintain in a system of records about individuals on official travel for the FTC. The FTC is revising the Category of Records section to implement Department of Homeland Security (DHS) Secure Flight requirements to include an individual traveler's date of birth and sex; that the name of the traveler within this system matches the name shown on a government issued-identification (for example, driver's license or passport) while traveling; and an optional field for redress numbers (*i.e.*, complaint or inquiry numbers). Under Secure Flight (*http://www.tsa.gov/what_we_do/layers/secureflight/*), a program developed by DHS in response to a key 9/11 Commission recommendation, DHS' Transportation Security Administration conducts uniform pre-screening of passenger information against federal government watch lists for domestic and international flights.

#### FTC Systems of Records Notices

Accordingly, the FTC revises and updates the Privacy Act systems of records below as follows:

[1] The FTC is clarifying but not adding or changing any routine uses of its system records or making other significant system changes that would require prior public comment or notice to the Office of Management & Budget (OMB) and Congress. *See* U.S.C. 552a(e)(11) and 552a(r); OMB Circular A-130, Appendix I.

**I. FTC Law Enforcement Systems of Records**

**FTC–I–1**

*SYSTEM NAME:*

Nonpublic Investigational and Other Nonpublic Legal Program Records—FTC.

* * * * *

*CATEGORIES OF RECORDS IN THE SYSTEM:*

Records maintained in this system include information about individuals such as name, address, employment status, age, date of birth, financial information, credit information, social security number and personal history. Records in this system are collected and generated during law enforcement investigations and litigation and may include: copies of subpoenas and other compulsory process issued during the investigation; documents and records (including copies) obtained during the investigation in response to subpoenas and other compulsory process, or otherwise provided to the Commission; affidavits and other statements from witnesses; transcripts of testimony taken in the investigation and accompanying exhibits; internal staff memoranda; interview notes, investigative notes, staff working papers, draft materials, and other documents and records relating to the investigation; correspondence; and internal status reports including matter initiation reports, progress reports, and closing reports. Records in this system may also include other investigatory information or data relating to any of the following: docketed and consent matters; redress distribution proceedings; rulemakings, workshops, and other public proceedings, including comments or other materials submitted in such proceedings; assurances of voluntary compliance; and advisory opinions. Other types of records covered by this system are set out in the Department of Treasury, Financial Management Service's Privacy Act system of records notice TREASURY/FMS.014, or any successor system notice for this system (visit (*http://www.ustreas.gov*) for more information).

This system is limited to files and records that are about an individual, and only when the file or record is pulled ("retrieved") by the name of that individual or other personal identifier (*e.g.*, number, symbol, fingerprint, etc.). As described below, records in this system may become public if they are subject to such disclosure under the FTC's Rules of Practice.

* * * * *

*ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:*

* * * * *

(5) Miscellaneous Uses

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(e) To be disclosed for any other routine use set forth in the Government-wide system of records notice published for this system by the Department of Treasury, Financial Management System, see TREASURY/FMS.014, or any successor TREASURY/FMS system notice that may be published for this system (visit (*http://www.ustreas.gov*) for more information).

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**II. FTC Law Personnel Systems of Records**

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**FTC-II-6**

*SYSTEM NAME:*

Discrimination Complaint System–FTC.

* * * * *

*PURPOSE(S):*

To assist in the consideration given to reviews of potential or alleged violations of equal employment opportunity (EEO) statutes and regulations and to maintain records on pre-complaint and complaint matters relating to those issues; for the purpose of counseling, investigating, and adjudicating such complaints; to resolve issues related to alleged discrimination because of race, color, religion, sex, national origin, age, physical or mental disability, sexual orientation, or status as a parent in connection with EEO matters; to make reports to Office of Management and Budget, Merit Systems Protection Board, and Equal Employment Opportunity Commission. (This system corresponds to EEOC/GOVT-1, Equal Employment Opportunity in the Federal Government Complaint and Appeal Records.)

* * * * *

**FTC-II-7**

*SYSTEM NAME:*

Ethics Program Records–FTC.

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*RETENTION AND DISPOSAL:*

In accordance with the National Archives and Records Administration General Records Schedules for ethics program records, these records are generally retained for a period of six years after filing, or for such other period of time as is provided for in that schedule for certain specified types of ethics records. In cases where records are filed by, or with respect to, a nominee for an appointment requiring confirmation by the Senate when the nominee is not appointed and Presidential and Vice-Presidential candidates who are not elected, the records are generally destroyed one year after the date the individual ceased being under Senate consideration for appointment or is no longer a candidate for office. However, if any records are needed in an ongoing investigation, they will be retained until no longer needed in the investigation. Destruction is by shredding, use of burn bags, or electronic deletion.

* * * * *

**FTC-II-12**

*SYSTEM NAME:*

e-Train Learning Management System–FTC.

* * * * *

*CATEGORIES OF RECORDS IN THE SYSTEM:*

Employee social security number, position title, pay plan, series, grade, organizational code, work address, work phone number, supervisor, date of birth, sex, race, work email address, course number, course title, course date and time, attendance indicator, separation date, etc.

*PURPOSE(S):*

To provide information to agency managers necessary to indicate the training that has been requested and provided to individual employees; to determine course offerings and frequency; and to manage the training program administered by the Human Resources Management Office. Since this system is legally part of the OPM's Government-wide system of records notice for this system, OPM/GOVT-1, it is subject to the same purposes set forth for that system by OPM, see OPM/GOVT-1, or any successor OPM system notice that may be published for this system (visit (*www.opm.gov*) for more information).

* * * * *

*ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:*

Since this system is legally part of the OPM's Government-wide system of records notice for this system, OPM/

GOVT-1, it is subject to the same routine uses set forth for that system by OPM, see OPM/GOVT-1, or any successor OPM system notice that may be published for this system (visit (*www.opm.gov*) for more information).

*See also* Appendix I for other ways that the Privacy Act permits the FTC to use or disclose system records outside the agency.

*RETRIEVABILITY:*

Indexed by employee social security number and name.

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**III. FTC Financial Systems of Records**

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**FTC-III-2**

*SYSTEM NAME:*

Travel Management System–FTC.

* * * * *

*CATEGORIES OF RECORDS IN THE SYSTEM:*

Names (as they appear on government-issued driver's licenses or passports), dates of birth, sex, social security numbers, home and/or business phone numbers, home and/or business addresses, vendor ID or other unique 9-digit numbers, e-mail addresses, emergency contact information (names, addresses, and phone numbers), credit card information (personal and/or government-issued), and redress numbers. For traveling FTC employees or other individuals (*e.g.*, witnesses) only, additional data may be maintained, such as passport numbers (for international travelers), frequent flyer or other rewards membership numbers, and trip-specific information (travel dates, flight numbers, destinations, accommodations, vehicle rental, miscellaneous expenses claimed).

Other types of records covered by this system are set out in the General Services Administration (GSA) Privacy Act system of records notice applicable to this system, GSA/GOVT-4, or any successor system notice for this system.

* * * * *

**Willard K. Tom,**

*General Counsel.*

[FR Doc. 2010–21318 Filed 8–26–10; 8:45 am]

**BILLING CODE 6750–01–S**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

### Notice of Meeting

**AGENCY:** Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science, Office of the President's Council on Fitness, Sports and Nutrition.

**ACTION:** Notice of meeting.

**SUMMARY:** As stipulated by the Federal Advisory Committee Act, the U.S. Department of Health and Human Services (DHHS) is hereby giving notice that the President's Council on Fitness, Sports and Nutrition (PCFSN) will hold a meeting. The meeting will be open to the public.

**DATES:** The meeting will be held on September 14, 2010, from 1:30 p.m. to 5 p.m.

**ADDRESSES:** The George Washington University, 1957 E Street, NW., 7th Floor, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Ms. Shellie Pfohl, Executive Director, President's Council on Fitness, Sports and Nutrition, Tower Building, 1101 Wootton Parkway, Suite 560, Rockville, MD 20852, (240) 276–9866. Information about PCFSN, including details about the upcoming meeting, can be obtained at *http://www.fitness.gov* and/or by calling (240) 276–9567.

**SUPPLEMENTARY INFORMATION:** On June 23, 2010, the President established Executive Order 13545 to amend Executive Order 13265, dated June 6, 2002. Under Executive Order 13545, direction is given for the scope of the President's Council on Physical Fitness and Sports to be expanded to recognize that good nutrition goes hand in hand with fitness and sports participation. Executive Order 13545 gives authority for the title of the Council to be revised to include nutrition. The new title is President's Council on Fitness, Sports and Nutrition (PCFSN).

The primary functions of the PCFSN include (1) advising the President, through the Secretary, concerning progress made in carrying out the provisions of Executive Order 13545 and shall recommend to the President, through the Secretary, actions to accelerate progress; (2) advising the Secretary on ways to promote regular physical activity, fitness, sports participation, and good nutrition. Recommendations may address, but are not necessarily limited to, public awareness campaigns; Federal, State, and local physical activity; fitness, sports participation, and nutrition initiatives; and partnership opportunities between public- and private-sector health promotion entities; (3) functioning as a liaison to relevant State, local, and private entities in order to advise the Secretary regarding opportunities to extend and improve physical activity, fitness, sports, and nutrition programs and services at the local, State, and national levels; and (4) monitoring the need to enhance programs and educational and promotional materials sponsored, overseen, or disseminated by the Council, and shall advise the Secretary, as necessary, concerning such need. In performing its functions, the Council shall take into account the Federal Dietary Guidelines for Americans and the Physical Activity Guidelines for Americans.

The PCFSN will hold, at a minimum, one meeting in a calendar year. The meeting will be held to (1) assess ongoing Council activities and (2) discuss and plan future projects and programs. The agenda for the planned meeting is being developed and will be posted at *http://www.fitness.gov* when it has been finalized.

The meeting that is scheduled to be held on September 14, 2010 is open to the public. Every effort will be made to provide reasonable accommodations for persons with disabilities and/or special needs who wish to attend the meeting. Persons with disabilities and/or special needs should call (240) 276–9567 no later than close of business on September 10, 2010, to request accommodations. Members of the public who wish to attend the meeting are asked to pre-register by calling (240) 276–9567. Registration for public attendance must be completed before close of business on September 10, 2010.

Dated: August 23, 2010.

**Shellie Y. Pfohl,**

*Executive Director, President's Council on Fitness, Sports and Nutrition.*

[FR Doc. 2010–21348 Filed 8–26–10; 8:45 am]

**BILLING CODE 4150–35–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of Global Health Affairs; Trans-Atlantic Task Force on Antimicrobial Resistance (TATFAR)

**AGENCY:** Office of Global Health Affairs, HHS.

**ACTION:** Notice of public meeting and request for comments.

**SUMMARY:** The Office of Global Health Affairs is seeking comments and

suggestions from the public on the activities of the Trans-Atlantic Taskforce on Antimicrobial Resistance (TATFAR).

**DATES:** A public meeting will be held in Bethesda, MD, on Friday, October 1, 2010 from 1:30 to approximately 4:30 p.m. Persons wishing to participate, including those who wish to make an oral presentation, must register in advance and provide a copy of their presentation by noon Friday, September 24, 2010.

*Deadline for Registration for all Attendees:* All Other Attendees must register by noon, Friday, September 24, 2010.

*Deadline for Requests for Special Accommodation:* Requests for special accommodation should be submitted by noon, Friday, September 17, 2010.

**ADDRESSES:** *Meeting Location:* The public meeting will be held on the Campus of the National Institutes of Health, 9000 Rockville Pike, Building 31, Wing C, Room 6, Bethesda, MD 20892.

*Submission of Written Comments:* Written comments can be e-mailed to *OGHA.OS@HHS.gov* or sent via regular mail to Elana Clarke, Office of Global Health Affairs, Switzer Building Room 2319, 330 C Street, SW., Washington, DC 20201.

*Registration and Special Accommodations:* Individuals wishing to participate or who need special accommodations or both must register by contacting Elana Clarke at *Elana.Clarke@hhs.gov. See* Registration To Attend and/or Participate in the Public Hearing for instructions on how to submit electronic notices of participation.

**FOR FURTHER INFORMATION CONTACT:** Elana Clarke at *Elana.Clarke@hhs.gov* or 202 260–0443.

*Registration To Attend and/or Participate in the Public Meeting:* To ensure there is sufficient room we ask that you pre-register. If you wish to make an oral presentation during the open public comment period of the hearing, state your intention to present on your registration submission. To register, please send an electronic mail message to *Elana.Clarke@hhs.gov* by the deadline listed under **DATES.** Your e-mail should include your name and e-mail address.

Please submit a written statement at the time of registration, identifying each focus area you wish to address and the approximate time requested to make your presentation. Organizations should provide this information as well as the names and e-mail addresses of all participants. Registered individuals will be notified of the approximate time scheduled for their presentation prior to the meeting. Depending on the number of presentations, HHS may need to limit the time allotted for presentations.

**SUPPLEMENTARY INFORMATION:**

**1. Background**

On November 3, 2009, the United States and the European Union (EU) agreed to establish a task force to focus "on urgent antimicrobial resistance issues focused on appropriate therapeutic use of antimicrobial drugs in the medical and veterinary communities, prevention of both healthcare- and community-associated drug-resistant infections, and strategies for improving the pipeline of new antimicrobial drugs, which could be better addressed by intensified cooperation." (2009 EU–U.S. Summit Declaration).

The TATFAR is made up of government representatives from the U.S. Department of Health and Human Services for the United States and from the European Commission, European Union agencies, and representatives of three EU member states for the EU. Information about the TATFAR is available at: *http://ecdc.europa.eu/en/activities/diseaseprogrammes/TATFAR/Pages/index.aspx.*

**2. Public Comment and Meeting**

The public meeting process provides an opportunity for the public to become aware of the activities of the TATFAR to date. In addition, OGHA invites written comments and/or oral presentations of interested persons on the three focus areas of the TATFAR as defined in the 2009 EU/US Summit Declaration:

- Appropriate therapeutic use of antimicrobial drugs in the medical and veterinary communities,
- Prevention of both healthcare- and community-associated drug-resistant infections, and
- Strategies for improving the pipeline of new antimicrobial drugs.

Comments should identify specific antimicrobial resistance-related activities in these three areas where intensified cooperation between the United States and the European Union could have the most impact, keeping in mind that the work of the TATFAR will be carried out using currently available resources. In particular, input is sought on activities that can be undertaken in the near-term, with a reasonable possibility of completion over the next 12–15 months.

Written comments submitted by e-mail should use the following subject line "TATFAR Comments." Comments and any documentation may be submitted as Adobe PDF, MSWord or Text (.txt) files. Written comments submitted by regular mail should clearly identify "TATFAR Comments" as the subject.

**3. Building and Security Guidelines**

The meeting is being held in a Federal government building; therefore, Federal security measures are applicable. In planning your arrival time, please take account of the need to clear security. All visitors must enter through the NIH Gateway Center and must present government-issued photo identification. All persons entering the building must pass through a metal detector. All items brought to HHS are subject to inspection. For more information on NIH security requirements for visitors, please go to: *http://www.nih.gov/about/visitorsecurity.htm.*

Signed: August 23, 2010.

**Nils Daulaire,**

*Director, Office of Global Health Affairs.*

[FR Doc. 2010–21351 Filed 8–26–10; 8:45 am]

**BILLING CODE 4150–38–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Request for Comments on Synthetic Biology

**AGENCY:** Department of Health and Human Services, Office of Public Health and Science, The Presidential Commission for the Study of Bioethical Issues.

**ACTION:** Notice.

**SUMMARY:** The Presidential Commission for the Study of Bioethical Issues is requesting public comment on the emerging science of synthetic biology, including its potential applications and risks, as well as appropriate ethical boundaries to assure that America reaps the benefits of this new technology.

**DATES:** To assure consideration, comments must be received by October 1, 2010.

**ADDRESSES:** Individuals, groups, and organizations interested in commenting on this topic may submit comments by e-mail to *info@bioethics.gov* or by mail to the following address: Public Commentary, The Presidential Commission for the Study of Bioethical Issues, 1425 New York Ave., NW., Suite C–100, Washington, DC 20005.

**FOR FURTHER INFORMATION CONTACT:** Ms. Diane M. Gianelli, Director of Communications, The Presidential Commission for the Study of Bioethical Issues, 1425 New York Avenue, NW.,

Suite C–100, Washington, DC 20005. *Telephone:* 202/233–3960. *E-mail: info@bioethics.gov.* Additional information may be obtained by viewing the Web site: *http://www.bioethics.gov.*

**SUPPLEMENTARY INFORMATION:** On November 24, 2009, the President established the Presidential Commission for the Study of Bioethical Issues to advise him on bioethical issues generated by novel and emerging research in biomedicine and related areas of science and technology. The Commission is charged to identify and promote policies and practices that assure ethically responsible conduct of scientific research, healthcare delivery, and technological innovation. In undertaking these duties, the Commission will identify and examine specific bioethical, legal, and social issues related to potential scientific and technological advances; examine diverse perspectives and possibilities for dynamic international collaboration on these issues, and recommend legal, regulatory, or policy actions as appropriate.

As its first order of business, the Commission has begun an inquiry into the emerging science of synthetic biology. The President asked the Commission to address this topic on May 20, 2010, following the announcement that the J. Craig Venter Institute had successfully engineered a synthetic cell—the insertion into a bacterium of a complete, functional genome synthesized entirely from a digitized sequence that replaced the native genome of the host over a series of replications. Daniel G. Gibson *et al., Creation of a Bacterial Cell Controlled by a Chemically Synthesized Genome,* Science Express (May 20, 2010). The President charged the Commission to consider any potential medical, environmental, security, and other benefits, as well as any related risks. Additionally, the President asked the Commission to develop "recommendations about any actions the Federal government should take to ensure that America reaps the benefits of this developing field of science while identifying appropriate ethical boundaries and minimizing identified risks." The Commission will report back its finding and recommendations later this year.

To begin its work, the Commission convened a public meeting in Washington, DC on July 8–9, 2010. At that meeting, representatives with expertise in science, ethics, and public policy, as well as advocates with diverse perspectives on this new field provided information and insight to help guide the Commission in its thinking. Leading scientists in the field created context for the discussion by explaining the state of the science and discussing possible applications. Among the anticipated benefits discussed were employing bacterial cells as microscopic factories in the production of pharmaceuticals and biofuels.

Additionally, with regard to potential risks, the Commission heard discussion about possible biosafety, biosecurity and environmental concerns, including risks that may arise as synthetic biology relies on organisms that can evolve and self-replicate, and existing practices to protect against these risks. The Commission also heard discussion about ethical boundaries and the views of faith communities.

As the approaches to, and applications of, synthetic biology proliferate, the Commission wishes to develop a multifaceted understanding of its scientific and technological implications, and learn more about the views of the public on the existing or potential ethical and social ramifications. To this end, the Commission is inviting interested parties to provide input and advice through written comments. Among other issues, the Commission is interested in receiving comments on the potential benefits that the emerging field of synthetic biology is likely to yield, now or in the future, the risks that may arise, the ethical boundaries that should be considered, and policies and strategies to assure that the public will benefit from these new tools and products.

Please address comments by e-mail to *info@bioethics.gov,* or by mail to the following address: Public Commentary, The Presidential Commission for the Study of Bioethical Issues, 1425 New York Ave., NW., Suite C–100, Washington, DC 20005. Comments will be publicly available, including any personally identifiable or confidential business information that they contain. Trade secrets should not be submitted.

Dated: August 17, 2010.

**Valerie H. Bonham,**

*Executive Director, The Presidential Commission for the Study of Bioethical Issues.*

[FR Doc. 2010–21359 Filed 8–26–10; 8:45 am]

**BILLING CODE 4154–06–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Agency Recordkeeping/Reporting Requirements Under Emergency Review by the Office of Management and Budget (OMB)

*Title:* TANF Emergency Fund Subsidized Employment Report, Form OFA–200.

*OMB No.:* New Collection.

*Description:* On February 17, 2009, the President signed the American Recovery and Reinvestment Act of 2009 (Recovery Act) which establishes the Emergency Contingency Fund for State TANF Programs (Emergency Fund) as section 403(c) of the Social Security Act (the Act). This legislation provides up to $5 billion to help States, territories, and tribes in fiscal year (FY) 2009 and FY 2010 that have an increase in assistance caseloads or in certain types of expenditures. The Recovery Act also made other changes to TANF—extending supplemental grants through FY 2010, expanding flexibility in the use of TANF funds carried over from one fiscal year to the next, and adding a hold-harmless provision to the caseload reduction credit for States and territories serving more TANF families.

The Emergency Fund is intended to build upon and renew the principles of work and responsibility that underlie successful welfare reform initiatives. The Emergency Fund provides resources to States, territories, and tribes (referred to collectively here as "jurisdictions") to support work and families during this difficult economic period.

Many jurisdictions are implementing subsidized employment programs as a result of the availability of this new funding, and there is substantial interest in understanding how this funding has been used. There is also significant public interest in the number of individuals that are being placed in subsidized employment as a result of the Recovery Act. As a result, we are proposing a voluntary data collection for jurisdictions regarding information on the number of individuals in subsidized employment funded in whole or in part by the TANF Emergency Fund or that were included in the calculation of a TANF Emergency Fund award. We initially requested emergency clearance to collect this data and posted a **Federal Register** notice on June 8 stating our intent to collect this information and invited comments. As a result of our June 8 notice we received

comments that yielded improvements to our data collection instrument, and we are therefore submitting a revised data collection form for emergency clearance.

The definition of subsidized employment used for this collection is the same as the definition for the TANF program in general, given in 45 CFR 261.2(c) and (d). This information will help the agency as well as the public better understand how jurisdictions are using the money they are awarded through the Emergency Fund.

A voluntary information collection relating to the number of individuals in subsidized employment will serve several purposes.

This information will demonstrate the impact of the program, help ACF to evaluate the effectiveness of this initiative, and provide information to aide in the transparency and accountability of jurisdictions receiving Recovery Act funds. This information will also allow the Administration to publicly communicate the impact and achievements of the program, and make future policy decisions on the basis of such knowledge.

*Respondents:* State, territory, and tribal agencies administering the Temporary Assistance for Needy Families (TANF) Program that have received TANF Emergency Funds.

| Instrument | Number of respondents (jurisdictions) | Number of responses per respondent | Average burden hours per response | Total burden hours |
|---|---|---|---|---|
| Subsidized Employment Report OFA–200 | 74 | 1 | 24 | 1,776 |

*Estimated Total Annual Burden Hours:* We estimate the annualized cost of the hour burden to be $159,840. This figure is based on an estimated average hourly cost of $90 (including fringe benefits, overhead, and general and administrative costs) for the jurisdiction staff performing the work multiplied by the estimated 1,776 burden hours, calculated based on 74 jurisdictions applying for and receiving TANF Emergency Funds (all States and Territories, plus an estimated 20 tribes) If the TANF Emergency Fund is extended and jurisdictions report in FY 2011, the jurisdiction would submit four additional responses and the total burden hours for FY 2011 would be 7,104.

*Additional Information:* ACF is requesting that OMB grant a 180-day approval for this information collection under procedures for emergency processing by September 13, 2010. A copy of this information collection, with applicable supporting documentation, may be obtained by calling the Administration for Children and Families, Reports Clearance Officer, Robert Saris at (202) 690–7275.

Comments about the information collection described above should be directed to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ACF, Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503; FAX: (202) 395–7285; e-mail: *oirasubmission@ornb.eop.gov.*

Dated: August 18, 2010.

**Robert Sargis,**

*Reports Clearance Officer.*

[FR Doc. 2010–21203 Filed 8–26–10; 8:45 am]

**BILLING CODE 4184–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Submission for OMB Review; Comment Request; Assessing the Long-Term Impacts of the John E. Fogarty International Center's Research and Training Programs

**SUMMARY:** Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the John E. Fogarty International Center, the National Institutes of Health has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on May 27, 2010 (volume 75, number 102, page 29763) and allowed 60 days for public comment. One comment was received from a member of the public. The purpose of this notice is to allow an additional 30 days for public comment.

*Proposed Collection: Title:* Assessing the Long-Term Impacts of the John E. Fogarty International Center's Research and Training Programs. *Type of Information Collection Request:* New collection. *Need and Use of Information Collection:* This study will inform investment decisions and strategies employed by the Fogarty International Center for the purpose of strengthening biomedical research capacity in low and middle income countries. The primary objective of the study is to develop detailed case studies of the long-term impacts of Fogarty's research and training programs on educational institutions located in low and middle income countries. The findings will provide valuable information concerning return on the Center's investments over the past twenty years and effective strategies for promoting research capacity development in the future. *Frequency of Response:* Once. *Affected Public:* Individuals. *Type of Respondents:* Current and former NIH grantees; Current and former NIH trainees in countries of interest; Leaders and administrators at institutions of interest; Policy-makers and scientific leaders in countries of interest. The annual reporting burden is as follows:

*Estimated Number of Respondents:* 210 per year. *Estimated Number of Responses per Respondent:* 1. *Average Burden Hours per Response:* 1. *Estimated Total Annual Burden Hours Requested:* 290. The annualized cost to respondents is estimated at: $4,841. 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.

*Direct Comments to OMB:* Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, 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 Dr. Linda Kupfer, Fogarty International Center, National Institutes of Health, 16 Center Drive, Bethesda, MD 20892, or call non-toll-free number 301–496–3288, or e-mail your request, including your address to: *Linda.Kupfer@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: August 23, 2010.

**Timothy J. Tosten,**

*Executive Officer, John E. Fogarty International Center, National Institutes of Health.*

[FR Doc. 2010–21350 Filed 8–26–10; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2010–D–0433]**

### Draft Guidance for Industry on Acute Bacterial Skin and Skin Structure Infections: Developing Drugs for Treatment; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled "Acute Bacterial Skin and Skin Structure Infections: Developing Drugs for Treatment." The purpose of this draft guidance is to assist clinical trial sponsors and investigators in the development of antimicrobial drugs for the treatment of acute bacterial skin and skin structure infections (ABSSSI), impetigo, and minor cutaneous abscesses. FDA's thinking in this area has evolved in recent years, and this draft guidance, when finalized, will inform sponsors of the changes in the definitions of ABSSSI and the recommendations for clinical drug development.

**DATES:** Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by November 26, 2010.

**ADDRESSES:** Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 2201, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit electronic comments on the draft guidance to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Joseph G. Toerner, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, rm. 6244, Silver Spring, MD 20993–0002, 301–796–1300.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

FDA is announcing the availability of a draft guidance for industry entitled "Acute Bacterial Skin and Skin Structure Infections: Developing Drugs for Treatment." The purpose of this draft guidance is to assist clinical trial sponsors and investigators in the development of antimicrobial drugs for the treatment of ABSSSI, impetigo, and minor cutaneous abscesses. This guidance revises the draft guidance regarding uncomplicated and complicated skin and skin structure infections published in 1998. The guidance also addresses the clinical development of new drugs to treat drug-resistant bacterial pathogens implicated in ABSSSI, such as methicillin-resistant *Staphylococcus aureus*.

The definitions of ABSSSI and the designs of ABSSSI clinical trials were discussed at a meeting of the Anti-Infective Drugs Advisory Committee on November 18, 2008. In addition, other advisory committee meetings have focused on the development of specific drugs for this indication. As a result of these public discussions, as well as review of applications at FDA, the agency's thinking in this area has evolved in recent years and this draft guidance informs sponsors of the changes in our recommendations. Specifically, the guidance defines the clinical disease entities and provides a justification for a noninferiority margin for the design of active-controlled clinical trials that can be used to provide evidence of efficacy for the treatment of ABSSSI. The guidance describes a new responder efficacy endpoint for noninferiority trials that is based on the historical studies used to justify the noninferiority margin. Currently, there are ongoing efforts in the scientific community to develop and evaluate new efficacy endpoints for ABSSSI. The guidance also defines the clinical disease entities of skin infections for which a superiority trial is recommended.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on developing drugs for the treatment of ABSSSI. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

#### II. The Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 312 have been approved under OMB control number 0910–0014 and the collections of information in 21 CFR part 314 have been approved under OMB control number 0910–0001.

#### III. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments regarding this document. It is only necessary to send one set of comments. It is no longer necessary to send two copies of mailed comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

#### IV. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov*.

Dated: August 23, 2010.

**Leslie Kux,**

*Acting Assistant Commissioner for Policy.*

[FR Doc. 2010–21328 Filed 8–26–10; 8:45 am]

**BILLING CODE 4160–01–S**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Fiscal Year (FY) 2010 Funding Opportunity

**AGENCY:** Substance Abuse and Mental Health Services Administration, HHS.

**ACTION:** Notice of Intent to award a Single Source Supplement Grant to the National Center for Mental Health Promotion and Youth Violence Prevention at Educational Development Corporation (EDC) of Newton, Massachusetts.

**SUMMARY:** This notice is to inform the public that the Substance Abuse and Mental Health Services Administration (SAMHSA) intends to award approximately $250,000 for up to fifteen months to expand grant activities funded under the Technical Assistance Center for Mental Health Promotion and Youth Violence Prevention to implement a Back to School media campaign targeted at the Gulf Coast schools impacted by the Deepwater oil spill. This is not a formal request for applications. This award is contingent upon the availability of funding. Assistance will be provided only to the current grantee of the Technical Assistance Center for Mental Health Promotion and Youth Violence Prevention based on the receipt of a satisfactory application that is approved by an independent review group.

*Funding Opportunity Title:* SM–10–020.

*Catalog of Federal Domestic Assistance (CFDA) Number:* 93.243.

**Authority:** Sections 501(d)(5), 501(d)(18), 520A, 231, of the Public Health Service (PHS) Act [42 U.S.C. 290aa; 42 U.S.C. 290bb–32, 42 U.S.C. 238, respectively].

*Justification:* Only an application from the current grantee, National Center for Mental Health Promotion and Youth Violence Prevention at Educational Development Corporation (EDC), will be considered for funding under this announcement. Fifteen-months funding may become available to implement a Back to School Media Support for Gulf Coast States Impacted by the Deepwater Oil Spill grant. The current grantee will provide technical assistance and is in a unique position to address the needs of communities rapidly. This Center currently provides technical assistance and training to strengthen the capacity of active Safe Schools/Healthy Students grantees to sustain the use of evidence-based strategies for mental health promotion and school violence prevention. There is no other potential organization with the required access and expertise.

Eligibility for this program supplement is restricted to the current grantee, National Center for Mental Health Promotion and Youth Violence Prevention at Educational Development Corporation (EDC). Eligibility is limited because the magnitude of the Deepwater Horizon oil spill and its impact on the residents of the Gulf Coast region have led to an urgent need for disaster behavioral health communications services targeting school aged children, youth and their families. This supplement will serve to maximize efficiencies created under the current services infrastructure. It would be inefficient and duplicative to fund additional technical assistance services for a Back to School Media Support for Gulf Coast States Impacted by the Deepwater Oil Spill grant through a second organization.

*Contact:* Shelly Hara, Substance Abuse and Mental Health Services Administration, 1 Choke Cherry Road, Room 8–1095, Rockville, MD 20857; *telephone:* (240) 276–2321; E-mail: *shelly.hara@samhsa.hhs.gov.*

Dated: August 23, 2010.

**Toian Vaughn,**

*SAMHSA Committee Management Officer.*

[FR Doc. 2010–21339 Filed 8–26–10; 8:45 am]

**BILLING CODE 4162–20–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Government-Owned Inventions; Availability for Licensing

**AGENCY:** National Institutes of Health, Public Health Service, HHS.

**ACTION:** Notice.

**SUMMARY:** The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of Federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

**ADDRESSES:** Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; *telephone:* 301/496–7057; *fax:* 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

**System and Method for Producing Nondiffracting Light Sheets that Improves the Performance of Selective Plane Illumination Microscopy (SPIM)**

*Description of Invention:* The technology offered for licensing relates to a system and method of producing nondiffracting beams of light that spatially overlap, but do not interfere with each other when intersecting the detection plane of an optical arrangement. The system includes an illumination source (*i.e.* ultrafast laser) for transmitting a beam of light through the optical arrangement that includes a diffraction grating for diffracting the light beam to produce beams of light having different wavelengths, which are then passed through an annular aperture that transforms the beams of light into nondiffracting beams having different wavelengths. The method can be readily utilized in Selective Plane Illumination Microscopy (SPIM), a system that provides optical sectioning of a sample that is labeled with fluorescent dyes. SPIM can provide quantitative three-dimensional maps of the distribution of a flurophore within the sample with high spatiotemporal resolution and an excellent signal-to-noise ratio. The standard SPIM technique however produces nonuniform axial resolution, which is caused by the diffraction of the laser beam through the sample, causing degradation in the optical sectioning, and forcing a compromise between field of view and axial resolution. Techniques for decoupling field of view and axial resolution have previously utilized nondiffracting beams (*e.g.* Bessel beams) for sample illumination. The resulting interference from multiple nondiffracting beams degrades the quality of optical sectioning and the quality of the image. The present technology utilizing nondiffracting noninterfering beams is intended to alleviate the problems associated with the currently used SPIM techniques.

*Applications:* In Selective Plane Illumination Microscopy (SPIM) used for optical sectioning and imaging of biological samples.

*Development Status:* Proof of concept has been demonstrated.

*Inventors:* Andrew York, Yicong Wu, Hari Shroff (NIBIB)

**Relevant Publications**

1. Durnin J, Micheli J Jr, Eberly JH. Diffraction-free beams. Phys Rev Lett. 1987 Apr 13;58(15):1499–1501.
2. Greger K, Swoger J, Stelzer EH. Basic building units and properties of a fluorescence single plane illumination microscope. Rev Sci Instrum. 2007 Feb;78(2):023705. [PubMed: 17578115]
3. Fahrbach F, Rohrbach A. Microscopy with Non-diffracting Beams. Abstract at 2009 Focus on Microscopy Conference, *http://www.focusonmicroscopy.org/2009/PDF/28l_Fahrbach.pdf.*
4. Rohrbach A. Artifacts resulting from imaging in scattering media: a theoretical prediction. Opt Lett. 2009 Oct 1;34(19):3041–3043. [PubMed: 19794809]

*Patent Status:* U.S. Provisional Application No. 61/360,352 filed 30 Jun 2010, entitled "System and Method of Producing Nondiffracting Light Sheets by a Multiplicity of Spatially Overlapping, Minimally Interfering Nondiffracting Optical Beams" (HHS Reference No. E–118–2010/0–US–01).

*Licensing Status:* Available for licensing.

**Licensing Contacts**

- Uri Reichman, Ph.D., MBA; 301–435–4616; *UR7a@nih.gov.*
- Michael Shmilovich, Esq.; 301–435–5019; *shmilovm@mail.nih.gov.*

*Collaborative Research Opportunity:* The NIBIB Section on High Resolution Optical Imaging is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize the nondiffracting Light Sheets for SPIM. Please contact Hari Shroff at 301–435–1995 or *hari.shroff@nih.gov* for more information.

**Method of Producing Immortalized Primary Human Keratinocytes for HPV Investigation, Testing of Therapeutics, and Skin Graft Generation**

*Description of Invention:* One of the major limitations of using cultured keratinocytes for research studies is that primary keratinocytes senesce after a few passages. Keratinocytes from specific anatomical sites are also difficult to culture. Scientists at the NIH have demonstrated that primary keratinocytes, from several anatomical sites, when treated with a small-molecule inhibitor of the ROCK protein maintain a proliferative state and become immortal without genetic modification to the cells. Keratinocytes are also the host cells for human papillomaviruses (HPVs) and other viruses and this technology enables the study of those viruses that do not immortalize cells. In addition, this technology may enhance the quantity of material available for skin grafts, as current grafting techniques are limited by the amount of donor material immediately available. Thus, this technology may provide an ideal model environment for producing large quantities of both normal and diseased primary human keratinocytes from small numbers of primary cells from individual hosts or anatomical sites for research purposes, testing of therapeutics, skin graft generation and HPV investigation.

**Applications**

- Promotion of sustained primary human keratinocyte proliferation *in vitro.*
- Human skin graft cultures and techniques.
- Immortalization of both normal and diseased cells from individual hosts.
- Immortalization of "difficult to establish" keratinocytes from different anatomical sites.
- *In vitro* assay for investigating the full life cycle of HPV.
- *In vitro* screen for HPV inhibitors.

**Advantages**

- Allows culture and immortalization of many types of keratinocytes that are difficult to establish and pass in culture.
- Allows isolation of diseased and normal keratinocytes from individual hosts for research and therapeutic purposes.
- Current HPV investigations are limited by keratinocyte senescence.
- Skin graft generation is currently dependent on slow culture of limited quantities of donor material.

*Development Status:* Early stage: cell-based assays using primary human cells.

*Market:* Over 6 million individuals become infected by genital HPV every year and over 500,000 new cases of anal and genital warts are diagnosed annually in the United States (*http://www.cancer.org*). At least 40,000 American burn victims are hospitalized annually, including 25,000 admissions to hospitals with specialized burn centers (*http://www.ameriburn.org*) and skin grafts for diabetic ulcers are increasing. Skin disease is very prevalent and is estimated to affect greater than 50% of individuals in Western countries (Rea *et al.,* British Journal of Preventive and Social Medicine 30: 107–14, 1976.

*Inventors:* Alison McBride (NIAID), Sandra E. Chapman (NIAID), Jonathan C. Vogel (NCI), Atsushi Terunuma (NCI).

*Publication:* Chapman S *et al.* Human keratinocytes are efficiently immortalized by a Rho kinase inhibitor. J Clin Invest. 2010 Jul 1;120(7):2619–26. [PubMed: 20516646].

*Patent Status:* PCT Patent Application No. PCT/US2009/066844 filed 12 Apr 2009, which published as WO/2010/065907 on 10 Jun 2010 (HHS Reference No. E–055–2009/0–PCT–02).

*Licensing Status:* Available for licensing.

*Licensing Contact:* Jeffrey Clark Klein, Ph.D.; 301–594–4697; *kleinjc@mail.nih.gov.*

*Collaborative Research Opportunity:* The National Institute of Allergy and Infectious Diseases, Laboratory of Viral Diseases is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize methods of producing immortalized primary human keratinocytes. Please contact Johanna Schneider, Ph.D. at 301–451–9824 or *schneiderjs@niaid.nih.gov* for more information.

**Novel Drugs for the Treatment of Schizophrenia**

*Description of Invention:* Because psychosis and cognitive decline are among the most common debilitating afflictions of humans, the search for new treatments is very important and timely.

Researchers at the NIH have found that genetic variations on the *PIK3CD* gene are associated with schizophrenia in Caucasian and African American families and can affect normal human cognition functions such as memory, IQ and executive cognition. The inventors have shown that an inhibitor of the phosphatidylinositol 3-kinase p110 delta (PIK3CD) enzyme, which is encoded by the *PIK3CD* gene, significantly improves a migratory response that is critically impaired in schizophrenic patients. This drug, as well as other PIK3CD inhibitors, could provide effective treatments of psychosis and cognitive decline.

*Applications:* Novel target for development of therapeutics of CNS disorders including schizophrenia, psychosis, and cognitive deficiency.

*Development Status:* Early stage: *in vivo* rodent and *in vitro* human cells.

*Market:* According to BioPortfolio, the world schizophrenia market was $12 billion in 2004. Schizophrenia affects approximately 0.5% of both the U.S. and world populations.

*Inventors:* Amanda J. Law and Daniel R. Weinberger (NIMH).

*Publication:* In preparation.

*Patent Status:* PCT Application No. PCT/US2009/66867 filed 04 Dec 2009 (HHS Reference No. E–054–2009/0–PCT–02).

*Licensing Status:* Available for licensing.

*Licensing Contact:* Charlene Sydnor, Ph.D.; 301–435–4689; *sydnorc@mail.nih.gov.*

*Collaborative Research Opportunity:* The National Institute of Mental Health Clinical Brain Disorders Branch is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize the development of PIK3CD inhibitors for the treatment of CNS disorders including schizophrenia, psychosis, and cognitive deficiency. Please contact Amanda Law at *lawa@mail.nih.gov* for more information.

**Fast Electron Paramagnetic Resonance Imaging (EPRI) Using CW–EPR Spectrometer With Sinusoidal Rapid-Scan and Digital Signal Processing**

*Description of Invention:* Electron Paramagnetic Resonance (EPR) Imaging is an indispensable tool that may be applied to a variety of disciplines for evaluation of chemical species having unpaired electrons such as free radicals and transition metal ions. In Continuous Wave (CW)–EPR the sample is continuously irradiated with weak RF radiation while sweeping the magnetic field relatively slowly. Existing CW–EPR techniques utilize a signal detection method known as phase-sensitive detection which results in data acquisition times that are too long for in vivo applications. The present technology represents significant improvements on conventional CW–EPR.

The subject technology includes three approaches to collecting image data with increased spatial, temporal and spectral resolution and improved sensitivity. Spectral data acquisition is performed by a direct detection strategy involving mixing a signal to base-band and acquiring data with a fast-digitizer. Projection data is acquired using a sinusoidal magnetic field sweep under gradient magnetic fields. Data collection times are decreased with the utility of rotating gradients.

Further improvement to the present technology includes optimized DSP (digital signal processing) transmit and receive systems that decrease the analog background noise and allow optimizing the extent of signal averaging for improved image quality.

Increased speed and sensitivity make CW–EPR a potentially useful and complementary tool to proton Magnetic Resonance Imaging for in vivo imaging. The presently described improvements to CW–EPR will allow changes of blood perfusion and oxygenation in tumors to be observed in nearly real-time, while improved resolution will permit angiogenesis in and around tumors to be monitored in a non-invasive manner. Additionally, rapid scan imaging provides excellent temporal resolution and will help quantify pharmaco-kinetics and metabolic degradation kinetics of bioactive and redox sensitive free radicals such as nitroxides.

**Applications**

- Enhanced spatial, temporal, and spectral resolution of Continuous Wave-Electron Paramagnetic Resonance Imaging.
- Real-time assessment of changes in blood perfusion and oxygenation.

*Development Status:* Preliminary experiments have been conducted and the technology has been tested for feasibility.

*Inventors:* Sankaran Subramanian *et al.* (NCI).

*Relevant Publication:* Subramanian S, Koscielniak JW, Devasahayam N, Pursley RH, Pohida TJ, Krishna MC. A new strategy for fast radiofrequency CW EPR imaging: Direct detection with rapid scan and rotating gradients. J Magn Reson. 2007 Jun; 186(2):212–219. [PubMed: 17350865].

**Patent Status**

- U.S. Provisional Application No. 60/818,052 filed 30 Jun 2006 (HHS Reference No. E–221–2005/0–US–01).
- PCT Application No. PCT/US07/00072371 filed 02 Jul 2007, which published as WO 2008/091365 on 31 Jul 2008 (HHS Reference No. E–221–2005/1–PCT–01).
- U.S. Patent Application No. 12/306,514 filed 23 Dec 2008 (HHS Reference No. E–221–2005/1–US–02).
- U.S. Patent Application No. 12/564,006 filed 21 Sep 2009 (HHS Reference No. E–221–2005/2–US–01).

*Licensing Status:* Available for licensing.

**Licensing Contacts**

- Uri Reichman, PhD, MBA; 301–435–4616; *UR7a@nih.gov.*
- John Stansberry, PhD; 301–435–5236; *js852e@nih.gov.*

*Collaborative Research Opportunity:* The National Cancer Institute, Radiation Biology Branch, is seeking statements of capability or interest from parties interested in collaborative research to further develop improved hardware in terms of higher gradient & sweep frequencies and compatible AC amplifiers and evaluate, or commercialize the above rapid scan-rotating gradients strategy for performing routine in vivo radiofrequency CW EPR imaging in small animals. Please contact John D. Hewes, PhD, at 301–435–3121 or *hewesj@mail.nih.gov for* more information.

Dated: August 20, 2010.

**Richard U. Rodriguez,**

*Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.*

[FR Doc. 2010–21347 Filed 8–26–10; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Government-Owned Inventions; Availability for Licensing

**AGENCY:** National Institutes of Health, Public Health Service, HHS.

**ACTION:** Notice.

**SUMMARY:** The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

**ADDRESSES:** Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; *telephone:* 301/496–7057; *fax:* 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

**An XMRV Tool Box: Expression Plasmids, Genes, and Proteins for All Components of the Xenotropic Murine Leukemia Virus-Related Virus (XMRV)**

*Description of Invention:* The xenotropic murine leukemia virus-related virus (XMRV) has been implicated as a possible causative agent of prostate cancer and chronic fatigue syndrome (CFS). Scientists at the National Institutes of Health (NIH) and Science Applications International Corporation in Frederick, MD (SAIC–Frederick) have developed sixty four (64) protein expression plasmids for components of XMRV. One or more

XMRV proteins made available through these expression plasmids could have clinical relevance to diagnosing or treating human disease. The work to develop this technology was performed in the Protein Expression Laboratory at SAIC–Frederick in collaboration with expert retrovirologists from the National Cancer Institute's Frederick, MD campus, a site well-positioned to develop these expression plasmids from initial cloning to final validations. The development of these XMRV tools is expected to save researchers months in laboratory production time and thousands of dollars in labor costs.

The XMRV strain utilized to generate these expression plasmids is a reference strain isolated from a human patient. Each expression plasmid encodes one of the ten proteins that comprise the XMRV retrovirus (matrix, p12, capsid, nucleocapsid, protease, reverse transcriptase, integrase, surface, transmembrane, and envelope). Nine of the ten XMRV proteins expressed by these clones have been successfully purified in large quantities using scale-up processes. The expression vectors were generated utilizing the Gateway® cloning system and consist of Gateway® entry clones, bacterial (*Escherichia coli*) expression clones, baculovirus expression clones, and mammalian expression clones. Expression of the appropriate XMRV protein from its corresponding expression clone has been confirmed. The entry clones have been validated for Gateway® subcloning and the baculovirus clones have been validated for baculovirus production and can be transposed into baculoviral genomes. The plasmids have been fully mapped and sequenced and contain one or more elements to facilitate laboratory use, such as antibiotic resistance genes, specialized promoter sequences, maltose-binding protein and His tags, TEV protease sites, Kozak-ATG sequences, signal peptides, and other elements.

*Applications:*

• Research tool whose large-scale production capability can be utilized to develop serological assays for detecting XMRV and other retroviruses to possibly establish these viruses as causative agents for CFS, prostate cancer, and other diseases with unknown origins.

• Collection of research tools that could be utilized to develop a complete set of diagnostic assays for detecting each of these XMRV proteins in patient samples.

• Research tool to serve as a platform for developing therapeutic moieties, such as neutralizing antibodies and other biologics, for treating prostate cancer, chronic fatigue syndrome, and any other disease where XMRV is later identified as the causative agent.

• A logical starting point for generating clinical-grade XMRV constructs for use in clinical vaccine, immunotherapy, and gene therapy studies.

*Advantages:*

• *First complete set of plasmids available for the expression of each XMRV protein individually:* Researchers looking to study XMRV can save months of time and thousands of dollars by using this set of XMRV tools. The plasmids have been fully-mapped and validated for protein expression. This plasmid portfolio offers a variety of vectors for expressing these XMRV proteins including Gateway® entry clones, bacterial vectors, baculoviral vectors, and mammalian expression systems.

• *Clones were developed from an XMRV isolate taken from a patient with a confirmed XMRV infection:* The proteins produced by these expression plasmids are anticipated to have direct clinical applicability to human XMRV diseases.

• *Launching pad for any commercial entity desiring to develop diagnostics or therapeutics for XMRV:* This technology is likely to give companies in the prostate cancer arena or the emerging chronic fatigue syndrome market a competitive advantage for developing anti-XMRV products faster than competitors. The molecular targets needed as a starting point for therapeutic development are provided by this technology.

*Market:* Apart from cancers of the skin, prostate cancer is the most common form of cancer found in men, especially in men over the age of 65. In the United States, an estimated 200,000 men are diagnosed with prostate cancer each year and around 100 men die of the disease daily. About $5 billion dollars is spent annually on treatments for prostate cancer.

The Center for Disease Control (CDC) estimates that over 1 million Americans are living with chronic fatigue syndrome and approximately 80% of these individuals are undiagnosed. This debilitating disease likely affects over 17 million people worldwide and the cause of CFS is currently unknown. Those individuals diagnosed with CFS are a vocal patient group desiring expanded research into the cause of CFS and possible treatments and/or cures. In the United States alone, an estimated $9 billion dollars is lost annually due to CFS-induced decreases in worker productivity.

*Inventors:* Dominic Esposito (SAIC), Alan Rein (NCI), Stuart Le Grice (NCI), James Hartley (SAIC), William Gillette (SAIC), Ralph Hopkins III (SAIC), Troy Taylor (SAIC).

*Selected Publications:*

1. VC Lombardi, *et al.* Detection of an infectious retrovirus, XMRV, in blood cells of patients with chronic fatigue syndrome. Science 2009 Oct 23;326(5952):585–589. [PubMed: 19815723]

2. A Urisman, *et al.* Identification of a novel Gammaretrovirus in prostate tumors of patients homozygous for R462Q RNASEL variant. PLoS Pathog. 2006 Mar;2(3):e25. [PubMed: 16609730]

*Patent Status:* HHS Reference No. E–155–2010/0—Research Tool. Patent protection is not being pursued for this technology.

*Licensing Status:* Available for licensing under a Biological Materials License Agreement.

*Licensing Contact:* Samuel E. Bish, Ph.D.; 301–435–5282; *bishse@mail.nih.gov.*

**Tempol: A Commercially Available Nitroxide as Cancer Therapeutics**

*Description of Invention:* The invention is the discovery that a commercially available stable nitroxide, namely TEMPOL can effectively reduce the level of hypoxia-inducible transcription factor (HIF)–2α. Elevated HIF–2α is associated with clear cell kidney cancer characterized by mutation of the VHL tumor suppressor gene and with many other cancers. Therefore, TEMPOL can potentially be developed into a cancer drug to treat patients with elevated HIF–2α, whether due to compromised VHL function or not.

*Applications:* Known compound (TEMPOL) found to be effective in treating several cancers.

*Advantages:* Animal data confirms effectiveness of TEMPOL against cancer support.

*Development Status:* Pre-clinical, *In vivo* animal data available.

*Target Market:* The potential drug will target a population that suffers from genetic diseases such as inherited von Hippel-Lindau (VHL) disease, which is associated with elevated expression of HIF–2α and patients with kidney and other cancers characterized by elevation of HIF–2α. Inherited VHL disease is a cancer syndrome caused by germ line mutations of the VHL tumor suppressor gene. VHL is characterized by angiomas and hemangioblastomas of the brain, spinal cord, and retina. These can lead to cysts and/or tumors of the kidney, pancreas, and adrenal glands (*e.g.,*

pheochromocytoma and endolymphatic sac tumors).

Renal clear cell carcinoma (RCC) develops in approximately 75% of VHL patients by age 60 and is a leading cause of death in this population. Inactivation (mutation or methylation) of the VHL gene is associated with greater than 90% of all clear cell RCC (including sporadic cases) (Nickerson *et al.* Clin Cancer Res 2008;14:4726–34). Thus, subjects with compromised VHL function represent a significant population that has or is at risk for developing cancer, including RCC. There is data that HIF–2α may be important in all or most cancers (Franovic *et al.* Proc Natl Acad Sci U S A 2009;106:21306–11).

*Inventors:* W. Marston Linehan (NCI), Tracey A. Rouault (NICHD), James B. Mitchell (NCI), Murali K. Cherukuri (NCI).

*Patent Status:* U.S. Provisional Application No. 61/265,194 filed 30 Nov 2009 (HHS Reference No. E–133–2009/0–US–01).

*Licensing Status:* Available for licensing.

*Licensing Contact:* Sabarni Chatterjee, Ph.D.; 301–435–5587; *chatterjeesa@mail.nih.gov.*

*Collaborative Research Opportunity:* The Center for Cancer Research, Urologic Oncology Branch, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize the use of Tempol to target HIF–2α in cancer. Please contact John Hewes, Ph.D. at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

**Chimeric Anti-human ROR1 Monoclonal Antibodies**

*Description of Invention:* Available for licensing are mouse anti-human receptor tyrosine kinase-like orphan receptor 1 (ROR1) monoclonal antibodies (mAbs). ROR1 is a signature cell surface antigen for B-cell chronic lymphocytic leukemia (B–CLL) and mantle cell lymphoma (MCL) cells, two incurable B-cell malignancies that are newly diagnosed in approximately 15,000 and 3,500 patients per year, respectively, in the United States. Currently, there are no therapeutic mAbs that specifically target B–CLL or MCL cells. Anti-ROR1 mAbs may be linked to chemical drugs or biological toxins thus providing cytotoxic delivery to malignant B-cells and not normal cells. Additionally, these antibodies can be fused to radioisotopes and can be used to diagnose B–CLL and MCL malignancies.

*Applications:*

• B–CLL and MCL antibody therapeutics.

• Method to diagnose B–CLL and MCL.

*Advantages:* Selective targeting to malignant B–CLL and MCL cells.

*Development Status:* The technology is currently in the pre-clinical stage of development.

*Market:*

• The monoclonal antibody market is one of the fastest growing sectors of the pharmaceutical industry with a 48.1% growth between 2003 and 2004 and the potential to reach $30.3 billion in 2010. This growth rate is driven by the evolution of chimeric and humanized to fully humanized antibody therapeutics.

• Approximately 18,500 patients with ROR1-expressing B-cell malignancies are newly diagnosed annually in the United States.

*Inventors:* Christoph Rader and Sivasubramanian Baskar (NCI).

*Related Publications:*

1. S Baskar *et al.* Unique cell surface expression of receptor tyrosine kinase ROR1 in human B-cell chronic lymphocytic leukemia. Clin Cancer Res. 2008 Jan 15;14(2):396–404. [PubMed: 18223214]

2. M Hudecek *et al.* The B-cell tumor associated antigen ROR1 can be targeted with T-cells modified to express a ROR1-specific chimeric antigen receptor. Blood. 2010 Aug 11; Epub ahead of print. [PubMed: 20702778]

*Patent Status:*

• U.S. Provisional Application No. 61/172,099 filed 23 Apr 2009 (HHS Reference No. E–097–2009/0–US–01).

• PCT Application No. PCT/US10/32208 filed 23 Apr 2010 (HHS Reference No. E–097–2009/0–PCT–02).

*Licensing Status:* Available for licensing.

*Licensing Contact:* Jennifer Wong; 301–435–4633; *wongje@mail.nih.gov.*

*Collaborative Research Opportunity:* The Center for Cancer Research, Experimental Transplantation and Immunology Branch is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize anti-ROR1 mAbs, antibody-drug conjugates, radioimmunoconjugates, bispecific antibodies, and other therapeutic or diagnostic modalities. Please contact John D. Hewes, Ph.D. at 301–435–3121 or *hewesj@mail.nih.gov* for more information.

Dated: August 23, 2010.

**Richard U. Rodriguez,**

*Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.*

[FR Doc. 2010–21349 Filed 8–26–10; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[CMS–0031–N]**

### Medicare Program; Listening Session Regarding the Implementation of Section 10332 of the Patient Protection and Affordable Care Act, Availability of Medicare Data for Performance Measurement

**DATE:** September 20, 2010.

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice announces a listening session to receive comments regarding implementation of section 10332 of the Patient Protection and Affordable Care Act (the Affordable Care Act), which amended section 1874 of the Social Security Act: Availability of Medicare Data for Performance Measurement. The purpose of the listening session is to solicit input from potential stakeholders on key components of the design of the program. We are soliciting input on the types of organizations that may be interested in receiving data as qualified entities under this provision; the criteria such organizations will have to meet for participation; procedures for CMS to approve interested organizations for participation; provider communities and geographic areas that might be served by these entities; data elements required, and the sources and types of other data that these organizations might match to Medicare claims; challenges in calculating performance measures from the data, and issues related to the identification, selection, and reporting of the performance measures.

**DATES:** *Meeting Date:* The listening session will be held on Monday, September 20, 2010 from 9 a.m. until 1 p.m. Eastern Daylight Time (e.d.t.).

*Deadline for Meeting Registration and Request for Special Accommodations:* Registration opens on August 27, 2010. Registration must be completed by 5 p.m. e.d.t. on September 16, 2010. Requests for special accommodations

must be received by 5 p.m. e.d.t. on September 16, 2010.

*Deadline for Submission of Written Comments or Statements:* Written comments or statements may be sent via mail, fax, or electronically to the address specified in the **ADDRESSES** section of this notice and must be received by 5 p.m. e.d.t. on September 27, 2010.

**ADDRESSES:** *Meeting Location:* The listening session will be held in the main auditorium of the Central Building of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244–1850.

*Registration and Special Accommodations:* Persons interested in attending the meeting or participating by teleconference must register by completing the on-line registration via the CMS Web site at *http://www.cms.gov.* Individuals who require special accommodations should send an e-mail request to colleen.bruce@cms.hhs.gov or by regular mail to Colleen Bruce at the address specified in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

**FOR FURTHER INFORMATION CONTACT:** For further information regarding the September 20, 2010 listening session contact Colleen Bruce at (410) 786–5529. You may also send inquiries about this listening session by e-mail to *colleen.bruce@cms.hhs.gov* or by regular mail at Centers for Medicare & Medicaid Services, Mail Stop C5–19–16, 7500 Security Boulevard, Baltimore, MD 21244–1850.

All persons planning to make a statement in person at the listening session are encouraged to submit statements in writing at the listening session and should subsequently submit the information electronically by the timeframe specified in the **DATES** section of this notice.

## I. Background

Section 10332 of the Patient Protection and Affordable Care Act (the Affordable Care Act) adds a new subsection to section 1874 of the Social Security Act (the Act), which requires that the Secretary of the Department of Health and Human Services (the Secretary) to make data available to qualified entities for the evaluation of the performance of providers of services and suppliers by January 1, 2012. A qualified entity is a public or private entity that meets qualifications established by the Secretary and that proposes to use claims data to evaluate the performance of providers of services and suppliers on measures of quality, efficiency, effectiveness, and resource use. These data will be standardized extracts of Medicare Parts A, B, and D claims data for one or more specified geographic areas and time periods requested by a qualified entity. This provision specifies that the Secretary shall take such actions as deemed necessary to protect the identity of individual beneficiaries. The data shall be made available to qualified entities at a fee equal to the cost of making such data available.

Section 1874 of the Act states that a qualified entity requesting data under this subsection must:

- Submit a description of the methodologies it will use to evaluate the performance of providers and suppliers;
- Use standard/endorsed measures, or alternative measures if the Secretary so determines;
- Include data made available under this subsection with claims data from other sources in the evaluation of performance of providers of services and suppliers;
- Only use data made available, and information derived from an evaluation of the performance of providers and suppliers, for the reports required by this provision;
- Include in the reports an understandable description of the measures, risk adjustment methods, physician attribution methods, other applicable methods, and data specifications and limitations;
- Receive prior review by the Secretary of the format of proposed reports;
- Make the information available confidentially, to any provider or supplier prior to the public release of such report; and
- Only include information on a provider of services or supplier in aggregate form.

This section must be implemented by January 1, 2012.

## II. Listening Session Format

The listening session will be held on September 20, 2010. Employers, health plans and their representatives, measure developers, health care providers and professionals, professional associations, consumer organizations, community representatives, and other interested stakeholders are invited to participate, in person or by teleconference. The session will begin at 9:00 a.m. e.d.t. with an overview of the objectives for the session and a brief summary of the requirements of section 10332 of the Affordable Care Act. Beginning at approximately 9:30 a.m. e.d.t., the remainder of the meeting will be devoted to presenting the questions for comment and receiving comments on design and policy options in four topic areas—(1) Eligibility criteria and the application process for qualified entities; (2) definition and selection of quality and performance measures; (3) data extraction and distribution process; and (4) data privacy and security requirements, including oversight. The agenda will provide opportunities for brief two-minute comments from on-site session attendees regarding the questions for comment and design and policy options. As time allows, telephone participants will also have the opportunity to provide brief two-minute comments. The meeting will conclude by 1 p.m. with brief comments on our next steps. The opinions and alternatives provided during this meeting will assist us as we develop requirements for this program. We anticipate posting background materials and the questions for comment on the CMS Web site at *http://www.cms.gov/* approximately two weeks before the session.

## III. Registration Instructions

For security reasons, any persons wishing to attend this meeting must register by the date listed in the **DATES** section of this notice. Persons interested in attending the meeting or participating by teleconference must register by completing the on-line registration via the designated Web site at *http://www.cms.gov.* The on-line registration system will generate a confirmation page to indicate the completion of your registration. Participants should print this page as his or her registration receipt.

Individuals may also participate in the listening session by teleconference. Registration is required as the number of call-in lines will be limited. The call-in number will be provided upon confirmation of registration.

An audio download and transcript of the listening session will be available within two weeks after completion of the listening session through the CMS Web site at *http://www.cms.gov.*

## IV. Security, Building, and Parking Guidelines

This meeting will be held in a Federal government building; therefore, Federal security measures are applicable. In planning your arrival time, we recommend allowing additional time to clear security. The on-site check-in for visitors will begin at 8:15 a.m. e.d.t. We recommend that participants allow sufficient time to complete security checkpoints.

Security measures include the following:

• Presentation of government-issued photographic identification to the Federal Protective Service or Guard Service personnel.

• Interior and exterior inspection of vehicles (this includes engine and trunk inspection) at the entrance to the grounds. Parking permits and instructions will be issued after the vehicle inspection.

• Passing through a metal detector and inspection of items brought into the building. We note that all items brought to CMS, whether personal or for the purpose of demonstration or to support a demonstration, are subject to inspection.

We cannot assume responsibility for coordinating the receipt, transfer, transport, storage, set-up, safety, or timely arrival of any personal belongings or items used for demonstration or to support a demonstration.

We note that individuals who are not registered in advance will not be permitted to enter the building and will be unable to attend the meeting. The public may not enter the building earlier than 45 minutes prior to the convening of the meeting. All visitors must be escorted in areas other than the lower and first floor levels in the Central Building. Seating capacity is limited to the first 250 registrants.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: August 18, 2010.

**Donald M. Berwick,**

*Administrator, Centers for Medicare & Medicaid Services.*

[FR Doc. 2010–21369 Filed 8–26–10; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Eye Institute Special Emphasis Panel, NEI Institutional Training Grant Applications II.

*Date:* September 1, 2010.

*Time:* 12:30 p.m. to 1:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, NEI, 5635 Fishers Lane, Rockville, MD 20892. (Telephone Conference Call)

*Contact Person:* Anne E. Schaffner, PhD, Scientific Review Officer, Division of Extramural Research, National Eye Institute, National Institutes of Health, 5635 Fishers Lane, Suite 1300, MSC 9300, 301–451–2020, *aes@nei.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: August 23, 2010.

**Jennifer Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 2010–21346 Filed 8–26–10; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2010–N–0001]**

### Cardiovascular and Renal Drugs Advisory Committee; Notice of Meeting

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

*Name of Committee*: Cardiovascular and Renal Drugs Advisory Committee.

*General Function of the Committee*: To provide advice and recommendations to the agency on FDA's regulatory issues.

*Date and Time*: The meeting will be held on September 20, 2010, from 8 a.m. to 5 p.m.

*Location*: Hilton Washington DC/Silver Spring, The Ballrooms, 8727 Colesville Rd., Silver Spring, MD. The hotel phone number is 301–589–5200.

*Contact Person*: Anuja Patel, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., White Oak Bldg. 32, rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8540, email: *anuja.patel@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512533. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

*Agenda*: The committee will discuss new drug application (NDA) 22–512, dabigatran etexilate mesylate capsules, sponsored by Boehringer Ingelheim Pharmaceuticals, Inc., for the proposed indication of prevention of stroke in patients with atrial fibrillation (abnormally rapid contractions of the atria, the upper chambers of the heart).

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm*. Scroll down to the appropriate advisory committee link.

*Procedure*: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before September 8, 2010. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before August 30, 2010. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will

notify interested persons regarding their request to speak by August 31, 2010.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Anuja Patel at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Dated: August 24, 2010.

**Jill Hartzler Warner,**

*Acting Associate Commissioner for Special Medical Programs.*

[FR Doc. 2010–21383 Filed 8–26–10; 8:45 am]

**BILLING CODE 4160–01–S**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Child Health and Human Development Council.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or 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 grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Advisory Child Health and Human Development Council.

*Date:* September 20, 2010.

*Open:* 8 a.m. to 12:20 p.m.

*Agenda:* (1) A report by the Director, NICHD; (2) Developmental Biology, Genetics and Teratology Presentation; (3) a discussion on the planning of the NICHD Science Vision; and other business of the Council.

*Place:* National Institutes of Health, Building 31, 31 Center Drive, C–Wing, Conference Room 6, Bethesda, MD 20892.

*Closed:* 12:20 p.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications and/or proposals.

*Place:* National Institutes of Health, Building 31, 31 Center Drive, C–Wing, Conference Room 6, Bethesda, MD 20892.

*Contact Person:* Yvonne T. Maddox, PhD, Deputy Director, National Institute of Child Health and Human Development, NIH, 9000 Rockville Pike, MSC 7510, Building 31, Room 2A03, Bethesda, MD 20892, (301) 496–1848.

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 taxis, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.nichd.nih.gov/about/nachhd.htm,* where an agenda and any additional information for the meeting will be posted when available.

In order to facilitate public attendance at the open session of Council, reserve seating will be made available to the first five individuals reserving seats in the main meeting room, Conference Room 6. Please contact Ms. Lisa Kaeser, Program and Public Liaison Office, NICHD, at 301–496–0536 to make your reservation. Additional seating will be available in the meeting overflow rooms, Conference Rooms 7 and 8. Individuals will also be able to view the meeting via NIH Videocast. Please go to the following link for Videocast access instructions at: *http://www.nichd.nih.gov/about/overview/advisory/nachhd/virtual-meeting-201010.cfm.* The meeting is partially closed to the public.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment program, National Institutes of Health, HHS)

Dated: August 23, 2010.

**Jennifer S. Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 2010–21360 Filed 8–26–10; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Board of Scientific Counselors, NIDDK.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Diabetes and Digestive and Kidney Diseases, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Board of Scientific Counselors, NIDDK.

*Date:* October 14–15, 2010.

*Time:* October 14, 2010, 8:15 a.m. to 3 p.m.

*Agenda:* To review and evaluate personal qualifications and performance, and competence of individual investigators.

*Place:* National Institutes of Health, Building 10, 10 Center Drive, Conference Room 9S235, Bethesda, MD 20892.

*Time:* October 15, 2010, 8:15 a.m. to 4 p.m.

*Agenda:* To review and evaluate personal qualifications and performance, and competence of individual investigators.

*Place:* National Institutes of Health, Building 10, 10 Center Drive, Conference Room 9S235, Bethesda, MD 20892.

*Contact Person:* IRA W. LEVIN, PhD, Director, Division of Intramural Research, National Institute of Diabetes and Digestive and Kidney Diseases, NIH, Bethesda, MD 20892, 301–496–6844, *iwl@helix.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one

form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: August 23, 2010.

**Jennifer S. Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 2010–21362 Filed 8–26–10; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Member Conflict: Topics in Aging.

*Date:* September 23, 2010.

*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:* John Burch, PhD, Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 3213, MSC 7808, Bethesda, MD 20892. 301–408–9519. *burchjb@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Neurological, Neuroimmune Disorders and Plasticity.

*Date:* September 27–28, 2010.

*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:* Julius Cinque, MS, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, MSC 7846, Bethesda, MD 20892. (301) 435–1252. *cinquej@csr.nih.gov.*

*Name of Committee:* Oncology 2—Translational Clinical Integrated Review Group, Drug Discovery and Molecular Pharmacology Study Section.

*Date:* September 27–28, 2010.

*Time:* 8 a.m. to 5 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:* Hungyi Shau, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892. 301–435–1720. *shauhung@csr.nih.gov.*

*Name of Committee:* Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group, Biomedical Imaging Technology Study Section.

*Date:* October 4–5, 2010.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

*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:* Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group, Molecular and Cellular Endocrinology Study Section.

*Date:* October 6, 2010.

*Time:* 7 a.m. to 6 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Sheraton Bellevue Hotel, 100 112th Avenue, NE., Bellevue, WA 98004.

*Contact Person:* Robert Garofalo, PhD, Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 6156, MSC 7892, Bethesda, MD 20892. 301–435–1043. *garofalors@csr.nih.gov.*

*Name of Committee:* Population Sciences and Epidemiology Integrated Review Group, Epidemiology of Cancer Study Section.

*Date:* October 6–7, 2010.

*Time:* 7:30 a.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Avenue Hotel Chicago, 160 E. Huron Street, Chicago, IL 60611.

*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:* Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Neurobiology of Motivated Behavior Study Section.

*Date:* October 6, 2010.

*Time:* 8 a.m. to 5 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:* Edwin C Clayton, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892. 301–408–9041. *claytone@csr.nih.gov.*

*Name of Committee:* Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Central Visual Processing Study Section.

*Date:* October 6, 2010.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Doubletree Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* John Bishop, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7844, Bethesda, MD 20892. (301) 408–9664. *bishopj@csr.nih.gov.*

*Name of Committee:* Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Auditory System Study Section.

*Date:* October 6–7, 2010.

*Time:* 8 a.m. to 3 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Doubletree Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

*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:* Infectious Diseases and Microbiology Integrated Review Group, Vector Biology Study Section.

*Date:* October 6, 2010.

*Time:* 8 a.m. to 6:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* One Washington Circle Hotel, One Washington Circle, NW., Washington, DC 20037.

*Contact Person:* Liangbiao Zheng, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3214, MSC 7808, Bethesda, MD 20892. 301–402–5671. *zhengli@csr.nih.gov.*

*Name of Committee:* Cardiovascular and Respiratory Sciences Integrated Review Group, Lung Cellular, Molecular, and Immunobiology Study Section.

*Date:* October 6–7, 2010.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The Westin St. Francis, 335 Powell Street, San Francisco, CA 94102.

*Contact Person:* George M. Barnas, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2180, MSC 7818, Bethesda, MD 20892. 301–435–0696. *barnasg@csr.nih.gov.*

*Name of Committee:* Digestive, Kidney and Urological Systems Integrated Review Group,

Xenobiotic and Nutrient Disposition and Action Study Section.

*Date:* October 6, 2010.

*Time:* 8 a.m. to 6 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Patricia Greenwel, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2172, MSC 7818, Bethesda, MD 20892. 301–435–1169. *greenwep@csr.nih.gov.*

*Name of Committee:* Cardiovascular and Respiratory Sciences Integrated Review Group, Myocardial Ischemia and Metabolism Study Section.

*Date:* October 6–7, 2010.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The Westin St. Francis, 335 Powell Street, San Francisco, CA 94102.

*Contact Person:* Joseph Thomas Peterson, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7814, Bethesda, MD 20892. 301–443–8130. *petersonjt@csr.nih.gov.*

*Name of Committee:* Bioengineering Sciences & Technologies Integrated Review Group, Gene and Drug Delivery Systems Study Section.

*Date:* October 6–7, 2010.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hotel Nikko San Francisco, 222 Mason Street, San Francisco, CA 94102.

*Contact Person:* Amy L Rubinstein, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5152, MSC 7844, Bethesda, MD 20892. 301–408–9754. *rubinsteinal@csr.nih.gov.*

*Name of Committee:* Cell Biology Integrated Review Group, Molecular and Integrative Signal Transduction Study Section.

*Date:* October 6–7, 2010.

*Time:* 8 a.m. to 5:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Sir Francis Drake Hotel, 450 Powell Street at Sutter, San Francisco, CA 94102.

*Contact Person:* Raya Mandler, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5134, MSC 7840, Bethesda, MD 20892. (301) 402–8228. *rayam@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Small Business: Neuroscience Education.

*Date:* October 6–7, 2010.

*Time:* 8:30 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:* Jonathan Arias, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7840, Bethesda, MD 20892. 301–435–2406. *ariasj@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: August 23, 2010.

**Jennifer S. Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 2010–21357 Filed 8–26–10; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Molecular Genetics B Study Section, October 3, 2010, 7 p.m. to October 4, 2010, 8 a.m., The Fairmont Hotel, 950 Mason Street, San Francisco, CA 94108 which was published in the **Federal Register** on August 19, 2010, 75 FR 51277–51278.

The meeting will be held October 4, 2010, 7 p.m. to October 5, 2010, 6 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: August 19, 2010.

**Jennifer S. Spaeth,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 2010–21352 Filed 8–26–10; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2010–N–0437]**

### Development and Distribution of Patient Medication Information for Prescription Drugs; Public Hearing

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of public hearing; request for comment.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing a 2-day public hearing to obtain input on a new framework for development and distribution of patient medication information (PMI) to be provided to patients who are prescribed drug products. Under the current system, patients may receive several different types of information, developed by different sources that may be duplicative, incomplete, or difficult to read and understand. FDA has determined that the current system is not adequate to ensure that patients receive the essential medication information that is needed to use the drug safely. Based on recommendations from FDA's Risk Communication Advisory Committee (RCAC) and other stakeholder input, FDA sees merit in adopting use of a single document that is standardized with respect to content and format. The purpose of this hearing is to solicit public input on processes and procedures for standardizing PMI using a quality system approach for monitoring development and distribution of PMI.

**DATES:** The public hearing will be held on September 27 and 28, 2010, from 8:30 a.m. to 4:30 p.m. Registration requests and requests to present at the public hearing should be received by September 13, 2010 (see section III of this document for details). Electronic or written comments will be accepted after the public hearing until October 29, 2010 (see section V of this document for details).

**ADDRESSES:** The public hearing will be held at FDA's White Oak Campus, 10903 New Hampshire Ave., Bldg. 31, rm. 1503, Silver Spring, MD 20993. To register for the public hearing, email your registration information to *PMIpublicmeeting@fda.hhs.gov*. See section III of this document for registration details. Submit electronic comments to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** Denise Hinton, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6348, Silver Spring, MD 20993, 301–796–1090, FAX: 301–847–3529, email: *PMIpublicmeeting@fda.hhs.gov*.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

Ensuring that patients who are prescribed medical products have access to quality information about those products is an important component of medical product safety. Currently, patients receive multiple types of written prescription drug information in varying formats, which

complicates information accessibility and comprehension. The types of written prescription drug information include:

• *Consumer Medication Information* (CMI) is written information about prescription drugs developed by organizations or individuals other than a drug manufacturer that is intended for distribution to consumers at the time of drug dispensing. The information is not FDA reviewed or approved and is voluntarily distributed by pharmacies to consumers (Ref. 1).

• A *Patient Package Insert* (PPI) is patient labeling that is part of the FDA-approved prescription drug labeling. PPIs are developed by the manufacturer, approved by FDA, and are required to be dispensed with specific products or classes of products (i.e., oral contraceptives and estrogen-containing products). Other PPIs are submitted to FDA voluntarily by the manufacturer and approved by FDA, but their distribution is not mandated.

• A *Medication Guide* is also patient labeling that is part of the FDA-approved prescription drug labeling. Medication Guides are required for certain drugs "that pose a serious and significant public health concern" (see 21 CFR part 208). Medication Guides are developed by the manufacturer, approved by FDA, and are required to be given to patients each time the medication is dispensed.

By objective measures, current systems for providing high quality, easily accessible prescription medication information to patients have failed. For example, an evaluation of CMI in 2008 showed that while 94 percent of consumers receive CMI with new prescriptions, only 75 percent of CMI received met even minimum criteria for usefulness (Ref 2.). FDA presented these concerns to the RCAC at a February 26 and 27, 2009 meeting. That committee recommended that FDA adopt a standard, single document for communicating essential information about prescription drugs to replace CMI, PPIs, and Medication Guides. FDA is engaged in a collaborative effort to explore this recommendation.

The major challenges in providing patients with quality prescription drug information are as follows: (1) Development of uniform, evidence-based content and format standards for PMI, including that the PMI contains the essential information about the drug, and is accurate, balanced, comprehensible, and accessible; (2) identification and assessment of mechanisms to ensure that the PMI meets these standards; and (3) identification and assessment of mechanisms to ensure that the PMI reaches its target audience. This public hearing is intended to focus primarily on issues 2 and 3, and related issues, while the first issue is being addressed separately, as discussed in the following paragraphs.

There are two key limitations that underpin FDA's expectations for how improvements in providing patient information might be structured. First, although one approach could include FDA review and approval of all PMI prior to distribution, FDA recognizes that this may not be feasible given FDA's resource constraints and the potential volume of products that will require PMI (perhaps as many 22,000 if counting all innovator and generic products). Second, based on FDA's compliance and enforcement experience in a variety of program areas, including professional labeling, manufacturing, and clinical trials, FDA recognizes that relying primarily or exclusively on retrospective Agency evaluations and inspections may not be an optimal approach to providing assurance that PMI meets format and content standards prior to distribution to patients. For these reasons, FDA is interested in exploring an approach centered on effective processes for PMI development and distribution and process controls for a PMI implementation program. With a system in place that assures high quality PMI, FDA believes that development of PMI by the manufacturer would be more efficient and fulfill the information needs of patients.

Such an approach for PMI would provide manufacturers with a quality framework for developing, distributing, and amending PMI and would facilitate continual improvement of PMI. FDA envisions that this approach would provide assurance that manufacturers have implemented the following: (1) Effective procedures for developing PMI that reflect quality standards for PMI content and format, for ensuring appropriate distribution, and for ensuring PMI revision if necessary; (2) mechanisms to monitor whether these procedures are being followed; and (3) mechanisms to implement process changes as needed.

Because it will take a substantial amount of time to transition from the existing system to the use of a standard, single document for PMI, FDA is also seeking public input on a potential structure and challenges and solutions for a step-wise transition to a new PMI paradigm.

As described in the explanation of major challenges earlier in this document, FDA is also continuing its efforts and seeking additional information to identify and assess the development of format and content standards for PMI as a standard, single document. With input from the following sources FDA has developed three draft PMI prototypes to be used in consumer testing:

(1) FDA's RCAC meeting (Ref. 3);

(2) a public workshop held on September 24 and 25, 2009 (available at *http://www.fda.gov/Drugs/NewsEvents/ucm168106.htm*); and

(3) an expert panel meeting convened by the Brookings Institute on July 21, 2010 (available at *http://www.brookings.edu/events/2010/0721_CMI.aspx*),[1]

Based on public comment (75 FR 23775, May 4, 2010) and expert panel input, FDA is also finalizing the design of the consumer testing study for the prototypes (available on the Internet at *http://edocket.access.gpo.gov/2010/pdf/2010-10359.pdf*). Consumer testing will begin when the final study design is approved by the Office of Management and Budget. The results of this study will inform FDA of the usefulness and parameters of various format options for patient information documents. FDA is interested in any formal research conducted on this topic and encourages submission to this docket. See section III of this document for details on how to register and or participate in the meeting. See section V of this document for details on how to post comments to the docket.

## II. Scope of the Hearing

FDA is particularly interested in seeking input on the following issues:

(1) How can we best ensure PMI quality and compliance with content and format criteria?

• What are the elements that should be addressed with a quality system approach, or other type of system, to ensure PMI quality?

• What functions and procedures should be the responsibility of manufacturers (e.g., PMI development, consumer testing, marketplace surveillance)?

• What functions and procedures should be FDA's responsibility (e.g., surveillance, audit, enforcement)?

• Are there a subset of products that should receive more regulatory scrutiny than would be provided by an approach that relies heavily on manufacturers implementing and monitoring the adequacy of procedures for generating PMI content (i.e., types of products for

[1] 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**.

which PMI should be prospectively reviewed and approved by FDA before use)? If so, what categories of drugs might be included in this subset? What other approaches to ensuring quality should be considered for drugs in this subset?

- At what time-point should evaluation of the PMI be initiated and how often should it be repeated?

(2) *What are the components of an effective framework for ensuring patient access to PMI?*

- Who should be responsible for processes to ensure distribution of PMI?
- What types of processes are needed to ensure distribution of PMI? For example, should there be a process or system to monitor patient receipt of PMI?
- How can we ensure adequate distribution of PMI while minimizing disruption to health care delivery processes (e.g., medical practice, pharmacy practice)?
- Are there situations where the distribution of PMI would not be appropriate (e.g., for medications administered by a health care professional in an inpatient or outpatient setting, dialysis unit, oncology setting, or operating room)?
- Should there be a centralized repository for all PMI? If so, how might a repository be implemented and maintained to ensure the integrity and sustainability of the repository? Are there relevant, existing systems that could serve as a business model for a central PMI repository?

(3) *What approaches should be considered to ensure that FDA can rapidly move from the current system to a new PMI paradigm?*

- How might the existing framework be phased if a new framework is phased in?
- How should a new PMI system be applied to generic drugs?

(4) *What accommodations might be needed to ensure that PMI is accessible to special populations (e.g., elderly, children, those with low literacy, the visually impaired)?*

## III. How to Register and/or Participate in the Public Hearing

FDA is seeking input from a broad group of stakeholders, including interested prescribers, pharmacists, other health care professionals, consumers, pharmacies, CMI developers, publishers, industry, and any other interested parties. FDA's Conference Center at the White Oak Campus is a Federal facility with security procedures and limited seating. Attendance is free and will be on a first-come, first-served basis. To register for the public hearing, email your registration to *PMIpublicmeeting@fda.hhs.gov*. Registration information should include registrant name, company or organization, address, phone number, and email address. Because seating is limited, FDA may limit the numbers of participants from each organization. Registrants will receive confirmation once they have been accepted for participation in the workshop. Onsite registration on the day of the hearing will be based on space availability on the day of the event starting at 7:30 a.m. If registration reaches maximum capacity, FDA will post a notice closing meeting registration for the hearing at *http://www.fda.gov/Drugs/NewsEvents/ucm219716.htm*.

Individuals who wish to present at the public hearing must register on or before September 13, 2010, through the email *PMIpublicmeeting@fda.hhs.gov*, and state this intention on their notice of participation. An abstract of the presentation along with slides are due on September 17, 2010. You must provide complete contact information, including name, title, affiliation, address, email, and phone number. In section II of this document, FDA has included questions for comment. You should identify by number each question you wish to address in your presentation, so that FDA can consider that in organizing the presentations. FDA will do its best to accommodate requests to speak, and will determine the amount of time allotted to each presenter and the approximate time that each oral presentation is scheduled to begin. An agenda will be available approximately 1 week before the hearing at *http://www.fda.gov/Drugs/NewsEvents/ucm219716.htm*.

If you need special accommodations because of disability, please contact Denise Hinton (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days before the hearing.

A live webcast of this hearing will be viewable at *https://collaboration.fda.gov/p15d109272010/* on September 27 and *https://collaboration.fda.gov/p15d209272010/* on September 28. If you have never attended an Adobe® Acrobat® Connect™ Pro meeting before, test your connection at *https://collaboration.fda.gov/common/help/en/support/meeting_test.htm*. For a quick overview, go to *http://www.adobe.com/go/connectpro_overview*.

## IV. Notice of Hearing Under Part 15

The Commissioner of Food and Drugs is announcing that the public hearing will be held in accordance with part 15 (21 CFR part 15). The hearing will be conducted by a presiding officer, who will be accompanied by senior management from the Office of the Commissioner, the Center for Drug Evaluation and Research, and the Center for Biologics and Research.

Under § 15.30(f), the hearing is informal and the rules of evidence do not apply. No participant may interrupt the presentation of another participant. Only the presiding officer and panel members may question any person during or at the conclusion of each presentation. Public hearings under part 15 are subject to FDA's policy and procedures for electronic media coverage of FDA's public administrative proceedings (part 10, subpart C (21 CFR part 10, subpart C)). Under § 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants. The hearing will be transcribed as stipulated in § 15.30(b) (see section VI of this document). To the extent that the conditions for the hearing, as described in this notice, conflict with any provisions set out in part 15, this notice acts as a waiver of those provisions as specified in § 15.30(h).

## V. Comments

Regardless of attendance at the public hearing, interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments. 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. To ensure consideration, submit comments by October 29, 2010. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

## VI. Transcripts

Please be advised that as soon as a transcript is available, it will be accessible at *http://www.regulations.gov*. It may be viewed at the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD. A transcript will also be available in either hardcopy or on CD–ROM, after submission of a Freedom of Information request. Written requests are to be sent to Division of Freedom of Information (HFI–35), Office of Management Programs, Food and

Drug Administration, 5600 Fishers Lane, rm. 6–30, Rockville, MD 20857.

**VII. References**

1. "Useful Written Consumer Medication Information (CMI)" published in July 2006, available on the Internet at *http://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/ucm080602.pdf*.

2. Kimberlin CL, Winterstein AG. "Expert and Consumer Evaluation of Consumer Medication Information—2008." Final Report to FDA. November 2008 available on the Internet at *http://www.fda.gov/downloads/AboutFDA/CentersOffices/CDER/ReportsBudgets/UCM163783.pdf*.

3. FDA's Risk Communication Advisory Committee meeting, held on February 26 and 27, 2009 (73 FR 74505, December 8, 2008), available on the Internet at *http://www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/RiskCommunicationAdvisoryCommittee/UCM152593.pdf*.

4. "Providing Effective Information to Consumers about Prescription Drug Risks and Benefits—The Issues Paper" from the 2009 public workshop available on the Internet at *http://www.fda.gov/downloads/Drugs/NewsEvents/UCM182799.pdf*.

5. "Agency Information Collection Activities; Proposed Collection; Comment Request; Experimental Study of Patient Information Prototypes," available on the Internet at[2] *http://edocket.access.gpo.gov/2010/pdf/2010-10359.pdf*

Dated: August 23, 2010.

**Leslie Kux,**

*Acting Assistant Commissioner for Policy.*

[FR Doc. 2010–21326 Filed 8–26–10; 8:45 am]

**BILLING CODE 4160–01–S**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2010–N–0002]**

### Withdrawal of Approval of New Animal Drug Applications; Dichlorophene and Toluene Capsules

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is withdrawing approval of two new animal drug applications (NADAs) for use of dichlorophene and toluene deworming capsules for cats and dogs. In a final rule published elsewhere in this issue of the **Federal Register**, FDA is amending the regulations to remove portions reflecting approval of these NADAs.

**DATES:** Withdrawal of approval is effective September 7, 2010.

**FOR FURTHER INFORMATION CONTACT:** John Bartkowiak, Center for Veterinary Medicine (HFV–212), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–276–9079; email: *john.bartkowiak@fda.hhs.gov*.

**SUPPLEMENTARY INFORMATION:** Pegasus Laboratories, Inc., 8809 Ely Rd., Pensacola, FL 32514 has requested that FDA withdraw approval of NADA 101–497 for TINY TIGER (dichlorophene/toluene) Worming Capsules, NADA 101–498 for LK (dichlorophene/toluene) Worming Capsules because they are no longer manufactured or marketed.

Therefore, under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, and in accordance with § 514.116 *Notice of withdrawal of approval of application* (21 CFR 514.116), notice is given that approval of NADAs 101–497 and 101–498, and all supplements and amendments thereto, is hereby withdrawn, effective September 7, 2010.

In a final rule published elsewhere in this issue of the **Federal Register**, FDA is amending the animal drug regulations to reflect the withdrawal of approval of these NADAs.

Dated: August 23, 2010.

**Bernadette Dunham,**

*Director, Center for Veterinary Medicine.*

[FR Doc. 2010–21295 Filed 8–26–10; 8:45 am]

**BILLING CODE 4160–01–S**

## DEPARTMENT OF HOMELAND SECURITY

**[Docket No. DHS–2010–0071]**

### National Protection and Programs Directorate; Agency Information Collection Activities: Office of Infrastructure Protection; Chemical Security Awareness Training Program

**AGENCY:** National Protection and Programs Directorate, DHS.

**ACTION:** 60-Day notice and request for comments.

*Extension of a Currently Approved Information Collection:* 1670–0009.

**SUMMARY:** The Department of Homeland Security, National Protection and Programs Directorate, Office of Infrastructure Protection, Sector-Specific Agency Executive Management Office (NPPD/SSA EMO), submits the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35).

**DATES:** Comments are encouraged and will be accepted until October 26, 2010. This process is conducted in accordance with 5 CFR 1320.1.

**ADDRESSES:** Written comments and questions about this Information Collection Request should be forwarded to the Department of Homeland Security, NPPD/SSA EMO, Chemical Sector-Specific Agency, 245 Murray Lane, SW., Mail Stop 0608, Washington, DC 20528–0608. E-mailed requests should go to Amy Graydon at *chemicalsector@dhs.gov*. Written comments should reach the contact person listed no later than October 26, 2010. Comments must be identified by DHS–2010–0071 and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*.
- *E-mail: chemicalsector@dhs.gov*. Include the docket number in the subject line of the message.

*Instructions:* All submissions received must include the words "Department of Homeland Security" and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov*, including any personal information provided.

**SUPPLEMENTARY INFORMATION:** The Chemical Sector-Specific Agency, within the DHS NPPD/SSA EMO, provides an on-line voluntary training program to improve security in the chemical industry sector. Information is automatically collected in a computer database as a result of individuals engaging in the training. Explicit reporting or recordkeeping is not required. The training is designed for the general chemical facility employee. U.S. chemical industry direct employment is about 850,000 (2009 per the American Chemistry Council); approximately 400,000 employees are estimated as potential participants. Estimated duration in the first year to complete the registration, training, and survey is 60 minutes, and less if individuals take refresher training in succeeding years. Minimal participation data is collected as trainees complete the online exercises. Upon completion,

[2] 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**.

a Certificate of Completion is generated at the trainee's computer work station, printed, and optionally e-mailed to a facility supervisor. DHS will monitor program participation, success in training, and basic distribution variables submitted upon registration. Training information and survey responses gathered will be used for program review purposes only. Personally identifiable information, such as the trainee's name when optionally entered on the printable certificate, will not be stored in the system. In addition, e-mail addresses and other contact information are not requested to complete the training. To protect privacy, users will be asked to create a generic user ID, password, and password retrieval question and answer.

The Office of Management and Budget 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, e.g., permitting electronic submissions of responses.

**Analysis**

*Agency:* Department of Homeland Security, National Protection and Programs Directorate.

*Title:* Chemical Security Awareness Training Program (CSATP).

*OMB Number:* 1670–0009.

**CSATP Registration**

*Frequency:* Annually.

*Affected Public:* Private Sector.

*Number of Respondents:* 400,000.

*Estimated Time Per Respondent:* .17 hours.

*Total Burden Hours:* 68,000 annual burden hours.

*Total Burden Cost (capital/startup):* $0.

*Total Burden Cost (operating/maintaining):* $2,720,000.

**CSATP Module**

*Frequency:* Annually.

*Affected Public:* Private Sector.

*Number of Respondents:* 400,000.

*Estimated Time Per Respondent:* .66 hours.

*Total Burden Hours:* 264,000.

*Total Burden Cost (capital/startup):* $0.

*Total Burden Cost (operating/maintaining):* $10,560,000.

**CSATP Survey**

*Frequency:* Annually.

*Affected Public:* Private Sector.

*Number of Respondents:* 400,000.

*Estimated Time Per Respondent:* .17 hours.

*Total Burden Hours:* 68,000.

*Total Burden Cost (capital/startup):* $0.

*Total Burden Cost (operating/maintaining):* $2,720,000.

Signed: August 18, 2010.

**David Epperson,**

*Acting Chief Information Officer, National Protection and Programs Directorate, Department of Homeland Security.*

[FR Doc. 2010–21373 Filed 8–26–10; 8:45 am]

**BILLING CODE 9110–9P–P**

## DEPARTMENT OF HOMELAND SECURITY

### Office of the Secretary

**[Docket No. DHS–2010–0060]**

### DHS Data Privacy and Integrity Advisory Committee

**AGENCY:** Privacy Office, DHS.

**ACTION:** Notice of Federal Advisory Committee meeting.

**SUMMARY:** The DHS Data Privacy and Integrity Advisory Committee will meet on September 28, 2010, in Washington, DC. The meeting will be open to the public.

**DATES:** The DHS Data Privacy and Integrity Advisory Committee will meet on Tuesday, September 28, 2010, from 8:30 a.m. to 1 p.m. Please note that the meeting may end early if the Committee has completed its business.

**ADDRESSES:** The meeting will be held in the Carl Hayden Room, U.S. Government Printing Office, 732 North Capitol Street, NW., 8th floor, Washington, DC 20401. Written materials, requests to make oral presentations, and requests to have a copy of your materials distributed to each member of the Committee prior to the meeting should be sent to Martha K. Landesberg, Executive Director, DHS Data Privacy and Integrity Advisory Committee, by September 21, 2010. Persons who wish to submit comments and who are not able to attend or speak at the meeting may submit comments at any time. All submissions must include the Docket Number (DHS–2010–0060) and may be submitted by any *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: PrivacyCommittee@dhs.gov.* Include the Docket Number (DHS–2010–0060) in the subject line of the message.
- *Fax:* (703) 483–2999.
- *Mail:* Martha K. Landesberg, Executive Director, Data Privacy and Integrity Advisory Committee, Department of Homeland Security, Washington, DC 20528.

*Instructions:* All submissions must include the words "Department of Homeland Security Data Privacy and Integrity Advisory Committee" and the Docket Number (DHS–2010–0060). Comments will be posted without alteration at *http://www.regulations.gov*, including any personal information provided.

*Docket:* For access to the docket to read background documents or comments received by the DHS Data Privacy and Integrity Advisory Committee, go to *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Martha K. Landesberg, Executive Director, DHS Data Privacy and Integrity Advisory Committee, Department of Homeland Security, Washington, DC 20528, by telephone (703) 235–0780, by fax (703) 235–0442, or by e-mail to *PrivacyCommittee@dhs.gov.*

**SUPPLEMENTARY INFORMATION:** Notice of this meeting is given under the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2. During the meeting, the Chief Privacy Officer will provide the DHS Data Privacy and Integrity Advisory Committee an update on the activities of the DHS Privacy Office. In support of the Committee's ongoing advice to the Department on implementing privacy protections in DHS operations, the Committee will also hear and discuss presentations on building accountability in the DHS privacy compliance assessment process, on privacy training in DHS, and on DHS Customs and Border Protection (CBP) implementation of DHS privacy policy. The agenda will be posted in advance of the meeting on the Committee's Web site at *http://www.dhs.gov/privacy.* Please note that the meeting may end early if all business is completed.

If you wish to attend the meeting, please plan to arrive by 8:15 a.m. to allow extra time to be processed through

security, and bring a photo ID. The DHS Privacy Office encourages you to register for the meeting in advance by contacting Martha K. Landesberg, Executive Director, DHS Data Privacy and Integrity Advisory Committee, at *PrivacyCommittee@dhs.gov.* Advance registration is voluntary. The Privacy Act Statement below explains how DHS uses the registration information you may provide and how you may access or correct information retained by DHS, if any. At the discretion of the Chair, members of the public may make brief (*i.e.*, no more than three minutes) oral presentations from 11:30 a.m. to 12 p.m. If you would like to make an oral presentation at the meeting, we request that you register in advance or sign up on the day of the meeting. The names and affiliations, if any, of individuals who address the Committee are included in the public record of the meeting. If you wish to provide written materials to be distributed to each member of the Committee in advance of the meeting, please submit them, preferably in electronic form to facilitate distribution, to Martha K. Landesberg, Executive Director, DHS Data Privacy and Integrity Advisory Committee, by September 21, 2010.

**Information on Services for Individuals With Disabilities**

For information on services for individuals with disabilities or to request special assistance, contact Martha K. Landesberg, Executive Director, DHS Data Privacy and Integrity Advisory Committee, as soon as possible.

**Privacy Act Statement: DHS's Use of Your Information**

*Authority:* DHS requests that you voluntarily submit this information under its following authorities: the Federal Records Act, 44 U.S.C. 3101; the FACA, 5 U.S.C. App. 2; and the Privacy Act of 1974, 5 U.S.C. 552a.

*Principal Purposes:* When you register to attend a DHS Data Privacy and Integrity Advisory Committee meeting, DHS collects your name, contact information, and the organization you represent, if any. We use this information to contact you for purposes related to the meeting, such as to confirm your registration, to advise you of any changes in the meeting, or to assure that we have sufficient materials to distribute to all attendees. We may also use the information you provide for public record purposes such as posting publicly available transcripts and meeting minutes.

*Routine Uses and Sharing:* In general, DHS will not use the information you provide for any purpose other than the Principal Purposes, and will not share this information within or outside the agency. In certain circumstances, DHS may share this information on a case-by-case basis as required by law or as necessary for a specific purpose, as described in the DHS/ALL–002 Mailing and Other Lists System of Records Notice (November 25, 2008, 73 FR 71659).

*Effects of Not Providing Information:* You may choose not to provide the requested information or to provide only some of the information DHS requests. If you choose not to provide some or all of the requested information, DHS may not be able to contact you for purposes related to the meeting.

*Accessing and Correcting Information:* If you are unable to access or correct this information by using the method that you originally used to submit it, you may direct your request in writing to the DHS Deputy Chief FOIA Officer at *foia@dhs.gov.* Additional instructions are available at *http://www.dhs.gov/foia* and in the DHS/ALL–002 Mailing and Other Lists System of Records referenced above.

Dated: August 23, 2010.

**Mary Ellen Callahan,**

*Chief Privacy Officer, Department of Homeland Security.*

[FR Doc. 2010–21372 Filed 8–26–10; 8:45 am]

**BILLING CODE 9110–9L–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID: FEMA–2010–0047]**

### Agency Information Collection Activities: Proposed Collection; Comment Request, 1660–0047; Request for Federal Assistance Form—How To Process Mission Assignments in Federal Disaster Operations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice; 60-day notice and request for comments; extension, without change, of a currently approved information collection; OMB No. 1660–0047; FEMA Form 010–0–7, Action Request Form; FEMA Form 010–0–8, Mission Assignment.

**SUMMARY:** The Federal Emergency Management Agency, 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 a proposed extension, without change, of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this Notice seeks comments concerning the collection of information necessary to allow FEMA to support the needs of states during disaster situations through the use of other federal agency resources.

**DATES:** Comments must be submitted on or before October 26, 2010.

**ADDRESSES:** To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *http://www.regulations.gov* under Docket ID FEMA–2010–0047. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, Office of Chief Counsel, DHS/FEMA, 500 C Street, SW., Room 835, Washington, DC 20472–3100.

(3) *Facsimile.* Submit comments to (703) 483–2999.

(4) *E-mail.* Submit comments to *FEMA-POLICY@dhs.gov*. Include Docket ID FEMA–2010–0047 in the subject line.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Contact Muriel Glover, Emergency Management Specialist, Response Directorate, Business Management Division, Federal Emergency Management Agency, (202) 646–4180 for additional information. You may contact the Records Management Division for copies of the proposed collection of information at facsimile number (202) 646–3347 or e-mail address: *FEMA-Information-Collections-Management@dhs.gov.*

**SUPPLEMENTARY INFORMATION:** Under Section 653 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq*), FEMA is authorized to provide assistance to States based on needs before, during and after a disaster has impacted the state. Information collected explains which State(s) require assistance, what needs to be

accomplished, details any resource shortfalls, and explains what assistance is required to meet these needs. Title 44 CFR 206.5 provides the mechanism by which FEMA collects the information necessary to determine what resources are needed and if a mission assignment is appropriate.

**Collection of Information**

*Title:* Request for Federal Assistance Form—How to Process Mission Assignments in Federal Disaster Operations.

*Type of Information Collection:* Extension, without change, of a currently approved information collection.

*OMB Number:* 1660–0047.

*Form Titles and Numbers:* FEMA Form 010–0–7, Action Request Form; FEMA Form 010–0–8, Mission Assignment.

*Abstract:* If, during the course of a State's response to a disaster, the State determines that its capacity to respond exceeds its available resources, a request to FEMA for assistance can be made. This request documents how the response requirements exceed the capacity for the State to respond to the situation on its own and what type of assistance is required. FEMA reviews this information and can task other Federal Agencies with a mission assignment to assist the State in its response to the situation.

*Affected Public:* State, local or Tribal Government.

*Estimated Total Annual Burden Hours:* 9,620 hours.

ESTIMATED ANNUALIZED BURDEN HOURS AND COSTS

| Type of respondent | Form name/form number | Number of respondents | Number of responses per respondent | Total number of responses | Avg. burden per response (in hours) | Total annual burden (in hours) | Avg. hourly wage rate | Total annual respondent cost |
|---|---|---|---|---|---|---|---|---|
| State, local or Tribal Government | Action Request Form/FF 010–0–7. | 10 | 640 | 6,400 | .33 | 2,133.33 | $56.69 | $120,938 |
| State, local or Tribal Government | Mission Assignment/FF 010–0–8 | 10 | 320 | 3,200 | .05 | 160 | 56.69 | 9,070 |
| State, local or Tribal Government | Training/No Form | 10 | 2 | 20 | 8 | 160 | 56.69 | 9,070 |
| Total | | 10 | | 9,620 | | 2,453.33 | | 139,078 |

*Estimated Cost:* There are no operation and maintenance, or capital and start-up costs associated with this the collection of information.

**Comments**

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) 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.

Dated: Augsut 24, 2010.

**Tammi Hines,**

*Acting Director, Records Management Division, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.*

[FR Doc. 2010–21434 Filed 8–26–10; 8:45 am]

**BILLING CODE 9111–24–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5415–N–08]**

## Notice of Availability: Notice of Funding Availability (NOFA) for Fiscal Year (FY) 2010 Indian Community Development Block Grant (ICDBG) Program for Indian Tribes and Alaska Native Villages

**AGENCY:** Office of the Chief of the Human Capital Officer, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD announces the availability on its Web site of the application information, submission deadlines, funding criteria, and other requirements for the FY2010 ICDBG NOFA. Approximately $65 million is made available through this NOFA, by the Consolidated Appropriations Act, 2010 (Pub. L. 111–117, approved December 16, 2009). Of this amount, up to $3.96 million is retained to fund Imminent Threat Grants. The purpose of the ICDBG program is the development of viable Indian and Alaska Native communities, including the creation of decent housing, suitable living environments, and economic opportunities primarily for persons with low and moderate incomes.

The notice providing information regarding the application process, funding criteria and eligibility requirements can be found using the Department of Housing and Urban Development agency link on the Grants.gov/Find Web site at *http://www.grants.gov/search/agency.do.* A link to Grants.gov is also available on the HUD Web site at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm.* The Catalogue of Federal Domestic Assistance (CFDA) number for the ICDBG is 14.862. Applications must be submitted electronically through Grants.gov.

**FOR FURTHER INFORMATION CONTACT:** For information concerning the ICDBG Program for Indian Tribes and Alaska Native Villages, contact Deborah M. Lalancette, Director, Office of Grants Management, Office of Native American Programs, Office of Public and Indian Housing, Office of Grants Management, Department of Housing and Urban Development, 1670 Broadway, 23rd Floor, Denver, CO 80202; telephone number (303) 675–1600 (this is not a toll-free number). Persons with speech or hearing impairments may access this telephone number via TTY by calling the toll-free Federal Information Relay Service during working hours at 800–877–8339.

Dated: August 24, 2010.

**Barbara S. Dorf,**

*Director, Office of Departmental Grants Management and Oversight, Office of the Chief of the Human Capital Officer.*

[FR Doc. 2010–21401 Filed 8–26–10; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5435–N–01]**

## Notice of Neighborhood Stabilization Program Reallocation Process Changes

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

**ACTION:** Notice.

**SUMMARY:** This Notice describes the applicable corrective actions, recapture process, the reallocation formula, and the waivers of regulations granted to grantees under Title III of Division B of the Housing and Economic Recovery Act of 2008, for the purpose of assisting in the redevelopment of abandoned and foreclosed homes under the Emergency Assistance for Redevelopment of Abandoned and Foreclosed Homes heading. This notice affects grantees receiving grants under the first round of funding under the Neighborhood Stabilization Program, which is referred to throughout this notice as NSP1. As described in the Supplementary Information section of this notice, HUD is authorized by statute to specify alternative requirements and make regulatory waivers for this purpose. This notice advises the public that HUD is revising the recapture policy of the October 6, 2008, NSP1 Notice, as amended, in a manner that affects the consequences of failing to meet the 18-month deadline for using NSP1 funds.

**DATES:** *Effective Date:* August 23, 2010.

**FOR FURTHER INFORMATION CONTACT:** Stanley Gimont, Director, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7286, Washington, DC 20410, telephone number 202–708–3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at 800–877–8339. FAX inquiries may be sent to Mr. Gimont at 202–401–2044. (Except for the "800" number, these telephone numbers are not toll-free.)

**SUPPLEMENTARY INFORMATION:**

### Authority To Provide Alternative Requirements and Grant Regulatory Waivers

Title III of Division B of the Housing and Economic Recovery Act, 2008 (Pub. L. 110–289, approved July 30, 2008), as amended, (HERA) appropriated $3.92 billion for emergency assistance for redevelopment of abandoned and foreclosed homes and residential properties, and provides under a rule of construction that, unless HERA states otherwise, the grants are to be considered Community Development Block Grant (CDBG) funds. The grant program under Title III is commonly referred to as NSP, and the first round of NSP funding is referred to as NSP1. When referring to a provision of the appropriations statute itself, this notice will refer to HERA; when referring to the grants, grantees, assisted activities, and implementation rules affected by this notice, this notice will use the term NSP1.

HERA authorizes the Secretary to specify alternative requirements to any provision under Title I of the Housing and Community Development Act of 1974, as amended, (the HCD Act) except for requirements related to fair housing, nondiscrimination, labor standards, and the environment (including lead-based paint), in accordance with the terms of section 2301 of HERA and for the sole purpose of expediting the use of grant funds. The CDBG requirements will apply to NSP except where this notice supersedes or amends such requirements. This Notice does not specify any new alternative requirements to statutory requirements.

Except as described in this notice and previous notices governing the NSP, statutory and regulatory provisions governing the CDBG program, including those at 24 CFR part 570 subpart I for states or, for CDBG entitlement communities, including those at 24 CFR part 570 subparts A, C, D, J, K, and O, as appropriate, apply to the use of these funds. (The State of Hawaii was allocated funds and will be subject to part 570, subpart I, as modified by this notice.)

### Substantive Revisions

NSP1 grantees are statutorily required to use NSP1 funds within 18 months from the date HUD signed their grant agreement. HUD has defined "use" to mean obligation of funds for approved activities. The primary purpose of this notice is to amend the reallocation provision of the October 6, 2008, Notice, 73 FR 58330 (NSP1 Notice), which noted that the ordinary CDBG reallocation statutory requirement would apply in the event of any recapture of NSP1 funds for noncompliance with program requirements. This Notice provides instead for a range of corrective actions, in accordance with 24 CFR 570.900(b)(5) and (6), for failure to meet the 18-month use requirements; and for any recaptured funds to remain in the NSP1 program and to be reallocated in accordance with the formula in Attachment A. The formula will reallocate funds to communities with the most current need for support in addressing neighborhoods destabilized by foreclosed and abandoned homes and may take into account prior allocations of NSP1 and NSP2 already serving those communities. This Notice further addresses how grantees who have funds recaptured will meet the requirement that 25 percent of NSP1 funds support units affordable to households whose incomes are 50 percent of area median income or less.

The substantive revisions made by this notice follow. The **Federal Register** page number identifies where the language to be revised can be found in the October 6, 2008, notice.

*A. Reallocation Process*

Background

In the NSP1 Notice, HUD noted in paragraph I.B. Formula Reallocation, that if a jurisdiction failed to meet the requirement to use its NSP1 funds in 18 months, HUD would recapture the funds and reallocate them in accordance with the CDBG reallocation provisions of the HCD Act at 42 U.S.C. 5306(c)(4). This provision of the HCD Act specifically applies to funds recaptured under the authority of 42 U.S.C. 5304(e) and 5311 of the HCD Act. However, upon further reflection, HUD has determined that 42 U.S.C. 5306(c)(4) does not apply to recaptures under NSP1 and therefore NSP funds are not required to be reallocated to major disaster areas. As the 18-month deadline approaches, HUD is updating this provision to limit the negative effects on communities that, although they may not have had the capacity to meet the deadline, still have great need for neighborhood stabilization funding.

Therefore, HUD is revising the NSP1 Notice's provisions to provide a process for addressing a grantee's failure to meet the 18-month use requirement and to state that any recaptured funds will be reallocated to provide additional NSP grants on a formula basis. This Notice explains how HUD will proceed to restrict further obligation of NSP funds the day after the 18-month use deadline and provide grantees the opportunity to submit additional information regarding the NSP funds subject to a finding and potential corrective action or sanction. Following the review and before selecting a corrective or remedial action, HUD will, in accordance with 24 CFR 570.905 and 570.493, consider the grantee's continuing capacity to carry out the grant.

HUD has a range of possible corrective actions available in the regulations at 24 CFR 570.910 and 570.495. Additional guidance is provided in the Community Planning

and Development Monitoring Handbook 6509.2, Rev-6. HUD may also provide targeted technical assistance when it determines that the grantee is in need of such assistance to complete its program successfully.

In many instances, HUD anticipates that NSP grantees failing to meet the use deadline will face a choice of (a) entering into a memorandum of agreement with the Department or (b) recapturing of unobligated amounts. Based largely on the grantee's NSP1 performance and the amount of unobligated funds, HUD may enter into a memorandum of agreement designed to improve the grantee's performance and enable use of the funds for the purposes intended in the NSP1 Notice. A few very low capacity grantees may be required to demonstrate that they have acquired stronger program partners, such as proven nonprofit or for-profit developers, before HUD will allow further use of NSP1 funds. To ensure uniform national application of corrective actions, HUD will issue guidance to field offices regarding corrective actions for NSP1 grantees that fail to meet the deadline for use of funds, and corrective actions may be reviewed by headquarters staff. Failure on the grantee's part to achieve use of funds or to meet the terms of the memorandum of agreement may lead to recapture of funds.

States with unused funds will be subject to a recapture of unused amounts up to $19.6 million. This is because the NSP1 allocation formula provided $19.6 million to each state regardless of the state's relative need for funds. Local governments received funds strictly based on their formula need. States received the $19.6 million base payment plus any need-based formula increment. Therefore, if a state has unused NSP1 funds up to $19.6 million, HUD will recapture and reallocate those funds to a higher need location based on a strictly need-driven formula. After HUD determines the recapture amount, any remaining unused state grant funds in excess of $19.6 million will be addressed under the additional corrective actions, as described above.

To address concerns that some grantees may inflate obligation amounts for projects before the deadline, then withdraw from or reduce these obligations after the deadline as a strategy for meeting the fund use requirement by the deadline, HUD staff will be reviewing a sample of obligation documents. (Note that HUD recognizes that grantees will not be able to budget perfectly and has provided guidance allowing a reasonable contingency for each project.) HUD field staff may request removal of the obligation blocks in the reporting system after assessment of a grantee's performance, if the field staff determines the grantee is not high risk consistent with this notice.

Finally, the Notice addresses enforcement of the grantee's statutory obligation to spend at least 25 percent of NSP1 funds on housing for persons at or below 50 percent area median income.

Revised Requirement

Section I.B.2. of the NSP1 Notice at page 58331 is amended to read as follows:

2. a. HUD will block each grantee's ability to obligate NSP1 grant funds in the Disaster Recovery Grant Reporting System (DRGR) on the first business day after the statutory 18-month deadline for use of funds. HUD will notify the grantee of this action by electronic mail. Grantees will not be able to obligate grant funds after the deadline without requesting and receiving permission from HUD, until HUD determines that the grantee is not high risk consistent with this notice. The grantee will still be able to expend grant funds obligated before the deadline. Receipt and use of any program income will also be unaffected.

b. Any grantee that fails to obligate an amount equal to or greater than its initial grant amount may submit information to HUD, for up to 30 days following its 18-month deadline, documenting any additional obligation of funds not already recorded in the DRGR system and demonstrating to HUD that the obligation occurred on or before the 18-month deadline. Before the 18-month deadline, each grantee should also review its recorded obligations and notify HUD within 30 days following the deadline of any necessary adjustments to the amount and the reason for such an adjustment. For example, the grantee has become aware that an obligation amount that was previously recorded for an acquisition will not proceed, therefore a downward adjustment is necessary.

c. After the deadline, if any grantee needs to decrease or increase the amount of grant funds obligated to an activity, it must first ask HUD to remove the DRGR block on changing the amount obligated. If the amount of decrease is more than 15 percent of the obligation for any activity, the grantee must submit to HUD a written request that clearly demonstrates with compelling information that factors beyond the grantee's reasonable control caused the need to withdraw or decrease after the deadline. If HUD agrees to grant the request, it will restore the grantee's ability to obligate grant funds in DRGR. If HUD does not grant the request, the grantee must either complete the activity as originally obligated or the amount previously obligated for that activity will be recaptured. HUD may also remove the obligations block following risk assessment of the grantee or a review of some or all of a grantee's obligation documentation.

d. Before HUD determines the appropriate corrective action or recaptures grant funds, HUD will review the submitted information, consider the grantee's capacity as described in 24 CFR 570.905 and 24 CFR 570.493, and the grantee's continuing need for the funds.

e. Following the review, HUD will proceed to notify the grantee of the selected corrective action it is required to undertake.

f. HUD will recapture and reallocate up to $19.6 million from any state grantee with unused NSP grant funds. Additional corrective actions may be taken related to any amount of unused funds greater than $19.6 million.

g. HUD will reallocate recaptured funds in accordance with the reallocation formula described in Attachment A. A grantee receiving a reallocation must apply for the grant in accordance with the NSP1 Notice. A nonentitlement grant recipient that is not required to submit a consolidated plan to HUD under the CDBG program will prepare an abbreviated plan. The substance of an abbreviated plan must include all the required elements that entitlement communities provide as part of an NSP Action Plan substantial amendment as described under Section II.B.2.

h. Each grantee must meet the statutory requirement to expend 25 percent of its grant amount for activities that will provide housing for households whose income is at or under 50 percent of area median income. This cannot occur unless the funds are first obligated to activities for this purpose, or program income is received and used for eligible activities. Therefore, if a grantee fails to obligate or record program income use of at least 25 percent of its original grant amount for activities that will provide housing for households whose income is at or under 50 percent of area median income, HUD may issue a concern or a finding of noncompliance. HUD will require as a corrective action that the grantee either adjust its remaining NSP1 planned activities to ensure that 25% of the original NSP1 formula grant amount and program income supports activities providing housing to households with

incomes at or under 50 percent of area median income, or make a firm commitment to provide such housing with nonfederal funds in an amount sufficient to offset any deficiency to comply with the requirement before the expenditure deadline for the NSP1 grant.

i. The NSP1 Notice allows each grantee to use up to ten percent of its NSP1 grant for general administration and planning activities. If HUD recaptures funds from a grant, this percentage limitation will still apply to the remaining grant funds, reducing the amount available for administration activities.

*B. Changes to Pre-Grant Process*

Background

With this notice, HUD is establishing the pre-grant process for the NSP reallocation grants. The formula is published in Attachment A. HUD will announce the reallocation amounts after completing the recapture process for all states that have failed to meet the 18-month use requirement. Additional reallocation announcements will be made only if HUD recaptures funds from grantees who fail to comply with any memorandum of agreement or grant conditions. At the time of each announcement, CDBG grantees receiving NSP1 reallocations may immediately begin to prepare and submit action plan substantial amendments or abbreviated plans for NSP1 funds, in accordance with this notice and the original NSP1 Notice. (Insular areas should follow the requirements for entitlement communities.)

To receive NSP1 reallocation funding, grantees must submit an action plan substantial amendment to HUD in accordance with this notice by no later than the deadline in the allocation announcement. Any unit of general local government in a nonentitlement area receiving an allocation must submit an abbreviated plan under 24 CFR 91.235 to HUD by the same deadline. An abbreviated plan will have essentially the same content as a NSP1 substantial amendment, although the certifications will be different.

In the October 6, 2008 NSP1 Notice, HUD encouraged each local jurisdiction receiving an allocation to carefully consider its administrative capacity to use the funds within the statutory deadline. HUD is encouraging each local jurisdiction receiving reallocated fund to consider its administrative capacity. To support this consideration, HUD is providing a self-assessment tool that grantees may find useful in better understanding their capacity to undertake and manage NSP1 activities. This is the same self-assessment tool that is used for NSP Technical Assistance (NSP–TA) purposes and it will allow HUD to more rapidly identify capacity gaps and technical assistance needs and to provide appropriate technical assistance. Although HUD suggests that every grantee complete and submit the self-assessment with its substantial amendment, HUD will require some grantees to complete and submit such a self-assessment as a special condition of receiving funding.

HUD also provided regulatory waivers and alternative requirements to allow joint requests among contiguous entitlement communities and to allow joint requests between an entitlement community and a state. Any two or more contiguous units of general local government may make a joint request to HUD to implement a joint NSP1 program with reallocated funds. A jurisdiction need not have a joint agreement with an urban county under the regular CDBG entitlement program or have joint request with a local government or state for the original NSP1 allocation to request a joint program for NSP1 reallocation funding. Potential requestors should contact HUD as soon as possible (as far as possible in advance of publishing a proposed substantial amendment or abbreviated plan) for technical guidance. The requestors will specify which jurisdiction will receive the funds and administer the combined grant on behalf of the requestors; in the case of a joint request between a local government jurisdiction and a state, the state will administer the combined grant. (Grantees choosing this option should consider the Consolidated Plan and citizen participation implications of this approach. The lead entity's substantial amendment will cover all participating members. The citizen participation process must include citizens of all jurisdictions participating in the joint program.)

Given the rule of construction in HERA that NSP funds generally are construed as CDBG program funds, subject to CDBG program requirements, HUD generally will treat reallocated NSP funds as a special allocation of Fiscal Year (FY) 2010 CDBG funding for grantees receiving an allocation for the first time. This has important consequences for local governments presently participating in an existing urban county program, and for metropolitan cities that have joint agreements with urban counties. HUD will consider any existing cooperation agreements between a local government and an urban county governing FY2010 CDBG funding (for purposes of either an urban county or a joint program) to automatically cover NSP funding as well. These cooperation agreements will continue to apply to the use of NSP funds for the duration of the NSP grant, just as cooperation agreements covering regular CDBG Entitlement program funds continue to apply to any use of the funds appropriated during the 3-year period covered by the agreements. For example, a local government presently has a cooperation agreement covering a joint program or participation in an urban county for Federal FYs 2009, 2010 and 2011. The local government may choose to discontinue its participation with the county at the end of the applicable qualification period for future CDBG entitlement funding. However, the existing cooperation agreement covers the NSP funding until expended and the county will still be responsible for any NSP projects funded in that community, and for any NSP funding the local government receives from the county, until those funds are expended and the funded activities are completed.

A third method of cooperating is also available, and may be required by HUD in some jurisdictions that HUD determines have high need for NSP funds and low capacity to implement some or all planned NSP activities in the required timeframes. HUD may condition some NSP reallocations on such cooperation being demonstrated to HUD's satisfaction before execution of a grant agreement. A jurisdiction may apply for its entire grant and immediately enter into a subrecipient agreement with another jurisdiction, an NSP2 grantee, or a nonprofit entity with capacity to administer the grant.

Finally, some communities with a great need for neighborhood stabilization support do not have the capacity to design and deliver a successful NSP program. HUD can identify these communities before execution of a grant agreement based on NSP, CDBG, or HOME program performance or information from technical assistance providers. In these cases, HUD may reallocate funds to such communities but will take actions designed to ensure appropriate and timely use of grant funds. HUD will condition their grants on the grantee's acceptance of technical assistance, as evidenced by an executed technical assistance work plan or by a memorandum of agreement with HUD. In either such document, the responsibilities and roles of the grantee, HUD, and HUD's technical assistance providers will be described—including

a specific scope of work and schedule—and duly executed before HUD signs the grant agreement for the reallocation award.

At the time HUD publishes the reallocation amounts, it will also publish a specific date for a recipient to complete and submit a substantial amendment to its annual action plan or an abbreviated plan. A grantee that wishes to initially submit its action plan amendment to HUD electronically in the DRGR system rather than via paper may do so by contacting its local field office for the DRGR submission directions. Paper submissions to HUD also will be allowed, although each grantee must set up its action plan in DRGR before the deadline for the first required performance report after receiving a grant.

HUD will review each grantee submission for completeness and consistency with the requirements of this notice and will disapprove incomplete and inconsistent action plan amendments and abbreviated plans. HUD will allow revision and resubmission of a disapproved amendment or abbreviated action plan in accordance with 24 CFR 91.500 so long as any such resubmission is received by HUD 45 days or less following the date of first disapproval.

In combination, these requirements provide the following expedited steps for NSP grants:

- Proposed action plan amendment or abbreviated plan published via the usual methods and on the Internet for no less than 15 calendar days of public comment;
- Final action plan amendment or abbreviated plan posted on the Internet and submitted to HUD by the deadline indicated in the allocation announcement (grant application includes Standard Form 424 (SF–424) and certifications);
- HUD expedites review;
- HUD accepts the plan and prepares a cover letter, grant agreement, and grant conditions;
- Grantee meets any conditions required before HUD's execution of the grant agreement.
- Grant agreement signed by HUD and immediately transmitted to the grantee;
- Grantee signs and returns the grant agreements;
- HUD establishes the line of credit and the grantee requests and receives DRGR access;
- After completing the environmental review(s) pursuant to 24 CFR part 58 and, as applicable, receiving from HUD or the state an approved Request for Release of Funds and certification, the grantee may draw-down funds from the line of credit.

As with the initial allocation process, the action plan substantial amendment, abbreviated plan and citizen participation alternative requirements will permit an expedited grant-making process, but one that still provides for public notice, appraisal, examination, and comment on the activities proposed for the use of NSP grant funds.

Revised Requirements

Section II.B.4.a of the NSP1 Notice on page 58334 is amended to add the following at the end: To receive an NSP reallocation, a grantee must submit to HUD for approval an NSP application by the deadline indicated in the allocation announcement. This submission will include a signed standard Federal form SF–424, signed certifications, and a substantial action plan amendment or abbreviated plan meeting the requirements of paragraph b below. (24 CFR 91.505 is waived to the extent necessary to require submission of the substantial amendment to HUD for approval in accordance with this Notice.)

Section II.B.5–6 of the NSP1 Notice on beginning on page 58334 is amended to add: 5.

c. Local jurisdictions receiving reallocation funds may enter into joint agreements in accordance with 5.a. or b., regardless of whether the local jurisdiction had a joint agreement for the original NSP allocation.

6. b. Any cooperation agreement between a unit of general local government and a county, concerning either a joint program or participation in an urban county under 24 CFR 570.307 or 570.308, and governing CDBG funds appropriated for federal FY 2010, will be considered to incorporate and apply to NSP reallocated funding. Any such cooperation agreements will continue to apply to the use of NSP funds until the NSP funds are expended and the NSP grant is closed out. Grantees should note that certain provisions in existing cooperation agreements that govern FY2010 CDBG funding may be inconsistent with parts of HERA and this notice. For instance, set minimum and/or maximum allocation amounts may conflict with priority distributions to areas of greatest need identified in the grantee's action plan substantial amendment. Conforming amendments should be made to existing cooperation agreements, as necessary, to comply with HERA and this notice.

*C. Change to Timeliness of Use Requirement*

The requirements of paragraph M. Timeliness of use and expenditure of NSP funds of the NSP1 Notice will apply to reallocation grants. Grantees are reminded that section of HERA 2301(c)(1) provides that any grantee receiving a grant:

"* * *shall, not later than 18 months after the receipt of such amounts, use such amounts to purchase and redevelop abandoned and foreclosed homes and residential properties."

HUD has defined the term "use" to include obligation of funds.

Revised Requirement

Section II.M. of the NSP1 Notice on page 58340 is amended to add paragraph 3 after paragraph 2:

3. Grantees receiving a reallocation of funds must comply with the 18-month use requirement.

*D. Certifications*

Background

HUD is substituting alternative certifications. The alternative certifications are tailored to NSP1 grants and remove certifications and references that are appropriate only to the annual CDBG formula program.

Requirements

Section II.T. of the NSP1 Notice starting on page 58342 is amended to read as follows: Certifications for states and for entitlement communities, alternative requirement. Although the NSP is being implemented as a substantial amendment to the current annual action plan, HUD is requiring submission of this alternative set of certifications as a conforming change, reflecting alternative requirements and waivers under this notice. Each jurisdiction will submit the following certifications:

1. Affirmatively furthering fair housing. The jurisdiction certifies that it will affirmatively further fair housing, which means that it will conduct an analysis to identify impediments to fair housing choice within the jurisdiction, take appropriate actions to overcome the effects of any impediments identified through that analysis, and maintain records reflecting the analysis and actions in this regard.

2. Anti-displacement and relocation plan. The applicant certifies that it has in effect and is following a residential anti-displacement and relocation assistance plan.

3. Anti-lobbying. The jurisdiction must submit a certification with regard to compliance with restrictions on

lobbying required by 24 CFR part 87, together with disclosure forms, if required by that part.

4. Authority of jurisdiction. The jurisdiction certifies that the consolidated plan is authorized under state and local law (as applicable) and that the jurisdiction possesses the legal authority to carry out the programs for which it is seeking funding, in accordance with applicable HUD regulations and other program requirements.

5. Consistency with plan. The jurisdiction certifies that the housing activities to be undertaken with NSP funds are consistent with its consolidated plan.

6. Acquisition and relocation. The jurisdiction certifies that it will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601), and implementing regulations at 49 CFR part 24, except as those provisions are modified by the notice for the NSP program published by HUD.

7. Section 3. The jurisdiction certifies that it will comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and implementing regulations at 24 CFR part 135.

8. Citizen participation. The jurisdiction certifies that it is in full compliance and following a detailed citizen participation plan that satisfies the requirements of Sections 24 CFR 91.105 or 91.115, as modified by NSP requirements.

9. Following a plan. The jurisdiction certifies it is following a current consolidated plan (or Comprehensive Housing Affordability Strategy) that has been approved by HUD.

10. Use of funds. The jurisdiction certifies that it will comply with Title III of Division B of the Housing and Economic Recovery Act of 2008, as amended, by using all of its grant funds within 18 months of receipt of the grant.

11. The jurisdiction certifies:

a. That all of the NSP funds made available to it will be used with respect to individuals and families whose incomes do not exceed 120 percent of area median income; and

b. The jurisdiction will not attempt to recover any capital costs of public improvements assisted with CDBG funds, including Section 108 loan guaranteed funds, by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment made as a condition of obtaining access to such public improvements. However, if NSP funds are used to pay the proportion of a fee or assessment attributable to the capital costs of public improvements (assisted in part with NSP funds) financed from other revenue sources, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than CDBG funds. In addition, with respect to properties owned and occupied by moderate-income (but not low-income) families, an assessment or charge may be made against the property with respect to the public improvements financed by a source other than NSP funds if the jurisdiction certifies that it lacks NSP or CDBG funds to cover the assessment.

12. Excessive force. The jurisdiction certifies that it has adopted and is enforcing:

a. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; and

b. A policy of enforcing applicable state and local laws against physically barring entrance to, or exit from, a facility or location that is the subject of such nonviolent civil rights demonstrations within its jurisdiction.

13. Compliance with anti-discrimination laws. The jurisdiction certifies that the NSP grant will be conducted and administered in conformity with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), the Fair Housing Act (42 U.S.C. 3601–3619), and implementing regulations.

14. Compliance with lead-based paint procedures. The jurisdiction certifies that its activities concerning lead-based paint will comply with the requirements of part 35, subparts A, B, J, K, and R of this title.

15. Compliance with laws. The jurisdiction certifies that it will comply with applicable laws.

**Note on Statutory Limitation on Distribution of Funds**

Section 2304 of HERA states that none of the funds made available under this Title or title IV shall be distributed to an organization that has been indicted for a violation under Federal law relating to an election for Federal office; or an organization that employs applicable individuals. Section 2304 defines applicable individuals.

**Information Collection Approval**

HUD has approval from the Office of Management and Budget (OMB) for information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). OMB approval is under OMB control number 2506–0165. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor and a person is not required to respond to, a collection of information, unless the collection displays a valid control number.

**Duration of Funding**

The appropriation accounting provisions in 31 U.S.C. 1551–1557, added by section 1405 of the National Defense Authorization Act for Fiscal Year 1991 (Pub. L. 101–510), limit the availability of certain appropriations for expenditure. Such a limitation may not be waived. The appropriations acts for NSP grants direct that these funds be available until expended. However, the Department is imposing a shorter deadline on the expenditure of NSP funds in this notice.

**Catalog of Federal Domestic Assistance**

The Catalog of Federal Domestic Assistance numbers for grants made under NSP1 are as follows: 14.218; 14.225; and 14.228.

**Finding of No Significant Impact**

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)(2)). The Finding of No Significant Impact is available for public inspection between 8 a.m. and 5 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500.

Dated: August 23, 2010.

**Mercedes M. Márquez,**

*Assistant Secretary for Community Planning and Development.*

[FR Doc. 2010–21402 Filed 8–26–10; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[CACA 048649, LLCAD06000, L51010000. FX0000, LVRWB09B2490]**

### Notice of Availability of the Draft Environmental Impact Statement for the Desert Sunlight Holdings, LLC Desert Sunlight Solar Farm Project and Possible California Desert Conservation Area Plan Amendment

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** In accordance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) has prepared a Draft Environmental Impact Statement (EIS) and Draft California Desert Conservation Area (CDCA) Plan Amendment for the Desert Sunlight Holdings, LLC Desert Sunlight Solar Farm (DSSF) Project, Riverside County, California, and by this notice, is announcing the opening of a 90-day public comment period.

**DATES:** To ensure that comments will be considered, the BLM must receive written comments on the Draft EIS within 90 days following the date the Environmental Protection Agency publishes its Notice of Availability in the **Federal Register.** The BLM will announce future meetings or hearings and any other public involvement activities at least 15 days in advance through public notices, media releases, and/or mailings.

**ADDRESSES:** You may submit comments related to the Desert Sunlight Holdings DSSF project by any of the following methods:

- *Web site: http://www.blm.gov/ca/st/en/fo/palmsprings.html.*
- *E-mail: CAPSSolarFirstSolarDesertSunlight@blm.gov.*
- *Fax:* (760) 833–7199.
- *Mail or other delivery service:* Allison Shaffer, Project Manager, BLM Palm Springs-South Coast Field Office, 1201 Bird Center Drive, Palm Springs, California 92262.

Copies of the DSSF Draft EIS are available from the Palm Springs-South Coast Field Office at the above address.

**FOR FURTHER INFORMATION CONTACT:** Allison Shaffer, BLM Project Manager, telephone (760) 833–7100. *See also* **ADDRESSES** section.

**SUPPLEMENTARY INFORMATION:** Desert Sunlight Holdings, LLC has requested a 19,516-acre right-of-way (ROW) to construct and operate the DSSF 550-megawatt (MW) solar photovoltaic (PV) facility and associated 220-kilovolt (kV) generation interconnection line (gen-tie line), and to facilitate the construction and operation by Southern California Edison (SCE) of a new 500- to 220-kV Red Bluff Substation where the project would interconnect with the SCE regional transmission system.

The DSSF power generation site would encompass 4,245 acres. The power generation site would consist of several components: A main generation area which includes PV arrays, combining switchgear, overhead lines, and access corridors; an operations and maintenance facility; a solar energy visitor center; an on-site substation where the voltage of the generated electricity would be stepped up to 220 kV to match that of the transmission line; and site security and fencing.

The transmission line from the project would transmit the electricity to the regional transmission system through the Red Bluff Substation where the power would feed into SCE's existing Devers-Palo Verde 1 (DPV1) 500-kV transmission line. The length of the transmission line would be 12.2 miles long involving 236 acres.

The Red Bluff Substation would consist of a 500/220 kV substation on approximately 90 acres, with an additional 20 to 30 acres for related features including access roads and drainage control. Substation features include: Connection of the project tranmission line into the substation; transmission lines to connect the substation to the DPV1 line; modification of DPV1 towers near the substation; construction of an electric distribution line for substation light and power; and installation of telecommunications facilities.

The DSSF project would be located approximately six miles north of Interstate Highway 10 and the rural community of Desert Center in Riverside County. The project area is within two miles of Joshua Tree National Park. The Draft EIS analyzes the direct, indirect, and cumulative impacts to the environment. Three action alternatives and three no project alternatives are analyzed in the Draft EIS. Alternatives include:

- The proposed action;
- A modified proposed action with an alternative transmission line route and substation location;
- A modified proposed action with a reduced project footprint (3,045 acres) and reduced output (413 MW);
- No action with no plan amendment to the CDCA plan;
- No project approval with a plan amendment to the CDCA plan to make the project area unsuitable for solar energy projects; and
- No project approval with a plan amendment to the CDCA plan to make the project area suitable for other solar energy projects.

The BLM's purpose and need for the DSSF project is to respond to Desert Sunlight Holdings' application under Title V of FLPMA (43 U.S.C. 1761) for a ROW grant to construct, operate, and decommission a solar PV facility on public lands in compliance with FLPMA, NEPA, BLM ROW and land use planning regulations, and other applicable laws and regulations. The BLM will decide whether to approve, approve with modification, or deny a ROW grant to Desert Sunlight Holdings for the proposed DSSF project. The BLM will also consider amending the CDCA Plan to make the project area (or portions) either available or unavailable to future solar development. The CDCA Plan (1980, as amended), while recognizing the potential compatibility of solar generation facilities with other uses on public lands, requires that all sites proposed for power generation or transmission not already identified in the plan be considered through the plan amendment process. If the BLM decides to grant a ROW, the BLM would amend the CDCA Plan as required based on guidance in the BLM Land Use Planning Handbook (H 1601–1). The inventory for wilderness characteristics was updated and the project area was found to lack wilderness characteristics.

A Notice of Intent to prepare an EIS and possible CDCA plan amendment for the DSSF was published in the **Federal Register** on January 13, 2010 (75 FR 1801). This was followed by a 30-day public scoping period which ended February 13, 2010. Scoping meetings were held on January 28, 2010, in Palm Desert, California. Numerous public scoping comments were received.

The main concerns identified during scoping included potential impacts to biological, visual, water, and air resources, wilderness characteristics and cumulative impacts resulting from the potential development of the Interstate Highway 10 corridor. The issues and concerns identified in the scoping comments were addressed in the Draft EIS.

Please note that public comments and information submitted including names, street addresses, and e-mail addresses of persons who submit comments will be available for public review and disclosure at the above address during regular business hours (8 a.m. to 4 p.m.), Monday through Friday, except holidays, and at the following Web site: *http://www.blm.gov/ca.*

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.

**Authority:** 40 CFR 1506.6 and 1506.10 and 43 CFR 1610.2

**Thomas Pogacnik,**

*Deputy State Director, California.*

[FR Doc. 2010–21276 Filed 8–26–10; 8:45 am]

**BILLING CODE 4310–40–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–R5–ES–2010–N182; 50120–1113–0000–F2]**

### Preparation of an Environmental Impact Statement for Issuance of an Incidental Take Permit Associated With a Habitat Conservation Plan for the Beech Ridge Wind Energy Project, Greenbrier and Nicholas Counties, West Virginia; Re-opening and Extension of Comment Period

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice; re-opening of comment period; extension of comment period.

**SUMMARY:** In response to substantial public interest and requests to extend the comment period, we, the U.S. Fish and Wildlife Service, extend the scoping period on a notice of intent to gather information necessary to prepare an Environmental Impact Statement (EIS) on the proposed issuance of an Endangered Species Act (ESA) permit (incidental take permit and associated Habitat Conservation Plan) for the Beech Ridge Wind Energy Project (HCP). Pursuant to the National Environmental Policy Act (NEPA), we seek suggestions and information from the public on the scope of issues and alternatives to be included in the EIS. Comments previously submitted need not be resubmitted as they have been incorporated into the public record and will be fully considered in the final decision on the permit application.

**DATES:** The public comment period that closed on August 23, 2010, (75 FR 42767) is reopened and extended until September 23, 2010.

**ADDRESSES:** Information, written comments, or questions related to the preparation of the EIS and NEPA process should be submitted to Ms. Laura Hill, Assistant Field Supervisor, U.S. Fish and Wildlife Service, West Virginia Field Office, 694 Beverly Pike, Elkins, West Virginia 26241; FAX 304–636–7824; or *fw5es_wvfo@fws.gov.*

**FOR FURTHER INFORMATION CONTACT:** Ms. Laura Hill (*See* **ADDRESSES**) at 304–636–6586, extension18. Individuals who are hearing-impaired or speech-impaired may call the Federal Relay Service at 800–877–8337 for TTY assistance.

**SUPPLEMENTARY INFORMATION:**

#### Public Comments Solicited

On July 22, 2010, we published in the **Federal Register** (75 FR 42767) a notice of intent to prepare an EIS and a notice of a meeting. On August 9, 2010, we held a public meeting in Rupert, West Virginia, to provide information on the proposed action and to solicit comments and suggestions from the public on the scope of issues and alternatives to be addressed in the draft EIS. The scoping comment period closed on August 23, 2010; however, due to substantial public interest in the proposed action and receipt of requests to extend the comment period, we are hereby reopening and extending the comment period until September 23, 2010.

As stated in the July 22, 2010, **Federal Register** notice, we seek comments, in particular, concerning: (1) Biological information concerning the Indiana bat and Virginia big-eared bat, as well as unlisted bats and birds; (2) relevant data concerning wind power and bat and bird interactions; (3) additional information concerning the range, distribution, population size, and population trends of the Indiana bat and Virginia big-eared bat, as well as unlisted bats and birds; (4) current or planned activities in the subject area and their possible impacts on the environment and resources; (5) the presence of facilities within the project area which are eligible to be listed on the National Register of Historic Places or whether other historical, archeological, or traditional cultural properties may be present; (6) the direct, indirect, and cumulative effects that implementation of any reasonable alternatives could have on endangered and threatened species and their habitats, as well as unlisted bats and birds; (7) adequacy and advisability of proposed minimization and mitigation measures for ESA listed species and other wildlife; (8) post-construction monitoring techniques; and (9) identification of any other environmental issues that we should consider with regard to the proposed development and permit action.

We welcome written comments from interested parties to ensure that the full range of issues related to the permit request is identified. Comments will only be accepted in written form. You may submit written comments by regular mail, electronic mail, or facsimile transmission (*see* **ADDRESSES**).

All comments and materials we receive, including names and addresses, will become part of the administrative record and may be released to the public. Comments we receive will be available for public inspection, by appointments, during normal business hours (Monday through Friday; 8 a.m. to 4 p.m.) at the West Virginia Field Office (*see* **ADDRESSES**). Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold personally identifying information from public review, we can not guarantee that we will be able to do so.

#### Background

For background information, please refer to the previous **Federal Register** Notice (75 FR 42767) published on July 22, 2010.

#### Author

The primary author of this notice is Laura Hill, U.S. Fish and Wildlife Service, West Virginia Field Office.

#### Authority

The authority for this section is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and National Environmental Policy Act, as amended, (42 U.S.C. 4321 et seq.)

Dated: August 23, 2010.

**Anthony D. Léger,**

*Acting Regional Director, Region 5, U.S. Fish and Wildlife Service.*

[FR Doc. 2010–21337 Filed 8–26–10; 8:45 am]

**BILLING CODE 4310–55–P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Settlement Agreement Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on August 24, 2010, a proposed Settlement Agreement in the bankruptcy matter, *In re Chemtura Corp., et al.,* Jointly Administered Case No. 09–11233 (REG), was lodged with the United States Bankruptcy Court for the Southern District of New York. The Settlement Agreement resolves proofs of claim filed by the United States on behalf of the Environmental Protection Agency ("EPA") against debtor Chemtura Corporation and certain of its affiliates (collectively, "Chemtura") for response costs under the Comprehensive Environmental Response, Compensation, and Liability Act

("CERCLA"), 42 U.S.C. 9601–9675, with respect to the following 18 sites: (1) The Beacon Heights Landfill Superfund Site in Connecticut; (2) the Carolawn Superfund Site in South Carolina; (3) the Central Chemical Superfund Site in Maryland; (4) the Cleve Reber Superfund Site in Louisiana; (5) the Cooper Drum Company Superfund Site in California; (6) the Delaware Sand and Gravel Superfund Site in Delaware; (7) the Diamond Alkali Superfund Site in New Jersey; (8) the El Dorado Site in Arkansas; (9) the Halby Chemical Superfund Site in Delaware; (10) the Interstate Lead Company Superfund Site in Alabama; (11) the Jadco Hughes Superfund Site in North Carolina; (12) the Landia Chemical Company Superfund Site in Florida; (13) the LWD Site in Kentucky; (14) the Malone Service Company Superfund Site in Texas; (15) the Red Panther Chemical Company Site in Mississippi; (16) the Stauffer-LeMoyne Superfund Site in Alabama; (17) the Stoney Creek Technologies Site in Pennsylvania; and (18) the Swope Oil Superfund Site in New Jersey.

The Settlement Agreement further resolves: (1) a claim of the National Oceanic and Atmospheric Administration against Chemtura for past assessment costs relating to natural resource damages with respect to the Diamond Alkali Superfund Site; and (2) a claim of EPA against Chemtura for civil penalties with respect to the Bio-Lab Facility in Georgia pursuant to the Clean Air Act, 42 U.S.C. 7401–7671q; the Clean Water Act, 33 U.S.C. 1251–1387; CERCLA; and the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. 11001–11050.

Under the Settlement Agreement, EPA and NOAA collectively will receive allowed general unsecured claims in the bankruptcy totaling $16,928,038.

The United States will also receive cash payments totaling $9,119,423, in connection with the following eight sites: (1) The Beacon Heights Superfund Site in Connecticut; (2) the Cleve Reber Superfund Site in Louisiana; (3) the Cooper Drum Superfund Site in California; (4) the Delaware Sand and Gravel Superfund Site in Delaware; (5) the Halby Chemical Superfund Site in Delaware; (6) the Interstate Lead Company Superfund Site in Alabama; (7) the Stauffer-LeMoyne Superfund Site in Alabama; and (8) the Stoney Creek Superfund Site in Pennsylvania.

The Settlement Agreement further requires Chemtura to continue to perform its existing work obligations at one Superfund site, the Laurel Park, Inc. Superfund Site in Connecticut.

The Department of Justice will receive, for a period of fifteen days from the date of this publication, comments relating to the Settlement Agreement. To be considered, comments must be received by the Department of Justice by the date that is fifteen days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *In re Chemtura Corp., et al.,* D.J. Ref. 90–11–3–09736. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of the Resource Conservation and Recovery Act, 42 U.S.C. 6973(d).

The Settlement Agreement may be examined at the Office of the United States Attorney, 86 Chambers Street, 3rd Floor, New York, New York 10007, and at the U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. During the public comment period, the Settlement Agreement may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* Copies of the Settlement Agreement may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $10.50 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, please forward a check in that amount to the Consent Decree Library at the stated address.

**Maureen Katz,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 2010–21457 Filed 8–26–10; 8:45 am]

**BILLING CODE 4410–15–P**

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### Notice of Information Collection

**AGENCY:** National Aeronautics and Space Administration (NASA).

*Notice:* (10–095).

**ACTION:** Notice of information collection.

**SUMMARY:** The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

**DATES:** All comments should be submitted within 60 calendar days from the date of this publication.

**ADDRESSES:** All comments should be addressed to Lori Parker, National Aeronautics and Space Administration, Washington, DC 20546–0001.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Lori Parker, NASA Clearance Officer, NASA Headquarters, 300 E Street, SW., JF0000, Washington, DC 20546, (202) 358–1351, *Lori.Parker@nasa.gov*.

**SUPPLEMENTARY INFORMATION:**

#### I. Abstract

NASA's portfolio of higher education projects aims to educate students, support the research and professional development of faculty and administrators, and enhance research and education capacity at institutions of higher education with the ultimate goal of strengthening the Nation's aerospace and aerospace-related science, technology, engineering, and mathematics (STEM) workforce. NASA intends to conduct a multi-staged evaluation of their cumulative investments in these higher education projects. Phase one of this evaluation will collect data on the degree completion and career placement of individuals who previously participated in a NASA project as an undergraduate or graduate student. Data from this collection will be used by NASA to respond to OMB and congressional inquiries, document the education and employment outcomes of NASA's higher education investments, and inform decisions about future project modifications and funding priorities.

#### II. Method of Collection

Data will be collected by means of a Web-based survey of former students who participated in or applied to NASA's higher education projects and telephone interviews of a sample of these students.

**III. Data**

*Title:* NASA Contractor Financial Management Reports.

*OMB Number:* 2700–XXXX.

*Type of Review:* New Collection.

*Affected Public:* Business Individuals or households.

*Estimated Number of Respondents:* 15,571 (15,251 survey; 320 survey/interview).

*Estimated Number of Responses per Respondent:* 1 or 2 (survey only; survey and interview).

*Estimated Time per Response:* 20 minutes for survey; 50 minutes for survey and interview.

*Estimated Total Annual Burden Hours:* 5298.43 hours.

*Estimated Total Annual Cost:* $0.00.

**IV. Request for Comments**

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (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 automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

**Lori Parker,**

*NASA Clearance Officer.*

[FR Doc. 2010–21321 Filed 8–26–10; 8:45 am]

**BILLING CODE P**

## EXECUTIVE OFFICE OF THE PRESIDENT

### Office of National Drug Control Policy

### Designation of Nine Counties as High Intensity Drug Trafficking Areas

**ACTION:** Notice.

**SUMMARY:** The Director of the Office of National Drug Control Policy designated nine additional counties as High Drug Trafficking Areas pursuant to 21 U.S.C. 1706. The new counties are (1) Shelby County in Tennessee as part of the Gulf Coast HIDTA, (2) Navajo County in Arizona as part of the Southwest Border HIDTA—Arizona Region, (3) Jefferson County in New York as part of the New York/New Jersey HIDTA, (4) Mecklenburg, Gaston, Union Buncombe, Henderson, and McDowell Counties in North Carolina as part of the Atlanta HIDTA.

**FURTHER INFORMATION:** Question regarding this notice should be directed to Mr. Arnold Moorin, National HIDTA Program Director, Office of National Drug Control Policy, Executive Office of the President, Washington, DC 20503. (202) 368–8423.

Signed at Washington, DC, this 18th day of August 2010.

**Daniel R. Petersen,**

*Deputy General Counsel.*

[FR Doc. 2010–21320 Filed 8–26–10; 8:45 am]

**BILLING CODE 3180–02–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2009–0364]**

### Notice of Availability of Final Supplemental Environmental Impact Statement for the Moore Ranch In-situ Recovery Project in Campbell County, Wyoming, Supplement to the Generic Environmental Impact Statement for In-situ Leach Uranium Milling Facilities

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of availability.

**SUMMARY:** Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) has published a final Supplemental Environmental Impact Statement (SEIS) to the Generic Environmental Impact Statement for *In-situ* Leach Uranium Milling Facilities (GEIS), (NUREG–1910, Supplement 1) regarding the Moore Ranch *In-Situ* Recovery Project in Campbell County, Wyoming. By letter dated October 2, 2007, Energy Metals Corporation, a wholly-owned subsidiary of Uranium One Americas (Uranium One), submitted an application to the NRC for a new source material license for the proposed Moore Ranch Project, located in southwest Campbell County, Wyoming. Uranium One is proposing to recover uranium from the Moore Ranch site using the *in-situ* leach (also known as the *in-situ* recovery [ISR]) process. In this final SEIS, the NRC staff assessed the environmental impacts from the construction, operation, aquifer restoration, and decommissioning of the proposed Moore Ranch ISR Project.

In addition to the proposed action, the NRC staff assessed the no-action alternative in the final SEIS. Under this alternative, NRC would deny Uranium One's request to construct, operate, conduct aquifer restoration, and decommission an ISR facility at the Moore Ranch Project. Possible alternatives that were considered, but were eliminated from detailed analysis include: conventional mining (whether by open pit or underground techniques) and conventional milling or heap leach processing. However, given the substantial environmental impacts of these alternatives, they were not further considered. The NRC staff also evaluated alternative lixiviants, alternative wastewater disposal options, and an alternative site location within the proposed license area. For reasons discussed in the SEIS, these alternatives were also eliminated from further consideration.

As discussed in Section 2.3 of the final SEIS, unless safety issues mandate otherwise, the NRC staff's recommendation to the Commission related to the environmental aspects of the proposed action is that the source material license be issued as requested. This recommendation is based upon (1) the license application, including the environmental report submitted by Uranium One and the applicant's supplemental letters and responses to the NRC staff's requests for additional information; (2) consultation with Federal, State, Tribal, and local agencies; (3) the NRC staff's independent review; (4) the NRC staff's consideration of comments received on the draft SEIS; and (5) the assessments summarized in this SEIS.

The final SEIS for the Moore Ranch ISR Project may be accessed on the internet at *http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1910/s1/.* Additionally, the NRC maintains an Agencywide Documents and Management System (ADAMS), which provides text and image files of the NRC's public documents. The SEIS may also be accessed through the NRC's Public Electronic Reading Room on the internet at: *http://www.nrc.gov/reading-rm/adams.html.* The "Environmental Impact Statement for the Moore Ranch ISR Project in Campbell County, Wyoming—Supplement to the Generic Environmental Impact Statement for *In-situ* Leach Uranium Milling Facilities" is available electronically under ADAMS Accession Number ML102290470. If you do not have access to ADAMS or if there is a problem accessing documents located in ADAMS, contact the NRC Public Document Room (PDR) reference staff at 1 (800) 397–4209, 1 (301) 415–4737, or by e-mail to *pdr.resource@nrc.gov.* Hard copies of the final SEIS are available upon request. Both information and

documents associated with the final SEIS are also available for inspection at the Commission's PDR, NRC's Headquarters Building, 11555 Rockville Pike (first floor), Rockville, Maryland. For those without access to the Internet, paper copies of any electronic documents may be obtained for a fee by contacting the NRC's PDR at 1 (800) 397–4209. The final SEIS and related documents may also be found at the following public library: Campbell County Public Library, 2101 South 4J Road, Gillette, Wyoming 82718, 307–687–0009.

**FOR FURTHER INFORMATION CONTACT:** Mr. Behram Shroff, Project Manager, Environmental Review Branch–B, Division of Waste Management and Environmental Protection (DWMEP), Office of Federal and State Materials and Environmental Management Programs, Mail Stop T–8F5, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: 1 (800) 368–5642, extension 0666; E-mail: *Behram.Shroff@nrc.gov*. For general or technical information associated with the safety and licensing of uranium milling facilities, please contact Stephen Cohen, Team Lead, Uranium Recovery Licensing Branch, DWMEP, Mail Stop T–8F5, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: 1 (800) 368–5642, extension 7182; E-mail: *Stephen.Cohen@nrc.gov*.

Dated at Rockville, Maryland, this 18th day of August 2010.

For the Nuclear Regulatory Commission.

**David Skeen,**

*Acting Deputy Director, Environmental Protection and Performance Assessment Directorate, Division of Waste Management and Environmental Protection Office of Federal and State Materials and Environmental Management Programs.*

[FR Doc. 2010–21126 Filed 8–26–10; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. 50–338 and 50–339, Docket Nos. 50–280 and 50–281; NRC–2010–0283]**

## Virginia Electric and Power Company, North Anna Power Station, Unit Nos. 1 and 2, Surry Power Station, Unit Nos. 1 and 2; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing and Order Imposing Procedures for Document Access to Sensitive Unclassified Non-Safeguards Information

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of license amendment request, opportunity to comment, opportunity to request a hearing, and Commission order.

**DATES:** Submit comments by: September 27, 2010. A request for a hearing must be filed by October 26, 2010. Any potential party as defined in 10 CFR 2.4 who believes access to Sensitive Unclassified Non-Safeguards Information is necessary to respond to this notice must request document access by September 7, 2010.

**ADDRESSES:** Please include Docket ID NRC–2010–0283 in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site *http://www.regulations.gov*. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

You may submit comments by any one of the following methods.

*Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2010–0283. Address questions about NRC dockets to Carol Gallagher 301–492–3668; e-mail *Carol.Gallagher@nrc.gov*.

*Mail comments to:* Chief, Rules, Announcements and Directives Branch (RADB), Office of Administration, Mail Stop: TWB–05–B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by fax to RADB at 301–492–3446.

You can access publicly available documents related to this notice using the following methods:

*NRC's Public Document Room (PDR):* The public may examine, and have copied for a fee, publicly available documents at the NRC's PDR, Room O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. These documents may also be viewed electronically on the public computers located at the NRC's PDR at 11555 Rockville Pike, Rockville, Maryland 20852.

*NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html*. From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov*. The applications for amendments, dated May 6 and February 10, 2010, are available electronically under ADAMS Accession No. ML101260517 and ML100470738.

*Federal Rulemaking Web site:* Public comments and supporting materials related to this notice can be found at *http://www.regulations.gov* by searching on Docket ID: NRC–2010–0283.

**FOR FURTHER INFORMATION CONTACT:** Karen Cotton, Project Manager, Plant Licensing Branch 2–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555. *Telephone:* 301–415–1438; *fax number:* 301–415–1222; *e-mail: Karen.Cotton@nrc.gov*.

**SUPPLEMENTARY INFORMATION:**

### I. Introduction

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. NPF–4, NPF–7, DPR–32, and DPR–37 issued to Virginia Electric and Power Company (the licensee) for operation of the North Anna Power Station, Unit Nos. 1 and 2 (NAPS), located in Louisa County, Virginia, and Surry Power Station, Unit Nos. 1 and 2 (Surry), located in Surry County, Virginia, respectively. The

bracketed information is specific to NAPS.

The proposed amendments would add Optimized ZIRLO as an acceptable fuel rod cladding material and in addition, propose adding the Westinghouse topical report for Optimized ZIRLO to the analytical methods used to determine the core operating limits listed in the Technical Specifications (TSs).

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in Title 10 of the *Code of Federal Regulations* (10 CFR), Section 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; or (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. 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 change involve a significant increase in the probability or consequences of an accident previously evaluated?

*Response:* No.

The proposed Technical Specifications changes are to add Optimized ZIRLO to the allowable or approved cladding materials to be used at [NAPS and] Surry Units 1 and 2 {Surry}. The proposed change of adding a cladding material does not result in an increase to the probability or consequences of an accident previously evaluated. Technical Specification [4.2.1 for NAPS and] 5.2.1 {for Surry} addresses the fuel assembly design, and currently specifies that "Each assembly shall consist of a matrix of Zircaloy or ZIRLO fuel rods * * *". The proposed change will add Optimized ZIRLO to the approved fuel rod cladding materials listed in this Technical Specification. In addition, a reference to the topical report for Optimized ZIRLO, WCAP–12610–P–A and CENPD–404–P–A, Addendum 1–A, will be included in the listing of approved methods used to determine the core operating limits for [NAPS given in TS 5.6.5 and] Surry Units 1 and 2 given in Technical Specification 6.2.C.

Westinghouse topical report WCAP–12610–P–A and CENPD–404–P–A, Addendum 1–A, "Optimized ZIRLO," provides the details and results of material testing of Optimized ZIRLO compared to standard ZIRLO, as well as the material properties to be used in various models and methodologies when analyzing Optimized ZIRLO. As the nuclear industry pursues longer operating cycles with increased fuel discharge burnup and fuel duty, the corrosion performance requirements for the nuclear fuel cladding become more demanding. Optimized ZIRLO was developed to meet these industry needs by providing a reduced corrosion rate while maintaining the composition and physical properties, such as mechanical strength, similar to standard ZIRLO. In addition, margin to the fuel rod design criterion on fuel rod internal pressure has been impacted by increased fuel duty, use of integral fuel burnable absorbers, and corrosion/temperature feedback effects. Reducing the associated corrosion buildup reduces temperature feedback effects, providing additional margin to the fuel rod internal pressure design criterion. The fuel will continue to satisfy the pertinent design basis operating limits, so cladding integrity is maintained. There are no changes that will adversely affect the ability of existing components and systems to mitigate the consequences of any accident. Addition of Optimized ZIRLO to the allowable cladding materials for [NAPS and] Surry Units 1 and 2 therefore does not result in an increase to the probability or consequences of an accident previously evaluated.

The NRC has allowed use of Optimized ZIRLO fuel cladding material in Westinghouse fueled reactors provided that licensees ensure compliance with the Conditions and Limitations set forth in the NRC Safety Evaluation for the topical report. Confirmation that these Conditions are satisfied is performed under 10 CFR 50.59 as part of the normal core reload process.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

*Response:* No.

The proposed Technical Specifications change adds Optimized ZIRLO to the approved fuel rod cladding materials that may be used at [NAPS and] Surry Units 1 and 2. Optimized ZIRLO was developed to provide a reduced cladding corrosion rate while maintaining the benefits of mechanical strength and resistance to accelerated corrosion from potential abnormal chemistry conditions. The fuel rod design bases are established to satisfy the general and specific safety criteria addressed in the [NAPS UFSAR, Chapter 15 (Accident Analysis) and] Surry Units 1 and 2 UFSAR, Chapter 14 (Safety Analysis). The fuel rods are designed to prevent excessive fuel temperatures, excessive fuel rod internal gas pressures due to fission gas releases, and excessive cladding stresses and strains. Westinghouse topical report WCAP–12610–P–A and CENPD–404–P–A, Addendum 1–A, "Optimized ZIRLO," provides the details and results of material testing of Optimized ZIRLO compared to standard ZIRLO, as well as the material properties to be used in various models and methodologies when analyzing Optimized ZIRLO. The original fuel design basis requirements have been maintained. No new single failure mechanisms will be created, and there are no alterations to plant equipment or procedures that would introduce any new or unique operational modes or accident precursors.

Addition of Optimized ZIRLO as another approved cladding material of similar composition and properties as the current approved cladding materials to the [NAPS and] Surry Units 1 and 2 Technical Specifications therefore does not create the possibility of a new or different kind of accident or malfunction from those previously evaluated within the UFSAR.

3. Does the proposed change involve a significant reduction in a margin of safety?

*Response:* No.

The cladding materials used for fuel rods are designed and tested to prevent excessive fuel temperatures, excessive fuel rod internal gas pressures due to fission gas releases, and excessive cladding stresses and strains. Optimized ZIRLO was developed to meet these needs while providing a reduced cladding corrosion rate and maintaining the benefits of mechanical strength and resistance to accelerated corrosion from potential abnormal chemistry conditions. Reducing the associated corrosion buildup reduces temperature feedback effects, providing additional margin to the fuel rod internal pressure design criterion. Westinghouse topical report WCAP–12610–P–A and CENPD–404–P–A, Addendum 1–A, "Optimized ZIRLO," provides the details and results of material testing of Optimized ZIRLO compared to standard ZIRLO, as well as the material properties to be used in various models and methodologies when analyzing Optimized ZIRLO. The NRC has allowed use of the Optimized ZIRLO fuel cladding material as detailed in their Safety Evaluation of this topical report. The original fuel design basis requirements have been maintained, and evaluations will be performed under 10 CFR 50.59 for each reload cycle that incorporates Optimized ZIRLO cladding to confirm that design and safety limits are satisfied. Therefore inclusion of Optimized ZIRLO as an additional fuel rod cladding material for [NAPS and] Surry Units 1 and 2 does not result in a reduction in margin required to preclude or reduce the effects of an accident or malfunction previously evaluated in the UFSAR.

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.

The Commission is seeking public comments on this proposed determination. Any comments received by September 27, 2010 will be considered in making any final determination. You may submit comments using any of the methods discussed under the **ADDRESSES** caption.

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.

**II. Opportunity To Request a Hearing**

Requirements for hearing requests and petitions for leave to intervene are found in 10 CFR 2.309, "Hearing requests, petitions to intervene, requirements for standing, and contentions." Interested persons should consult 10 CFR Part 2, Section 2.309, which is available at the NRC's Public Document Room (PDR), located at O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852 (or call the PDR at 800–397–4209 or 301–415–4737). NRC regulations are also accessible electronically from the NRC's Electronic Reading Room on the NRC Web site at *http://www.nrc.gov.*

**III. Petitions for Leave To Intervene**

Any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the requestor/petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition must provide the name, address, and telephone number of the requestor or petitioner and specifically explain the reasons why the intervention should be permitted with particular reference to the following factors: (1) The nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (3) 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 identify the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

A petition for leave to intervene must also include a specification of the contentions that the petitioner seeks to have litigated in the hearing. For each contention, the requestor/petitioner must provide a specific statement of the issue of law or fact to be raised or controverted, as well as a brief explanation of the basis for the contention. Additionally, the requestor/petitioner must demonstrate that the issue raised by each contention is within the scope of the proceeding and is material to the findings the NRC must make to support the granting of a license amendment in response to the application. The petition must include a concise statement of the alleged facts or expert opinions which support the position of the requestor/petitioner and on which the requestor/petitioner intends to rely at hearing, together with references to the specific sources and documents on which the requestor/petitioner intends to rely. Finally, the petition must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact, including references to specific portions of the application for amendment that the requestor/petitioner disputes and the supporting reasons for each dispute, or, if the requestor/petitioner believes that the application for amendment fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the requestor's/petitioner's belief. Each contention must be one which, if proven, would entitle the requestor/petitioner to relief.

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 with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and to submit a cross-examination plan for cross-examination of witnesses, consistent with NRC regulations, policies, and procedures. The Licensing Board will set the time and place for any prehearing conferences and evidentiary hearings, and the appropriate notices will be provided.

Non-timely petitions for leave to intervene and contentions, amended petitions, and supplemental petitions will not be entertained absent a determination by the Commission, the Licensing Board or a Presiding Officer that the petition should be granted and/or the contentions should be admitted based upon a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

A State, county, municipality, Federally recognized Indian Tribe, or agencies thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(d)(2). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by October 26, 2010. The petition must be filed in accordance with the filing instructions in section IV of this document, and should meet the requirements for petitions for leave to intervene set forth in this section, except that State and Federally recognized Indian tribes do not need to address the standing requirements in 10 CFR 2.309(d)(1) if the facility is located within its boundaries. The entities listed above could also seek to participate in a hearing as a nonparty pursuant to 10 CFR 2.315(c).

Any person who does not wish, or is not qualified, to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of position on the issues, but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to such limits and conditions as may be imposed by the Licensing Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by October 26, 2010.

If a hearing is requested, 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, any hearing held would take place before the issuance of any amendment.

**IV. Electronic Submissions (E-Filing)**

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 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 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 NRC's "Guidance for Electronic Submission," which is available on the agency'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 EIE, 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 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 NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp,* 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 August 27, 2010. 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).

*Attorney for licensee:* Lillian M. Cuoco, Esq., Senior Counsel, Dominion Resources Services, Inc., 120 Tredegar St., RS–2, Richmond, VA 23219.

**Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation**

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing Sensitive Unclassified Non-Safeguards Information (SUNSI).

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 is necessary to respond to this notice may request such access. 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 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 requester shall submit a letter requesting permission to access SUNSI 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); and

(3) 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.

D. Based on an evaluation of the information submitted under paragraph C.(3) 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 requester has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(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 to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI 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 contentions by that later deadline.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff either after a determination on standing and need for access, 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) The requester may challenge the NRC staff's adverse determination 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.

H. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI 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.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, 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 23rd day of August 2010.

For the 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 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. |

[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 under these procedures should be submitted as described in this paragraph.

[2] 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 yet been designated, within 30 days of the deadline for the receipt of the written access request.

[3] 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 request submitted to the NRC staff under these procedures.

| Day | Event/activity |
|---|---|
| 10 | Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) 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. |
| 60 | Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 requestor/petitioner reply). |
| 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 need 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). |
| 25 | If NRC staff finds no "need" 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. |
| 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 consistent with decision issuing the protective order. |
| A + 28 | Deadline for submission of contentions whose development depends upon access to SUNSI. 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 contentions by that later deadline. |
| A + 53 | (Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI. |
| A + 60 | (Answer receipt +7) Petitioner/Intervenor reply to answers. |
| >A + 60 | Decision on contention admission. |

[FR Doc. 2010–21345 Filed 8–26–10; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–482; NRC–2010–0286]**

### Wolf Creek Nuclear Operating Corporation; Notice of Withdrawal of Application for Amendment to Renewed Facility Operating License

The U.S. Nuclear Regulatory Commission (NRC, the Commission) has granted the request of Wolf Creek Nuclear Operating Corporation (the licensee) to withdraw its application dated November 20, 2009, as supplemented by letter dated April 6, 2010, for a proposed amendment to Renewed Facility Operating License No. NPF–42 for the Wolf Creek Generating Station, located in Coffey County, Kansas.

The proposed amendment would have revised the facility technical specifications (TSs) pertaining to TS 3.8.1, "AC [Alternating Current] Sources—Operating," by adding a note to the Required Actions B.3.1 and B.3.2 to indicate that the TS 3.8.1 Required Actions B.3.1 and B.3.2 are satisfied if the diesel generator (DG) became inoperable due to an inoperable support system, an independently testable component, or preplanned preventive maintenance or testing. The licensee also proposed to revise the Completion Times for Required Actions B.3.1 and B.3.2 to specify a Completion Time based on the discovery of an issue or failure of the DG.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on January 26, 2010 (75 FR 4121). However, by letter dated August 10, 2010, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated November 20, 2009 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML093310430), as supplemented by letter dated April 6, 2010 (ADAMS Accession No. ML101031093), and the licensee's letter dated August 10, 2010 (ADAMS Accession No. ML102300387), which withdrew the application for license amendment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737 or by e-mail to *pdr.resource@nrc.gov.*

Dated at Rockville, Maryland this 20th day of August 2010.

For the Nuclear Regulatory Commission.

**Balwant K. Singal,**

*Senior Project Manager, Plant Licensing Branch IV, Division of perating Reactor Licensing, Office of Nuclear Reactor Regulation.*

[FR Doc. 2010–21344 Filed 8–26–10; 8:45 am]

**BILLING CODE 7590–01–P**

## POSTAL REGULATORY COMMISSION

**[Docket Nos. MC2010–35, R2010–5, R2010–6; Order No. 518]**

### New Postal Product

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recently-filed Postal Service request to add Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 to the market dominant product list. This notice addresses

procedural steps associated with the filing.

**DATES:** Comments are due: August 31, 2010.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*. Commenters who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION** section by telephone for advice on alternatives to electronic filing.

**FOR FURTHER INFORMATION CONTACT:** Stephen L. Sharfman, General Counsel, *stephen.sharfman@prc.gov* or 202–789–6820.

**SUPPLEMENTARY INFORMATION:**

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## I. Introduction

On August 13, 2010, the Postal Service filed a request pursuant to 39 U.S.C. 3622(c)(10) and 3642, and 39 CFR 3010.40 *et seq.* and 3020.30 *et seq.* to add Inbound Market Dominant Multi–Service Agreements with Foreign Postal Operators 1 (Multi–Service Agreements 1) to the market dominant product list.[1] This Request has been assigned Docket No. MC2010–35.

The Postal Service contemporaneously gave notice, pursuant to 39 CFR 3010.40 *et seq.* and 39 CFR 3015.5, that the Governors have authorized Type 2 rate adjustments for negotiated service agreements in accordance with 39 CFR 3010.40 *et seq.* that will result generally in more remunerative rates than the default rates set by the Universal Postal Union (UPU) Acts for inbound Letter Post items. *Id.* Additionally, the Postal Service filed two functionally equivalent Multi–Service Agreements 1 described as follows:

1.The Strategic Bilateral Agreement Between United States Postal Service and Koninklijke TNT Post BV and TNT Post Pakketservice Benelux BV, collectively "TNT Post" (TNT Agreement); and

2.China Post Group—United States Postal Service Letter Post Bilateral Agreement (CPG Agreement).

The Postal Service requests that the two Multi–Service Agreements 1 be listed along with any subsequent functionally equivalent agreements as part of a single product grouping on the market dominant product list. *Id.* at 2. The TNT Agreement and CPG Agreement have been assigned Docket Nos. R2010–5 and R2010–6, respectively.

In support of its Request, the Postal Service filed four attachments as follows:

1. Attachment 1—proposed Mail Classification Schedule (MCS) language for Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators;

2. Attachment 2—Statement of Supporting Justification required by 39 CFR 3020.32;

3. Attachments 3A and 3B—redacted copies of each agreement; and

4. Attachment 4—an application for non–public treatment of materials to maintain redacted portions of the agreements and supporting documents under seal.

*Related agreements.* Parties to the TNT Agreement are the Postal Service and subsidiaries of the postal operator for the Netherlands. The instant agreement covers inbound Letter Post in the form of letters, flats, small packets, bags, containers, and International Registered Mail service for Letter Post. *Id.* at 4. It also includes a placeholder for additional ancillary services at rates yet to be determined. *Id.*

The CPG Agreement with the postal operator of the People's Republic of China includes the same inbound Letter Post items, plus delivery confirmation scanning with Letter Post small packets. *Id.* The scheduled effective date for both agreements is October 1, 2010. *Id.* at 3.

The Postal Service states its filings comply with 39 CFR 3010.40 *et seq.* for the implementation of the negotiated service agreements. The Request identifies various performance attributes associated with the agreements, *e.g.,* electronic settlement and payment processes. *Id.* at 5–6.

Under 39 CFR 3010.43, the Postal Service is required to submit a data collection plan. In response, the Postal Service indicated that it intends to report information on these agreements through its Annual Compliance Report. While indicating its willingness to provide information on mail flows within the annual compliance review process, the Postal Service proposes that no special data collection plan be established for these agreements. With respect to performance measurement, it requests that the Commission exempt these agreements from separate reporting requirements under 39 CFR 3055.3. *Id.* at 8–9.

*Functional equivalency.* The Request advances reasons why the agreements are functionally equivalent to one another and contain the same attributes and methodology. *Id.* at 12–13. The Postal Service asserts that both agreements fit within the proposed MCS language, are with foreign postal operators, conform to a common description, and include similar terms and conditions.

The Postal Service identifies specific terms that distinguish the agreements from one another, all of which are highlighted in the Request. *Id.* at 12–14. These include electronic settlement, termination, dispute resolution, and other differences. The Postal Service contends that the agreements nonetheless are functionally equivalent to each other and "[t]he Postal Service does not consider that the specified differences affect either the fundamental service the Postal Service is offering or the fundamental structure of the contracts." *Id.* XI.In its Request, the Postal Service maintains that certain portions of the agreements and related financial information should remain under seal. *Id.*, Attachment 4.

In the Statement of Supporting Justification, Lea Emerson, Executive Director, International Postal Affairs, reviews the factors of section 3622(c) and concludes, inter alia, that the revenues generated will cover the attributable costs of the services offered under the agreements and that the rates are preferable to default rates set by the UPU. *Id.*, Attachment 4, at 2–3. The Request also addresses the requirements of 39 U.S.C. 3622 and 39 CFR 3020.30 *et seq. Id.* at 10–11; Attachment 4 at 5–9.

The Postal Service asserts its filings demonstrate compliance with the statute. It requests that Inbound Market Dominant Multi–Service Agreements With Foreign Postal Operators 1 be added to the market dominant product list. *Id.* at 11–15.

## II. Notice of Filing

The Commission establishes Docket Nos. MC2010–35, R2010–5 and R2010–6 for consideration of the Request pertaining to the proposed Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1, and the related rates and classifications, respectively. In keeping with practice, these dockets are addressed on a consolidated basis for purposes of this Order; however, future filings should be made in the specific docket in which issues being addressed pertain.

Interested persons may submit comments on whether the Postal

[1] Request of United States Postal Service to Add Inbound Market Dominant Multi–Service Agreements with Foreign Postal Operators to the Market Dominant Product List, Notice of Type 2 Rate Adjustments, and Notice of Filing Two Functionally Equivalent Agreements (Under Seal), August 13, 2010 (Request).

Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3622, 3642, or

39 CFR part 3010.40, and 39 CFR 3020 subpart B. Comments are due no later than August 31, 2010. The public portions of these filings can be accessed via the Commission's website (*http://www.prc.gov*).

The Commission appoints Paul L. Harrington to serve as Public Representative in these dockets.

**III. Ordering Paragraphs**

It is ordered:

1. The Commission establishes Docket Nos. MC2010–35, R2010–5 and R2010–6 for consideration of the issues raised in this docket.

2. Comments by interested persons in these proceedings are due no later than August 31, 2010.

3. Pursuant to 39 U.S.C. 505, Paul L. Harrington is appointed to serve as officer of the Commission (Public Representative) to represent the interest of the general public in these proceedings.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

**Shoshana M. Grove,**

*Secretary.*

[FR Doc. 2010–21329 Filed 8–26–10; 8:45 am]

**BILLING CODE 7710–FW–S**

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #12283 and #12284]**

### Missouri Disaster #MO–00041

**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 MISSOURI (FEMA–1934–DR), dated 08/17/2010.

*Incident:* Severe Storms, Flooding, and Tornadoes.

*Incident Period:* 06/12/2010 through 07/31/2010.

**DATES:** *Effective Date:* 08/17/2010.

*Physical Loan Application Deadline Date:* 10/18/2010.

*Economic Injury (EIDL) Loan Application Deadline Date:* 05/17/2011.

**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 08/17/2010, 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: Adair, Andrew, Atchison, Buchanan, Caldwell, Carroll, Cass, Chariton, Clark, Clinton, Daviess, Dekalb, Gentry, Grundy, Harrison, Holt, Howard, Jackson, Lafayette, Lewis, Livingston, Mercer, Nodaway, Putnam, Ray, Schuyler, Scotland, Sullivan, Worth.

The Interest Rates are:

| | Percent |
|---|---|
| *For Physical Damage:* | |
| Non-Profit Organizations with Credit Available Elsewhere ..... | 3.625 |
| 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 12283B and for economic injury is 12284B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**Lisa Lopez-Suarez,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 2010–21413 Filed 8–26–10; 8:45 am]

**BILLING CODE 8025–01–P**

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #12268 and #12269]**

### Texas Disaster Number TX–00362

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 2.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Texas (FEMA–1931–DR), dated 08/03/2010.

*Incident:* Hurricane Alex.

*Incident Period:* 06/30/2010 through 08/14/2010.

**DATES:** *Effective Date:* 08/14/2010.

*Physical Loan Application Deadline Date:* 10/04/2010.

*Economic Injury (EIDL) Loan Application Deadline Date:* 05/03/2011.

**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 TEXAS, dated 08/03/2010, is hereby amended to establish the incident period for this disaster as beginning 06/30/2010 and continuing through 08/14/2010.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**Lisa Lopez-Suarez,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 2010–21417 Filed 8–26–10; 8:45 am]

**BILLING CODE 8025–01–P**

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #12290 and #12291]**

### Illinois Disaster #IL–00025

**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 Illinois (FEMA–1935–DR), dated 08/19/2010.

*Incident:* Severe Storms and Flooding.

*Incident Period:* 07/22/2010 through 08/07/2010.

**DATES:** *Effective Date:* 08/19/2010.

*Physical Loan Application Deadline Date:* 10/18/2010.

*Economic Injury (EIDL) Loan Application Deadline Date:* 05/19/2011.

**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 08/19/2010, 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):*

Carroll, Cook, Dupage, Jo Daviess, Ogle, Stephenson, Winnebago.

*Contiguous Counties (Economic Injury Loans Only):*

Illinois: Boone, Dekalb, Kane, Kendall, Lake, Lee, Mchenry, Whiteside, Will.
Iowa: Clinton, Dubuque, Jackson.
Indiana: Lake.
Wisconsin: Grant, Green, Lafayette, Rock.

*The Interest Rates are:*

| | Percent |
|---|---|
| For Physical Damage: | |
| Homeowners With Credit Available Elsewhere | 5.000 |
| Homeowners Without Credit Available Elsewhere | 2.500 |
| Businesses With Credit Available Elsewhere | 6.000 |
| Businesses Without Credit Available Elsewhere | 4.000 |
| Non-Profit Organizations With Credit Available Elsewhere | 3.625 |
| 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 122906 and for economic injury is 122910.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**James E. Rivera,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 2010–21420 Filed 8–26–10; 8:45 am]

**BILLING CODE 8025–01–P**

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #12266 and #12267]**

### Texas Disaster Number TX–00361

**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 Texas (FEMA–1931–DR), dated 08/03/2010.

*Incident:* Hurricane Alex.

*Incident Period:* 06/30/2010 and continuing through 08/14/2010.

**DATES:** *Effective Date:* 08/14/2010.

*Physical Loan Application Deadline Date:* 10/04/2010.

*EIDL Loan Application Deadline Date:* 05/03/2011.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** The notice of the President's major disaster declaration for the State of TEXAS, dated 08/03/2010 is hereby amended to establish the incident period for this disaster as beginning 06/30/2010 and continuing through 08/14/2010.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**Lisa Lopez-Suarez,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 2010–21431 Filed 8–26–10; 8:45 am]

**BILLING CODE 8025–01–P**

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #12268 and #12269]**

### Texas Disaster Number TX–00362

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 3.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of TEXAS (FEMA–1931–DR), dated 08/03/2010.

*Incident:* Hurricane Alex.

*Incident Period:* 06/30/2010 through 08/14/2010.

**DATES:** *Effective Date:* 08/18/2010.

*Physical Loan Application Deadline Date:* 10/04/2010.

*Economic Injury (EIDL) Loan Application Deadline Date:* 05/03/2011.

**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 Texas, dated 08/03/2010, is hereby amended to include the following areas as adversely affected by the disaster.

*Primary Counties:* Dawson.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**Lisa Lopez-Suarez,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 2010–21435 Filed 8–26–10; 8:45 am]

**BILLING CODE 8025–01–P**

## SMALL BUSINESS ADMINISTRATION

### Small Business Size Standards: Waiver of the Nonmanufacturer Rule

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice of intent to waive the Nonmanufacturer Rule for Woven and Knit impregnated with Flat Dipped Rubber/Plastic Gloves.

**SUMMARY:** The U.S. Small Business Administration (SBA) is considering granting a class waiver of the Nonmanufacturer Rule for Glove and Mitten Manufacturing. On August 13, 2010, SBA received a request that a class waiver be granted for woven and knit impregnated with flat dipped rubber/plastic gloves, under the North American Industry Classification System (NAICS) code 315992 (Glove and Mitten Manufacturing). According to the request, no small business manufacturers supply this class of products to the Federal government. Thus, SBA is seeking information on whether there are small business Woven and Knit impregnated with Flat Dipped Rubber/Plastic Gloves manufacturers. If granted, the waiver would allow otherwise qualified small businesses to supply the products of any manufacturer on a Federal contract set aside for small businesses, Service-Disabled Veteran-Owned (SDVO) small businesses or Participants in the SBA's 8(a) Business Development (BD) program.

**DATES:** Comments and source information must be submitted September 13, 2010.

**ADDRESSES:** You may submit comments and source information to Amy Garcia, Procurement Analyst, Small Business Administration, Office of Government Contracting, 409 3rd Street, SW., Suite 8800, Washington, DC 20416.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Garcia, Procurement Analyst, by telephone at (202) 205–6842; by FAX at (202) 481–1630; or by e-mail at *amy.garcia@sba.gov.*

**SUPPLEMENTARY INFORMATION:** Section 8(a)(17) of the Small Business Act (Act), 15 U.S.C. 637(a)(17), and SBA's implementing regulations require that recipients of Federal supply contracts set aside for small businesses, SDVO small businesses, or Participants in the SBA's 8(a) BD Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule. 13 CFR 121.406(b), 125.15(c). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any "class of products" for which there are no small business manufacturers or processors available to participate in the Federal market.

In order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. 13 CFR 121.1202(c). The SBA defines "class of products" based on the Office of Management and Budget's NAICS.

The SBA is currently processing a request to waive the Nonmanufacturer Rule for Woven and Knit impregnated with Flat Dipped Rubber/Plastic Gloves, under NAICS code 315992 (Glove and Mitten Manufacturing). The public is invited to comment or provide source information to SBA on the proposed waiver of the Nonmanufacturer Rule for the product within 15 days after date of publication in the **Federal Register** and on *FedBizOpps.gov.*

**Karen Hontz,**

*Director, Office of Government Contracting.*

[FR Doc. 2010–21424 Filed 8–26–10; 8:45 am]

**BILLING CODE 8025–01–P**

## SMALL BUSINESS ADMINISTRATION

### Small Business Size Standards: Waiver of the Nonmanufacturer Rule

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice of intent to waive the Nonmanufacturer Rule for GEN II and GEN III Image Intensifier Tubes.

**SUMMARY:** The U.S. Small Business Administration (SBA) is considering granting a class waiver of the Nonmanufacturer Rule for Optical Instrument and Lens Manufacturing. On August 13, 2010, SBA received a request that a class waiver be granted for GEN II and GEN III Image Intensifier Tubes, Product Service Code (PSC) 5855, Night Vision Equipment, Emitted and Reflected Radiation, under the North American Industry Classification System (NAICS) code 333314 (Optical Instrument and Lens Manufacturing). According to the request, no small business manufacturers supply these classes of products to the Federal government. Thus, SBA is seeking information on whether there are small business GEN II and GEN III image intensifier tube manufacturers. If granted, the waiver would allow otherwise qualified small businesses to supply the products of any manufacturer on a Federal contract set aside for small businesses, Service-Disabled Veteran-Owned (SDVO) small businesses or Participants in the SBA's 8(a) Business Development (BD) program.

**DATES:** Comments and source information must be submitted September 13, 2010.

**ADDRESSES:** You may submit comments and source information to Amy Garcia, Procurement Analyst, Small Business Administration, Office of Government Contracting, 409 3rd Street, SW., Suite 8800, Washington, DC 20416.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Garcia, Procurement Analyst, by telephone at (202) 205–6842; by FAX at (202) 481–1630; or by e-mail at *amy.garcia@sba.gov.*

**SUPPLEMENTARY INFORMATION:** Section 8(a)(17) of the Small Business Act (Act), 15 U.S.C. 637(a)(17), and SBA's implementing regulations require that recipients of Federal supply contracts set aside for small businesses, SDVO small businesses, or Participants in the SBA's 8(a) BD Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule. 13 CFR 121.406(b), 125.15(c). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any "class of products" for which there are no small business manufacturers or processors available to participate in the Federal market.

In order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. 13 CFR 121.1202(c). The SBA defines "class of products" based on the Office of Management and Budget's NAICS.

In addition, SBA uses PSCs to further identify particular products within the NAICS code to which a waiver would apply. The SBA may then identify a specific item within a PSC and NAICS to which a class waiver would apply.

The SBA is currently processing a request to waive the Nonmanufacturer Rule for GEN II and GEN III Image Intensifier Tubes, PSC 5855, Night Vision Equipment, Emitted and Reflected Radiation, under NAICS code 333314 (Optical Instrument and Lens Manufacturing). The public is invited to comment or provide source information to SBA on the proposed waiver of the Nonmanufacturer Rule for the product within 15 days after date of publication in the **Federal Register** and on FedBizOpps.gov.

**Karen Hontz,**

*Director, Office of Government Contracting.*

[FR Doc. 2010–21427 Filed 8–26–10; 8:45 am]

**BILLING CODE 8025–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–62754; File No. SR–NASDAQ–2010–105]**

### Self-Regulatory Organizations; NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to NASDAQ Options Market Fees and Rebates

August 20, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 18, 2010, NASDAQ Stock Market LLC ("NASDAQ" or the "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to modify Exchange Rule 7050 governing pricing for NASDAQ members using the NASDAQ Options Market ("NOM"), NASDAQ's facility for executing and routing standardized equity and index options. Specifically, NOM proposes to: modify pricing for both Penny Pilot [3] Options and All Other Options with respect to the fees for removing liquidity.[4]

While changes pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative for transactions on September 1, 2010.

The text of the proposed rule change is set forth below. Proposed new text is in italics and deleted text is in brackets.

* * * * *

**7050. NASDAQ Options Market**

The following charges shall apply to the use of the order execution and routing services of the NASDAQ Options Market for all securities.

(1) Fees for Execution of Contracts on the NASDAQ Options Market

FEES AND REBATES

[Per executed contract]

| | Customer | Firm | Non-NOM market maker | NOM market maker |
|---|---|---|---|---|
| Penny Pilot Options: | | | | |
| Rebate to Add Liquidity | $0.32 | $0.10 | $0.25 | $0.30 |
| Fee for Removing Liquidity | 0.4[0]*3* | 0.45 | 0.45 | 0.45 |
| NDX and MNX: | | | | |
| Rebate to Add Liquidity | 0.10 | 0.10 | 0.10 | 0.20 |
| Fee for Removing Liquidity | 0.50 | 0.50 | 0.50 | 0.40 |
| All Other Options: | | | | |
| Fee for Adding Liquidity | 0.00 | 0.45 | 0.45 | 0.30 |
| Fee for Removing Liquidity | 0.4[0]*3* | 0.45 | 0.45 | 0.45 |
| Rebate to Add Liquidity | 0.20 | 0.00 | 0.00 | 0.00 |

* * * * *

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaqomx.cchwallstreet.com,* 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

NASDAQ is proposing to modify Rule 7050 governing the fees assessed for options orders entered into NOM. Specifically, NASDAQ is proposing to modify pricing for both Penny Pilot Options and All Other Options with respect to the fees for removing liquidity. Currently, NASDAQ distinguishes between options that are included in the Penny Pilot and those that are not.

*Penny Options—Removing Liquidity*

The Exchange assesses a fee to members removing liquidity through NOM in options included in the Penny Pilot and charges a fee of $0.40 per executed contract to Customers for removing such liquidity and a fee of $0.45 per executed contract to members in the capacity of firm, NOM Market Maker and Non-NOM Market Maker for removing liquidity. The Exchange proposes to amend these fees for removing liquidity and assess a Customer $.43 per contract instead of $0.40 per contract.[5]

*Non-Penny Options—Removing Liquidity*

The Exchange assesses fees to members removing liquidity through NOM in non-Penny Options (All Other Options) and charges a fee of $0.40 per executed contract to members removing liquidity in the capacity of Customer and a fee of $0.45 per executed contract to members removing liquidity in the capacity of Firm, NOM Market Maker and Non-NOM Market Maker. The Exchange proposes to amend these fees for removing liquidity and assess a Customer $.43 per contract instead of $0.40.[6]

While changes pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative for transactions on September 1, 2010.

[3] The Penny Pilot was established in March 2008 and in October 2009 was expanded and extended through December 31, 2010. *See* Securities Exchange Act Release Nos. 57579 (March 28, 2008), 73 FR 18587 (April 4, 2008) (SR–NASDAQ–2008–026) (notice of filing and immediate effectiveness establishing Penny Pilot); 60874 (October 23, 2009), 74 FR 56682 (November 2, 2009) (SR–NASDAQ–2009–091) (notice of filing and immediate effectiveness expanding and extending Penny Pilot); 60965 (November 9, 2009), 74 FR 59292 (November 17, 2009) (SR–NASDAQ–2009–097) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); 61455 (February 1, 2010), 75 FR 6239 (February 8, 2010) (SR–NASDAQ–2010–013) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot); and 62029 (May 4, 2010), 75 FR 25895 (May 10, 2010) (SR–NASDAQ–2010–053) (notice of filing and immediate effectiveness adding seventy-five classes to Penny Pilot). *See also* Exchange Rule Chapter VI, Section 5.

[4] An order that removes liquidity is one that is entered into NOM and that executes against an order resting on the NOM book.

[5] A Firm, NOM Market Maker and Non-NOM Market Maker would continue to be assessed $0.45 per contract for removing liquidity.

[6] A Firm NOM Market Makers and Non-NOM Market Makers would continue to be assessed $.045 per contract for removing liquidity.

2. Statutory Basis

NASDAQ believes that the proposed rule changes are consistent with the provisions of Section 6 of the Act,[7] in general, and with Section 6(b)(4) of the Act,[8] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which NASDAQ operates or controls. The Exchange believes the proposed amendments to the fees for removing liquidity are equitable and reasonable because they are within the range of fees assessed by other exchanges employing similar pricing schemes. Specifically, NYSE Arca, Inc. ("NYSE Arca") assesses a customer electronic fee for taking liquidity of $0.45 for electronic executions in penny pilot issues and foreign currency options.[9]

NASDAQ is one of eight options market [sic] in the national market system for standardized options. It is a mature, robust market that is highly competitive with highly sophisticated and knowledge [sic] participants. Joining NASDAQ and electing to trade options is entirely voluntary. Under these circumstances, NASDAQ's fees must be competitive, fair and just in order for NASDAQ to attract order flow, execute orders, and grow as a market. NASDAQ thus believes that its fees are equitable, fair and reasonable and consistent with the Exchange Act.

*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**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [10] and paragraph (f)(2) of Rule 19b–4 [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–2010–105 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–2010–105. 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–NASDAQ–2010–105 and should be submitted on or before September 17, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. 2010–21307 Filed 8–26–10; 8:45 am]

**BILLING CODE 8010–01–P**

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(4).

[9] *See* NYSE Arca's Fee Schedule.

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] 17 CFR 240.19b–4(f)(2).

[12] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–62758; File No. SR–CBOE–2010–075]**

## Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the CBOE Stock Exchange Fee Schedule To Change the Transaction Fees for 24 Securities

August 23, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 12, 2010, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by CBOE. The Exchange has designated this proposal as one establishing or changing a due, fee, or other charge imposed by CBOE 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**

The Exchange proposes to modify the Fee Schedule for its CBOE Stock Exchange ("CBSX"). The text of the proposed rule change is available on the Exchange's Web site *http://www.cboe.org/legal*), at the Exchange's principal office, and at the Commission.

[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).

**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, Proposed Rule Change*

1. Purpose

CBSX proposes to modify its transaction fees for 24 securities currently traded on CBSX (the following symbols: BAC, C, DXD, EMC, EWJ, F, FAX, FAZ, GE, INTC, MOT, MSFT, MU, NOK, Q, QID, S, SIRI, SKF, T, TWM, UNG, UWM, XLF). For these securities, assuming their prices do not drop below $1, the takers of liquidity will receive a $0.0014 per share rebate, and makers of liquidity will incur a $0.0018 charge. The new pricing strategy is designed to incent order routing behavior that selects CBSX as the first destination. By offering customers a significant rebate to "remove" liquidity, the Exchange will offer overall economic benefits far above those received at other markets. The changes will take effect on August 16, 2010.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(4)[6] 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 members and other persons using its facilities.

*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**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and subparagraph (f)(2) of Rule 19b–4[8] 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–CBOE–2010–075 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–2010–075. 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–2010–075 and should be submitted on or before September 17, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. 2010–21342 Filed 8–26–10; 8:45 am]

**BILLING CODE 8010–01–P**

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(2).

[9] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–62755, File No. SR–MSRB–2010–02]**

## Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Granting Approval of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, to MSRB Rule G–34, CUSIP Numbers and New Issue Requirements, To Enhance the Interest Rate and Descriptive Information Currently Collected and Made Transparent by the MSRB on Municipal Auction Rate Securities and Variable Rate Demand Obligations

August 20, 2010.

**I. Introduction**

On March 10, 2010, the Municipal Securities Rulemaking Board ("MSRB"), filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to enhance the interest rate and descriptive information currently collected and made transparent by the MSRB on municipal Auction Rate Securities ("ARS") and Variable Rate Demand Obligations ("VRDOs"). The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

proposed rule change was published for comment in the **Federal Register** on April 2, 2010.[3] The Commission received six comment letters about the proposed rule change.[4] On July 9, 2010, the MSRB filed with the Commission, pursuant to Section 19(b)(1) of the Exchange Act [5] and Rule 19b–4 thereunder,[6] Amendment No. 1 to the proposed rule change.[7] The Commission received no comment letters in response to Amendment No. 1. This order approves the proposed rule change as modified by Amendment No. 1.

## II. Description of the Proposed Rule Change, as Modified by Amendment No. 1 to the Proposed Rule Change

The proposed rule change would enhance the interest rate and descriptive information currently collected and made transparent by the MSRB on municipal Auction Rate Securities ("ARS") and Variable Rate Demand Obligations ("VRDOs"). The proposed rule change would: (i) Amend MSRB Rules G–8, books and records, and G–34(c), variable rate security market information, to require brokers, dealers and municipal securities dealers (collectively "dealers") to (a) submit to the MSRB documents that define auction procedures and interest rate setting mechanisms for ARS and liquidity facilities for VRDOs; (b) report to the MSRB ARS bidding information; (c) report to the MSRB additional VRDO information; and (d) communicate to an ARS Program Dealer the fact that an order submitted for inclusion in an auction is on behalf of an ARS issuer or conduit borrower (collectively "rule change proposal"); (ii) amend the MSRB Short-term Obligation Rate Transparency ("SHORT") System Facility to collect and disseminate the documents identified in the rule change proposal ("SHORT System Facility amendment proposal"); and (iii) amend the MSRB EMMA Short-term Obligation Rate Transparency Service to make the documents collected in the SHORT System Facility amendment proposal available on the MSRB's Electronic Municipal Market Access (EMMA) Web site (the "EMMA Short-term Obligation Rate Transparency Service amendment"). A full description of the proposal is contained in the Notice of Amendment No. 1.

The MSRB has requested that the proposed rule change, which may be implemented in phases, be made effective on such date or dates as would be announced by the MSRB in notices published on the MSRB Web site, which dates would be no later than nine months after Commission approval of the proposed rule change and would be announced no later than sixty (60) days prior to the effective dates.

## III. Summary of Comments Received and the MSRB's Response

### *General Comments*

The Commission received six comment letters [8] relating to the Original Notice.[9] The MSRB addressed the issues raised by the comment letters on the original proposed rule change in the Notice of Amendment No. 1. The Commission received no comment letters in response to the Notice of Amendment No. 1.

While the commenters indicated general support for the MSRB's effort to increase transparency of ARS and VRDO, four commenters on the original proposed rule change expressed concerns about various aspects of the proposal or suggested alternatives.[10] Two other commenters who have invested in ARS described problems they had experienced in that market.[11] Mr. Drozdoff fully supported the proposal, noting that he held positions in two ARS and has been unable to obtain certain information about them. Mr. Drozdoff further stated that the lack of transparency creates the opportunity for manipulation and unfair dealing.

### *Additional VRDO Information*

The original proposed rule change would increase the information that a VRDO Remarketing Agent would be required to report to the SHORT System. SIFMA expressed concern with the requirement in the proposed rule change for VRDO Remarketing Agents to report the identity of each tender agent and liquidity provider and maintain the accuracy of that information. SIFMA noted that the Remarketing Agent is not in privity of contract with the tender agent or the liquidity facility provider, that the identities of these parties may change and that the Remarketing Agent may not receive timely notification of such changes. SIFMA suggested that Remarketing Agents only be required to report such information on a "best efforts" basis.

The MSRB stated that it does not believe that it is appropriate for VRDO Remarketing Agents to be required only to exercise best efforts to report this information. Under the terms of the original proposed rule change, the VRDO Remarketing Agent would be required to modify any past submissions to the SHORT System in the event updated information about the tender agents and liquidity providers becomes known. In response to this comment, the MSRB provided in Amendment No. 1 that the requirement to report these identities is based upon information known to the VRDO Remarketing Agent as of the time of the interest rate reset. The Commission believes that Amendment No. 1 adequately addresses this concern.

SIFMA also expressed concern that the VRDO Remarketing Agent does not necessarily know the par amount of VRDOs, if any, held by a liquidity provider ("Bank Bonds") at any point in time so that the VRDO Remarketing Agent would be able to obtain and report accurate information. SIFMA noted that VRDO Remarketing Agents may not know the precise amount of securities held as Bank Bonds as a result of revised amortization schedules for securities held as Bank Bonds as well as instances when holders tender securities directly to a tender agent. The MSRB noted in Amendment No. 1 that the proposal already adequately addresses SIFMA's concern as it only requires VRDO Remarketing Agents to report the par amount of Bank Bonds based upon information available to the VRDO Remarketing Agent as of the time of the interest rate reset. The Commission agrees that the requirement is reasonable because the reporting requirement is limited to information available to the VRDO Remarketing Agent.

### *ARS Bidding Information*

Saber Partners and SIFMA both stated that ARS bidding information required to be reported by ARS Program Dealers should be reported as individual data elements instead of as a word-searchable document. Saber Partners stated that greater transparency about the auctions would address some of the investor confidence issues created by

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[3] *See* Securities Exchange Act Release No. 61793 (March 26, 2010), 75 FR 16878 ("Original Notice") (the "original proposed rule change").

[4] *See* letters from: Vladimir Drozdoff, Centerport, New York, dated April 4, 2010 ("Drozdoff Letter"); Joseph S. Fichera, Saber Partners, LLC, New York, New York ("Saber Partners"), dated April 12, 2010 ("Saber Letter"); Heather Traeger, Associate Counsel, Investment Company Institute ("ICI"), dated April 23, 2010 ("ICI Letter"); Leslie M. Norwood, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association ("SIFMA"), dated April 23, 2010 ("SIFMA Letter"); Robert J. Stracks, Counsel, BMO Capital Markets GKST Inc. ("BMO Capital"), dated April 23, 2010 ("BMO Letter") and Nik Mainthia, dated July 12, 2010 ("Mainthia Letter").

[5] 15 U.S.C. 78s(b)(1).

[6] 17 CFR 240.19b–4.

[7] *See* Securities Exchange Act Release No. 62550 (July 22, 2010), 75 FR 44296 ("Notice of Amendment No. 1").

[8] *See supra* note 4.

[9] *See supra* note 3.

[10] *See* Saber Letter, ICI Letter, SIFMA Letter and BMO Letter.

[11] *See* Drozdoff Letter and Mainthia Letter.

the 2008 crisis and would encourage secondary market trading. Saber Partners also noted a large volume of ARS still outstanding that could benefit from additional market transparency. The MSRB agreed that having ARS bidding information collected as data elements would be a preferred method of data collection. The MSRB noted that collection of data elements would facilitate data analysis and the computation of statistics, such as a bid-to-cover ratio, that would provide meaningful information about the demand for a specific ARS. Accordingly, in response to these comments, Amendment No. 1 requires ARS bidding information to be reported to the SHORT System as individual data elements. The Commission believes Amendment No. 1 adequately addresses their concerns.

SIFMA also expressed concerns with the requirement to report orders submitted by an issuer or conduit borrower. SIFMA noted that some issuers or conduit borrowers utilize a third party, such as an investment adviser or registered representative, for submitting orders to an ARS Program Dealer. In these cases, the ARS Program Dealer may not know that such orders are on behalf of issuers or conduit borrowers. To ensure ARS Program Dealers are provided with this information, Amendment No. 1 includes a new requirement for any dealer that receives an order for inclusion in an auction for ARS from an issuer or conduit borrower of such ARS to disclose this fact when submitting the order to an ARS Program Dealer. In Amendment No. 1, the MSRB also amended the original proposed rule change by removing the requirement to identify whether orders placed by an issuer or conduit borrower were executed. The MSRB noted that ARS Program Dealers would not be able to reliably ascertain whether orders on behalf of an issuer or conduit borrower submitted by a third-party dealer were executed, particularly if the third-party dealer submits more orders than just those on behalf of the issuer or conduit borrower and only some of those orders are filled.

SIFMA also suggested that the requirement to disclose the interest rate(s) and aggregate par amount(s) of orders to sell at a specific rate should be amended to read "hold at a rate" to conform to current practice and documentation. SIFMA noted that when the rate drops below that customer's "hold at" rate, the order is automatically converted into a sell order. The MSRB acknowledged in Amendment No. 1 that this requirement could be consolidated to simplify the rule language. The MSRB stated that Amendment No. 1 removes the requirement to report "sell at rate" orders as the remaining "hold at rate" and "sell at any interest rate" categories of orders should provide for the reporting of all sell orders.

*ARS and VRDO Documents*

The original proposed rule change would require ARS Program Dealers and VRDO Remarketing Agents to submit to the MSRB current and any new or amended versions of ARS documents defining auction procedures and interest rate setting mechanisms and VRDO documents consisting of liquidity facilities, including Letter of Credit Agreements and Stand-by Bond Purchase Agreements.

For existing documents, the original proposed rule change would require VRDO Remarketing Agents to make and document best efforts to obtain existing VRDO documents and specified a timeframe of ninety business days from the date of effectiveness of a rule change for dealers to submit such documents to the MSRB. For ARS documents, ARS Program Dealers would be required to submit existing documents to the MSRB no later than ninety business days from the date of effectiveness of a rule change. On an ongoing basis, the original proposed rule change included a requirement to submit new or amended versions of ARS and VRDO documents no later than one business day after receipt by the dealer.

ICI stated that timing is vital to the value of collecting and disseminating this information to investors. Accordingly, ICI supported the MSRB's original proposed submission deadline of 30 days from the date of the proposed rule change instead of the proposal's 90-day submission deadline. The MSRB agreed that it is important to have a centralized source of ARS and VRDO documents as soon as practical. Nonetheless, the MSRB believes that ninety days is an appropriate timeframe for having such documents submitted to the MSRB given the large number of documents that would need to be submitted to the MSRB and the fact that, for outstanding issues, dealers may need time to request documents from third parties.

ICI also stated that they strongly support the one-business-day submission requirement for new or amended versions of the ARS and VRDO documents. By contrast, SIFMA suggested that the deadline for submitting such new or amended documents be five business days after receipt. SIFMA stated that a one-business-day time frame is unduly burdensome for a broker dealer to submit documents to which it is not a party, noted the lack of a uniform manner in which dealers receive such documents from issuers and liquidity facility providers, indicated that it could take a couple of days internally at a broker dealer for these documents to get routed to the proper place and stated that there are approximately 16,500 outstanding VRDO transactions that are serviced by approximately 80 different Remarketing Agents. The MSRB concluded that a five-business-day deadline would be consistent with the timeframe for submitting advance refunding documents to the MSRB and would be an appropriate timeframe, at least initially, for such new or amended versions of ARS and VRDO documents to be submitted to the MSRB. Accordingly, in response to this comment, Amendment No. 1 provides a five-business-day deadline for submitting new or amended versions of ARS and VRDO documents to the MSRB. The Commission finds that the 90-business-day and the five-business-day submission deadlines are reasonable, at least initially.

SIFMA also requested clarification of the recordkeeping requirement for VRDO Remarketing Agents to document best efforts to obtain existing VRDO documents and asked whether such documents would be required to contain signatures. The MSRB, in response to this comment, amended the original proposed rule change in Amendment No. 1 to clarify that such records are only required to be kept for those documents that are unable to be obtained. The MSRB also noted that all documents would be required to be final, operative versions of such documents. The MSRB indicated that while this requirement does not necessarily require that the document be signed, the MSRB noted that signatures would provide a clear indication that the document reflects a final version. The Commission believes that Amendment No. 1 adequately clarifies this issue.

*Other Comments*

ICI recommended that the MSRB consider expanding the proposed disclosures to ensure a more complete picture of the risks associated with ARS, VRDOs and other variable rate securities, such as "credit enhancement" data and documentation. In addition, ICI recommended that the MSRB create a "miscellaneous" or "catch-all" category of variable rate securities to provide investors with material information about new products. The MSRB noted a separate MSRB initiative to display on

EMMA information offered by credit ratings agencies would provide additional access to credit enhancement features associated with municipal securities on a market-wide basis.[12] The MSRB agrees that new products may benefit from the transparency offered for ARS and VRDO by the SHORT System, and plans to review in the future whether changes to the SHORT System and associated rules could accommodate future products without subsequent system and rule modifications.

With regard to all other issues raised by the commenters, the Commission believes that the MSRB has adequately addressed the commenters' concerns.

## IV. Discussion and Commission Findings

The Commission has carefully considered the proposed rule change, the comment letters received, and the MSRB's responses to the comment letters and finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to the MSRB[13] and, in particular, the requirements of Section 15B(b)(2)(C) of the Exchange Act[14] and the rules and regulations thereunder. Section 15B(b)(2)(C) of the Exchange Act requires, among other things, that the MSRB's rules be 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.[15] In particular, the Commission believes that the proposed rule change would serve as an additional mechanism by which the MSRB works toward removing impediments to and helping to perfect the mechanisms of a free and open market in municipal securities by providing a centralized venue for free public access to information about and documents relating to ARS and VRDO. The proposed rule change would provide greater access to information about and documents relating to ARS and VRDO to all participants in the municipal securities market on an equal basis thereby removing potential barriers to obtaining such information. These factors serve to promote the statutory mandate of the MSRB to protect investors and the public interest.

## V. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change, as amended, is consistent with the Exchange Act and the rules and regulations thereunder applicable to the MSRB[16] and, in particular, the requirements of Section 15B(b)(2)(C) of the Exchange Act[17] and the rules and regulations thereunder. The proposal will become effective as requested by the MSRB.

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Exchange Act,[18] that the proposed rule change (SR–MSRB–2010–02), as amended, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. 2010–21308 Filed 8–26–10; 8:45 am]

**BILLING CODE 8010–01–P**

[12] *See* MSRB Notice 2010–13 (May 20, 2010).

[13] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78o–4(b)(2)(C).

[15] *Id.*

[16] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[17] 15 U.S.C. 78o–4(b)(2)(C).

[18] 15 U.S.C. 78s(b)(2).

[19] 17 CFR 200.30–3(a)(12).

## DEPARTMENT OF STATE

**[Public Notice: 7119]**

## 60-Day Notice of Proposed Information Collection: Voluntary Disclosures

**ACTION:** Notice of request for public comments.

**SUMMARY:** The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Voluntary Disclosures.
- *OMB Control Number:* 1405–0179.
- *Type of Request:* Extension of Currently Approved Collection.
- *Originating Office:* Bureau of Political-Military Affairs, Directorate of Defense Trade Controls, PM/DDTC.
- *Form Number:* None.
- *Respondents:* Business and Nonprofit Organizations.
- *Estimated Number of Respondents:* 750.
- *Estimated Number of Responses:* 1,000.
- *Average Hours per Response:* 10 hours.
- *Total Estimated Burden:* 10,000 hours.
- *Frequency:* On Occasion.
- *Obligation to Respond:* Voluntary.

**DATES:** The Department will accept comments from the public up to 60 days from August 27, 2010.

**ADDRESSES:** Comments and questions should be directed to Nicholas Memos, Office of Defense Trade Controls Policy, Department of State, who may be reached via the following methods:

- *E-mail: memosni@state.gov.*
- *Mail:* Nicholas Memos, SA–1, 12th Floor, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, U.S. Department of State, Washington, DC 20522–0112.
- *Fax:* 202–261–8199.

You must include the information collection title in the subject lines of your message/letter.

**FOR FURTHER INFORMATION CONTACT:** Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the information collection and supporting documents, to Nicholas Memos, PM/DDTC, SA–1, 12th Floor, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, U.S. Department of State, Washington, DC, 20522–0112, who may be reached via phone at (202) 663–2804, or via e-mail at *memosni@state.gov.*

**SUPPLEMENTARY INFORMATION:** We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of technology.

*Abstract of proposed collection:* The export, temporary import, temporary export and brokering of defense articles, defense services and related technical data are licensed by the Directorate of Defense Trade Controls (DDTC) in

accordance with the International Traffic in Arms Regulations ("ITAR," 22 CFR parts 120–130) and Section 38 of the Arms Export Control Act (AECA). Those who manufacture or export defense articles, defense services, and related technical data, or the brokering thereof, must register with the Department of State. Persons desiring to engage in export, temporary import, and brokering activities must submit an application or written request to conduct the transaction to the Department to obtain a decision whether it is in the interests of U.S. foreign policy and national security to approve the transaction. Also, registered brokers must submit annual reports regarding all brokering activity that was transacted, and registered manufacturers and exporter must maintain records of defense trade activities for five years. Section 127.12 of the ITAR encourages the disclosure of information to DDTC by persons who believe they may have violated any provision of the AECA, ITAR, or any order, license, or other authorization issued under the AECA. The violation is analyzed by DDTC to determine whether to take administrative action under part 128 of the ITAR and whether to refer the matter to the Department of Justice to consider criminal prosecution.

*Methodology:* These forms/information collections may be sent to the Directorate of Defense Trade Controls via the following methods: Electronically, mail, personal delivery, and/or fax.

Dated: August 19, 2010.

**Beth M. McCormick,**

*Deputy Assistant Secretary for Defense Trade, Bureau of Political-Military Affairs, U.S. Department of State.*

[FR Doc. 2010–21445 Filed 8–26–10; 8:45 am]

**BILLING CODE 4710–27–P**

## DEPARTMENT OF STATE

**[Public Notice 7133]**

## State–68, Office of the Coordinator for Reconstruction and Stabilization Records

*Summary:* Notice is hereby given that the Department of State proposes to amend an existing system of records, Office of the Coordinator for Reconstruction and Stabilization Records, State–68, pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a) and Office of Management and Budget Circular No. A–130, Appendix I. The Department's report was filed with the Office of Management and Budget on July 27, 2010.

It is proposed that the current system will retain the name "Office of the Coordinator for Reconstruction and Stabilization Records." It is also proposed that the amended system description will include revisions/additions to: Categories of records; Purpose; Routine uses; and Storage, Safeguards and Retrievability as well as other administrative updates. Further, the following section has been added to the system of records, Office of the Coordinator for Reconstruction and Stabilization Records, State–68 to ensure Privacy Act of 1974 compliance: Contesting Record Procedures.

Any persons interested in commenting on the amended system of records may do so by submitting comments in writing to Margaret P. Grafeld, Director, Office of Information Programs and Services, A/GIS/IPS, Department of State, SA–2, 515 22nd Street, Washington, DC 20522–8001.

This amended system of records will be effective 40 days from the date of publication, unless we receive comments that will result in a contrary determination.

The amended system description, "Office of the Coordinator for Reconstruction and Stabilization Records, State–68," will read as set forth below.

Dated: July 27, 2010.

**Steven J. Rodriguez,**

*Deputy Assistant Secretary of Operations, Bureau of Administration, U.S. Department of State.*

### STATE–68

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM NAME:**

Office of the Coordinator for Reconstruction and Stabilization Records.

**SYSTEM LOCATION:**

Department of State, SA–3, 2121 Virginia Avenue, NW., Washington, DC 20520.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals who have been or will be involved in international reconstruction and stabilization activities and individuals who offer to participate in potential future overseas reconstruction and stabilization activities in a foreign deployment or in a management function based in Washington, DC, and/or in domestic training and civilian-military exercises.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Name; Social Security number; date of birth; citizenship; contact information such as mailing address, e-mail and/or phone number; passport number, dates of expiration, places of issuance; driver's license number, dates of expiration and state where issued; individuals' height and weight; language skills; military service, if any; prior related experience; security clearance status; medical clearance; personal gear/clothing size; emergency contact information and dependent information.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Public Law 108–447, Div B, Title IV, Sec. 408, 118 Stat. 2904 (Consolidated Appropriations Act, 2005).

**PURPOSE:**

The information in this system will be used to assist the Office of the Coordinator for Reconstruction and Stabilization to carry out its mandate to lead, coordinate, and institutionalize international reconstruction and stabilization activities of the U.S. Government.

The database shall be compiled and used to categorize and identify individuals who volunteer to participate in Civilian Response Corps missions and other international reconstruction and stabilization activities.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:**

The records in this system may be disclosed to:

(1) Any and all U.S. Government agencies involved in reconstruction and stabilization operations in order to coordinate U.S. efforts in international reconstruction and stabilization; to determine which members are available and best qualified for particular missions; and to manage and select individuals who have been hired or agreed to deploy oversees in support of reconstruction and stabilization efforts of the U.S. Government.

(2) The United Nations, North Atlantic Treaty Organization (NATO) or similar international organizations for the purpose of coordinating personnel engaged in specific reconstruction and stabilization activities.

(3) U.S. and NATO military installations for the purpose of sharing information necessary for security checks and to obtain access to military facilities, including manifesting on military aircraft.

(4) State governments, foreign governments and international organizations where employees are

being considered for detail, assignment or secondment.

(5) Officials of foreign governments and other U.S. Government agencies for clearance before a Federal employee is assigned to that country as well as for the procurement of necessary services for American personnel assigned overseas, such as permits of free entry and identity cards;

(6) Attorneys, union representatives or other persons designated in writing by employees who are the subject of the information to represent them in complaints, grievances, or other litigation.

The Department of State periodically publishes in the **Federal Register** its standard routine uses that apply to all of its Privacy Act systems of records. These notices appear in the form of a Prefatory Statement. These standard routine uses apply to the Office of the Coordinator for Reconstruction and Stabilization Records, State–68.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Electronic media.

**RETRIEVABILITY:**

Individual's name or system generated identification number.

**SAFEGUARDS:**

The Department of State will maintain responsibility for keeping the records accurate and updated; however, a limited number of U.S. Agency for International Development (USAID) personnel will be allowed to access the CRC database in order to run the Civilian Deployment Center. These USAID personnel will use a State Department-approved remote access program in order to enter the State system. All Department of State and USAID employees and contractors with authorized access have undergone a thorough background security investigation. All users must take mandatory annual cyber security awareness training including the procedures for handling Sensitive But Unclassified and personally identifiable information. Before being granted access to the Office of the Coordinator for Reconstruction and Stabilization Records, a user must first be granted access to Department of State computer systems.

Remote access to the Department of State network from non-Department owned systems is only authorized through a Department-approved remote access program. Remote access to the network is configured with two factor authentication and time-out functions.

Access to the Department and its annexes is controlled by security guards and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. Servers are stored in Department of State secured facilities in cipher locked server rooms. Access to electronic files is password-protected and under the direct supervision of the system manager. The system manager has the capability of printing audit trails of access from the computer media, thereby permitting regular and ad hoc monitoring of computer usage. When it is determined that a user no longer needs access, the user account is disabled.

**RETENTION AND DISPOSAL:**

These records will be maintained with published record disposition schedules of the Department of State as approved by the National Archives and Records Administration (NARA). More specific information may be obtained by writing to the Director, Office of Information Programs and Services, A/GIS/IPS, SA–2, Department of State, 515 22nd Street, NW., Washington, DC 20522–8100.

**SYSTEM MANAGER AND ADDRESS:**

Office of the Coordinator for Reconstruction and Stabilization, Department of State, SA–3, 2121 Virginia Avenue, NW., Washington, DC 20520.

**NOTIFICATION PROCEDURE:**

Individuals who have reason to believe that the Office of the Coordinator for Reconstruction and Stabilization might have records pertaining to them should write to the Director, Office of Information Programs and Services, A/GIS/IPS, SA–2, Department of State, 515 22nd Street, NW., Washington, DC 20522–8100. The individual must specify that he or she wishes the records of the Office of the Coordinator for Reconstruction and Stabilization to be checked. At a minimum, the individual should include: Name; date and place of birth; current mailing address and zip code; signature; a brief description of the circumstances that caused the creation of the record (including the city and/or country and the approximate dates) which gives the individual cause to believe that the Office of the Coordinator for Reconstruction and Stabilization has records pertaining to them.

**RECORD ACCESS AND AMENDMENT PROCEDURES:**

Individuals who wish to gain access to, or amend records pertaining to, themselves should write to the Director, Office of Information Programs and Services (address above).

**CONTESTING RECORD PROCEDURES:**

See above.

**RECORD SOURCE CATEGORIES:**

These records contain information that is obtained from the individual who is the subject of the records.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

[FR Doc. 2010–21432 Filed 8–26–10; 8:45 am]

**BILLING CODE 4710–24–P**

## DEPARTMENT OF STATE

**[Public Notice 7132]**

## State–07, Cryptographic Clearance Records

*Summary:* Notice is hereby given that the Department of State proposes to amend an existing system of records, Cryptographic Clearance Records, State-07, pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a) and Office of Management and Budget Circular No. A–130, Appendix I. The Department's report was filed with the Office of Management and Budget on July 27, 2010.

It is proposed that the current system will retain the name "Cryptographic Clearance Records." It is also proposed that the amended system description will include revisions/additions to the: Categories of individuals, Categories of records, Authority for maintenance of the system, Purpose, Safeguards and Retrievability as well as other administrative updates.

Any persons interested in commenting on the amended system of records may do so by submitting comments in writing to Margaret P. Grafeld, Director, Office of Information Programs and Services, A/GIS/IPS, Department of State, SA–2, 515 22nd Street, NW., Washington, DC 20522–8001. This system of records will be effective 40 days from the date of publication, unless we receive comments that will result in a contrary determination.

The amended system description, "Cryptographic Clearance Records, State–07," will read as set forth below.

Dated: July 27, 2010.

**Steven J. Rodriguez,**

*Deputy Assistant Secretary of Operations, Bureau of Administration, U.S. Department of State.*

**STATE–07**

**SYSTEM NAME:**

Cryptographic Clearance Records.

**SYSTEM CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Department of State, 301 4th St., SW., Room 750 Washington, DC 20547.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

All current Civil Service and Foreign Service direct hire employees of the Department of State and Agency for International Development who have applied for cryptographic clearances as well as those who have already received cryptographic clearance.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system contains employee name; the position held by an employee; correspondence from the Bureau of Diplomatic Security concerning an individual's clearance; and the date the clearance was granted or denied.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Executive Order 13526.

**PURPOSE:**

The information contained in these records is used to protect the Bureau of Information Resource Management's cryptographic duties and to protect sensitive information from unauthorized disclosure. Information relating to an employee's eligibility for cryptographic clearance is used solely by the Bureau of Information Resource Management.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

The Department of State periodically publishes in the **Federal Register** its standard routine uses that apply to all of its Privacy Act systems of records. These notices appear in the form of a Prefatory Statement. These standard routine uses apply to the Cryptographic Clearance Records, State-07.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Hard copy; magnetic computer media.

**RETRIEVABILITY:**

By individual name.

**SAFEGUARDS:**

All users are given information system security awareness training, including the procedures for handling Sensitive but Unclassified information and personally identifiable information. Annual refresher training is mandatory. Before being granted access to Cryptographic Clearance Records, a user must first be granted access to the Department of State computer system.

All Department of State employees and contractors with authorized access have undergone a thorough background security investigation. Access to the Department of State, its annexes and posts abroad is controlled by security guards and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. All paper records containing personal information are maintained in secured file cabinets in restricted areas, access to which is limited to authorized personnel only. Access to computerized files is password-protected and under the direct supervision of the system manager. The system manager has the capability of printing audit trails of access from the computer media, thereby permitting regular and ad hoc monitoring of computer usage.

When it is determined that a user no longer needs access, the user account is disabled.

**RETENTION AND DISPOSAL:**

Records are retired in accordance with published Department of State Records Disposition Schedules as approved by the National Archives and Records Administration (NARA). More specific information may be obtained by writing the Director, Office of Information Programs and Services, Department of State, SA–2, 515 22nd Street, NW., Washington, DC 20522–8001.

**SYSTEM MANAGER(S) AND ADDRESS:**

Chief, Cryptographic Services Branch, Systems Integrity Division, Bureau of Information Resource Management, Room 750, SA–44, 301 4th Street, SW., Washington, DC 20547.

**NOTIFICATION PROCEDURE:**

Individuals who have cause to believe that the Cryptographic Services Branch might have records pertaining to them should write to the Director, Office of Information Programs and Services, Department of State, SA–2, 515 22nd Street, NW., Washington, DC 20522–8001. The individual must specify that he/she wishes the records of the Systems Integrity Division to be checked. At a minimum, the individual must include: Name; date and place of birth; current mailing address and zip code; signature; the approximate dates of employment with the Department of State; and the nature of such employment.

**RECORD ACCESS PROCEDURES:**

Individuals who wish to gain access to or amend records pertaining to themselves should write to the Director, Office of Information Programs and Services (address above).

**CONTESTING RECORD PROCEDURES:**

(*See* above).

**RECORD SOURCE CATEGORIES:**

The individual; Cryptographic Services Branch.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

[FR Doc. 2010–21429 Filed 8–26–10; 8:45 am]

**BILLING CODE 4710–24–P**

## SUSQUEHANNA RIVER BASIN COMMISSION

### Notice of Public Hearing and Commission Meeting

**AGENCY:** Susquehanna River Basin Commission.

**ACTION:** Notice of public hearing and Commission meeting.

**SUMMARY:** The Susquehanna River Basin Commission will hold a public hearing as part of its regular business meeting on September 16, 2010, in Corning, NY. At the public hearing, the Commission will consider: (1) Action on certain water resources projects; (2) compliance matters involving three projects; (3) action on a project involving a diversion; and (4) the rescission of two docket approvals. Details concerning the matters to be addressed at the public hearing and business meeting are contained in the **SUPPLEMENTARY INFORMATION** section of this notice.

**DATES:** September 16, 2010, at 8:30 a.m.

**ADDRESSES:** Radisson Hotel Corning, 125 Denison Parkway East, Corning, NY 14830.

**FOR FURTHER INFORMATION CONTACT:** Richard A. Cairo, General Counsel, *telephone:* (717) 238–0423, ext. 306; *fax:* (717) 238–2436; *e-mail: rcairo@srbc.net* or Stephanie L. Richardson, Secretary to the Commission, *telephone:* (717) 238–0423, ext. 304; *fax:* (717) 238–2436; *e-mail: srichardson@srbc.net.*

**SUPPLEMENTARY INFORMATION:** In addition to the public hearing and its related action items identified below,

the business meeting also includes actions or presentations on the following items: (1) Update on the SRBC Remote Water Quality Monitoring Network; (2) hydrologic conditions in the basin; (3) final rulemaking covering 18 CFR Parts 806 and 808; (4) ratification/approval of grants/contracts; and (5) revision of the FY 2012 budget resolution. The Commission will also hear Legal Counsel's report.

**Public Hearing—Compliance Matters**

1. *Project Sponsor:* Talisman Energy USA Inc. Pad ID: Castle 01 047 (ABR–20100128), Armenia Township; Harvest Holdings 01 036 (ABR–20100225), Canton Township; and Putnam 01 076 (ABR–20100233), Armenia Township; Bradford County, Pa.

2. *Project Sponsor:* Cabot Oil & Gas Corporation. Withdrawal ID: Susquehanna River-3 (Docket No. 20080905), Great Bend Borough, Susquehanna County, Pa.

3. *Project Sponsor:* Seneca Resources Corporation. Pad ID: M. Pino H (ABR–20090933), DCNR 100 1V (ABR–20090436), Wilcox F (ABR–20090505), T. Wivell (ABR–20090814), Wivell I (ABR–20100607), DCNR 595 E (ABR–20100307), DCNR 595 D (ABR–20090827); Withdrawal ID: Arnot 5—Signor (Docket No. 20090908).

**Public Hearing—Projects Scheduled for Action**

1. *Project Sponsor and Facility:* Anadarko E&P Company LP (Beech Creek), Snow Shoe Township, Centre County, Pa. Application for surface water withdrawal of up to 0.249 mgd.

2. *Project Sponsor and Facility:* Anadarko E&P Company LP (Pine Creek—2), McHenry Township, Lycoming County, Pa. Application for surface water withdrawal of up to 0.499 mgd.

3. *Project Sponsor and Facility:* Anadarko E&P Company LP (Wolf Run), Snow Shoe Township, Centre County, Pa. Application for surface water withdrawal of up to 0.499 mgd.

4. *Project Sponsor:* Aqua Pennsylvania, Inc. Project Facility: Monroe Manor Water System, Monroe Township, Snyder County, Pa. Application for groundwater withdrawal of up to 0.180 mgd from Well 4.

5. *Project Sponsor and Facility:* Buck Ridge Stone, LLC (Salt Lick Creek), New Milford Township, Susquehanna County, Pa. Application for surface water withdrawal of up to 0.083 mgd.

6. *Project Sponsor and Facility:* Chesapeake Appalachia, LLC (Susquehanna River), Mehoopany Township, Wyoming County, Pa. Modification to project features of the withdrawal approval (Docket No. 20080923).

7. *Project Sponsor and Facility:* Chief Oil & Gas LLC (Martins Creek), Hop Bottom Borough, Susquehanna County, Pa. Application for surface water withdrawal of up to 0.360 mgd.

8. *Project Sponsor and Facility:* Citrus Energy (Susquehanna River), Washington Township, Wyoming County, Pa. Application for surface water withdrawal of up to 1.495 mgd.

9. *Project Sponsor and Facility:* Geary Enterprises (Buttermilk Creek), Falls Township, Wyoming County, Pa. Application for surface water withdrawal of up to 0.099 mgd.

10. *Project Sponsor and Facility:* Mansfield Borough Municipal Authority, Richmond Township, Tioga County, Pa. Application for groundwater withdrawal of up to 0.079 mgd from Well 3.

11. *Project Sponsor:* New Morgan Landfill Company, Inc. Project Facility: Conestoga Landfill, Bethel Township, Berks County, Pa. Application for groundwater withdrawal of up to 0.003 mgd from the Shop Well.

12. *Project Sponsor:* New Morgan Landfill Company, Inc. Project Facility: Conestoga Landfill (Quarry Pond), Bethel Township, Berks County, Pa. Application for surface water withdrawal of up to 0.250 mgd.

13. *Project Sponsor and Facility:* Novus Operating, LLC (Cowanesque River), Westfield Township, Tioga County, Pa. Application for surface water withdrawal of up to 0.750 mgd.

14. *Project Sponsor and Facility:* Novus Operating, LLC (Tioga River), Covington Township, Tioga County, Pa. Application for surface water withdrawal of up to 1.750 mgd.

15. *Project Sponsor and Facility:* Smith Transport Warehouse (Bald Eagle Creek), Snyder Township, Blair County, Pa. Application for surface water withdrawal of up to 0.160 mgd.

16. *Project Sponsor and Facility:* Sugar Hollow Trout Park and Hatchery, Eaton Township, Wyoming County, Pa. Application for groundwater withdrawal of up to 0.864 mgd combined total from Wells 1, 2, and 3 (Hatchery Well Field).

17. *Project Sponsor and Facility:* Talisman Energy USA Inc. (Seeley Creek), Wells Township, Bradford County, Pa. Application for surface water withdrawal of up to 0.750 mgd.

18. *Project Sponsor and Facility:* Talisman Energy USA Inc. (Wyalusing Creek), Stevens Township, Bradford County, Pa. Application for surface water withdrawal of up to 2.000 mgd.

19. *Project Sponsor and Facility:* Walker Township Water Association, Walker Township, Centre County, Pa. Modification to increase the total groundwater system withdrawal limit (30-day average) from 0.523 mgd to 0.962 mgd (Docket No. 20070905).

20. *Project Sponsor and Facility:* Williams Production Appalachia, LLC (Snake Creek), Liberty Township, Susquehanna County, Pa. Modification to project features of the withdrawal approval (Docket No. 20090302).

**Public Hearing—Project Scheduled for Action Involving a Diversion**

1. *Project Sponsor:* Gettysburg Municipal Authority. Project Facility: Hunterstown Wastewater Treatment Plant, Abbottstown Borough, Adams County, Pa. Application for an existing into-basin diversion of up to 0.123 mgd from the Potomac River Basin.

**Public Hearing—Projects Scheduled for Rescission Action**

1. *Project Sponsor:* McNeil PPC. Project Facility: Johnson & Johnson (Docket No. 20050906), Lititz Borough, Lancaster County, Pa.

2. *Project Sponsor:* Northampton Fuel Supply Company, Inc. Project Facility: Loomis Bank Operation (Docket No. 20040904), Hanover Township, Luzerne County, Pa.

**Opportunity To Appear and Comment**

Interested parties may appear at the above hearing to offer written or oral comments to the Commission on any matter on the hearing agenda, or at the business meeting to offer written or oral comments on other matters scheduled for consideration at the business meeting. The chair of the Commission reserves the right to limit oral statements in the interest of time and to otherwise control the course of the hearing and business meeting. Written comments may also be mailed to the Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, Pennsylvania 17102–2391, or submitted electronically to Richard A. Cairo, General Counsel, *e-mail: rcairo@srbc.net* or Stephanie L. Richardson, Secretary to the Commission, *e-mail: srichardson@srbc.net.* Comments mailed or electronically submitted must be received prior to September 10, 2010, to be considered.

**Authority:** Public Law 91–575, 84 Stat. 1509 *et seq.,* 18 CFR Parts 806, 807, and 808.

Dated: August 17, 2010.

**Thomas W. Beauduy,**

*Deputy Director.*

[FR Doc. 2010–21334 Filed 8–26–10; 8:45 am]

**BILLING CODE 7040–01–P**

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

### Membership of the Performance Review Board (PRB)

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice.

**SUMMARY:** The following staff members have been appointed to serve on the Performance Review Board:

**Performance Review Board (PRB)**

*Chair:* Florizelle Liser
*Alternate Chair:* Barbara Weisel
*Member:* Christopher Wilson
*Member:* Lewis Karesh
*Executive Secretary:* Susan Buck

**DATES:** *Effective Date:* August 12, 2010.

**FOR FURTHER INFORMATION CONTACT:** Questions regarding this submission should be directed to Lorraine Green, Deputy Assistant U.S. Trade Representative for Administration and Director of Human Resources (202) 395–7360.

**Lorraine Green,**

*Deputy Assistant U.S. Trade Representative for Administration and Director of Human Resources.*

[FR Doc. 2010–21371 Filed 8–26–10; 8:45 am]

**BILLING CODE 3190–W0–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Certification of Airmen for the Operation of Light-Sport Aircraft

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on June 10, 2010, vol. 75, no. 111, pages 32982–32983. This rule generated a need for new designated pilot examiners and designated airworthiness representatives to support the certification of new aircraft, pilots, flight instructors, and ground instructors.

**DATES:** Written comments should be submitted by September 27, 2010.

**FOR FURTHER INFORMATION CONTACT:** Carla Scott on (202) 267–9895, or by e-mail at: *Carla.Scott@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 2120–0690.

*Title:* Certification of Airmen for the Operation of Light-Sport Aircraft.

*Form Numbers:* FAA Forms 8710–11, 8610–2, 337, 8110–14, 8110–28.

*Type of Review:* Renewal of an information collection.

*Background:* The "Certification of Aircraft and Airmen for the Operation of Light-Sport Aircraft" Final Rule was published in the **Federal Register** on July 27, 2004, vol. 69, no. 143, pages 44771–44820. The rule generated a need for new designated pilot examiners and designated airworthiness representatives to support the certification of new aircraft, pilots, flight instructors, and ground instructors.

*Respondents:* Approximately 57,214 pilots and maintenance personnel.

*Frequency:* Information is collected on occasion.

*Estimated Average Burden per Response:* 3 hours.

*Estimated Total Annual Burden:* 72,582 hours.

**ADDRESSES:** Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202)395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503.

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC, on August 23, 2010.

**Carla Scott,**

*FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.*

[FR Doc. 2010–21452 Filed 8–26–10; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Agency Information Collection Activities: Request for Comments; Clearance of a New Information Collection: FAA Safety Briefing Readership Survey

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval for a new information collection. The audience of the FAA Safety Briefing consists of nearly one-half million U.S. general aviation pilots, flight instructors, mechanics, and repairmen. The survey will help the editors learn more about the target audience and how they elect to improve their safety skills/practices, and what they need to know to improve their safety skills/practices. With this information, the editors can craft FAA Safety Briefing content targeted to its audience to help accomplish the FAA and Department of Transportation's mission of improving safety.

**DATES:** Written comments should be submitted by October 26, 2010.

**FOR FURTHER INFORMATION CONTACT:** Carla Scott on (202) 267–9895, or by e-mail at: *Carla.Scott@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 2120–XXXX.

*Title:* FAA Safety Briefing Readership Survey.

*Form Numbers:* There are no FAA forms associated with this collection.

*Type of Review:* New collection.

*Background:* The bimonthly print and online publication FAA Safety Briefing is designed to improve general aviation safety by: (a) Making the community aware of FAA resources, (b) helping readers understand safety and regulatory issues, and (c) encouraging continued training. It is targeted to members of the non-commercial general aviation community, primarily pilots and mechanics. This survey is intended

to help the editors of FAA Safety Briefing better understand the target audience.

*Respondents:* Approximately 7,000 pilots, flight instructors, mechanics, and repairmen.

*Frequency:* One time per respondent.

*Estimated Average Burden per Response:* Approximately 10 minutes per survey.

*Estimated Total Annual Burden:* An estimated 1016.6 hours.

**ADDRESSES:** Send comments to the FAA at the following address: Ms. Carla Scott, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including (a) whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC on August 20, 2010.

**Carla Scott,**

*FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.*

[FR Doc. 2010–21214 Filed 8–26–10; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Certification: Mechanics, Repairmen, and Parachute Riggers, FAR 65

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. FAR part 65 prescribes requirements for mechanics, repairmen, parachute riggers, and inspection authorizations. The information collected shows applicant eligibility for certification.

**DATES:** Written comments should be submitted by October 26, 2010.

**FOR FURTHER INFORMATION CONTACT:** Carla Scott on (202) 267–9895, or by e-mail at: *Carla.Scott@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 2120–0022.

*Title:* Certification: Mechanics, Repairmen, and Parachute Riggers, FAR 65.

*Form Numbers:* FAA Forms 8610–1, 8610–2.

*Type of Review:* Renewal of an information collection.

*Background:* FAR Part 65 prescribes, among other things, rules governing the issuance of certificates and associated rating for mechanic, repairman, parachute riggers, and issuance of inspection authorizations. The information collected on the forms submitted for renewal is used for evaluation by the FAA, which is necessary for issuing a certificate and/or rating. Certification is necessary to ensure qualifications of the applicant.

*Respondents:* An estimated 41,750 mechanics, repairmen, and parachute riggers.

*Frequency:* Information is collected on occasion.

*Estimated Average Burden per Response:* 20 minutes.

*Estimated Total Annual Burden:* 31,838 hours.

**ADDRESSES:** Send comments to the FAA at the following address: Ms. Carla Scott, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC, on August 23, 2010.

**Carla Scott,**

*FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.*

[FR Doc. 2010–21440 Filed 8–26–10; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: High Density Traffic Airports; Slot Allocation and Transfer Methods

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. This information collection is used to allocate slots and maintain accurate records of slot transfers at High Density Traffic Airports. The information is provided by air carriers and commuter operators, or other persons holding a slot at High Density Airports.

**DATES:** Written comments should be submitted by October 26, 2010.

**FOR FURTHER INFORMATION CONTACT:** Carla Scott on (202) 267–9895, or by e-mail at: *Carla.Scott@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 2120–0524.

*Title:* High Density Traffic Airports; Slot Allocation and Transfer Methods.

*Form Numbers:* There are no FAA forms associated with this information collection.

*Type of Review:* Renewal of an information collection.

*Background:* The information is reported to the FAA by air carriers and commuter operators or other persons holding a slot at high density airports. Generally, the information collection requirements involve the air carriers or commuter operators notifying the FAA of their current and planned activities regarding use of the arrival and departure slots at high density airports. The air carriers or commuter operators must notify the FAA of: (1) Requests for confirmation of transferred slots; (2) slots required to be returned or slots voluntarily returned; (3) requests to be included in a lottery for available slots; (4) usage of slots on a bi-monthly basis; and (5) requests for short-term use of off-peak hour slots. The information is used to allocate and withdraw takeoff and landing slots at high density airports, and confirms transfers of slots made among the operators.

*Respondents:* Approximately 14 air carriers and commuter operators.

*Frequency:* Information is collected on occasion.

*Estimated Average Burden per Response:* 34 minutes.

*Estimated Total Annual Burden:* 771 hours.

**ADDRESSES:** Send comments to the FAA at the following address: Ms. Carla Scott, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC, on August 23, 2010.

**Carla Scott,**

*FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.*

[FR Doc. 2010–21443 Filed 8–26–10; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Maintenance, Preventative Maintenance, Rebuilding and Alteration

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. FAR Part 43 prescribes the rules governing maintenance, rebuilding, and alteration of aircraft components, and is necessary to ensure this work is performed by qualified persons, and at proper intervals. This work is done by certified mechanics, repair stations, and air carriers authorized to perform maintenance.

**DATES:** Written comments should be submitted by October 26, 2010.

**FOR FURTHER INFORMATION CONTACT:** Carla Scott on (202) 267–9895, or by e-mail at: *Carla.Scott@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 2120–0020.

*Title:* Maintenance, Preventative Maintenance, Rebuilding and Alteration.

*Form Numbers:* FAA Form 337.

*Type of Review:* Renewal of an information collection.

*Background:* The information collection associated with FAR 43 is necessary to ensure that maintenance, rebuilding, or alteration of aircraft, aircraft components, etc., is performed by qualified individuals and at proper intervals. Further, proper maintenance records are essential to ensure that an aircraft is properly maintained and is mechanically safe for flight.

*Respondents:* An estimated 87,769 certified mechanics, repair stations, and air carriers authorized to perform maintenance.

*Frequency:* Information is collected annually.

*Estimated Average Burden per Response:* 30 minutes per response.

*Estimated Total Annual Burden:* 138,083 hours.

**ADDRESSES:** Send comments to the FAA at the following address: Ms. Carla Scott, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC, on August 23, 2010.

**Carla Scott,**

*FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.*

[FR Doc. 2010–21453 Filed 8–26–10; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Physiological Training

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. This report is necessary to establish qualifications of eligibility to receive voluntary physiological training with the U.S. Air Force and will be used as proper evidence of training. The information is collected from pilots and crewmembers for application to receive voluntary training.

**DATES:** Written comments should be submitted by October 26, 2010.

**FOR FURTHER INFORMATION CONTACT:** Carla Scott on (202) 267–9895, or by e-mail at: *Carla.Scott@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

*OMB Control Number:* 2120–0101.

*Title:* Physiological Training.

*Form Numbers:* AC Form 3150–7.

*Type of Review:* Renewal of an information collection.

*Background:* The submission of this application information is authorized by the Federal Aviation Reauthorization Act 1996. The collection of information is necessary to determine if the applicants meet the qualifications for training under the FAA/USAF training agreement. The information is used by the Aeromedical Education Division (AAM–400) to determine if the applicant is qualified to receive physiological training.

*Respondents:* An estimated 5,500 pilots and crewmembers.

*Frequency:* Information is collected on occasion.

*Estimated Average Burden per Response:* 8 minutes.

*Estimated Total Annual Burden:* 733 hours.

**ADDRESSES:** Send comments to the FAA at the following address: Ms. Carla Scott, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES–200, 800 Independence Ave., SW., Washington, DC 20591.

*Public Comments Invited:* You are asked to comment on any aspect of this

information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC, on August 23, 2010.

**Carla Scott,**

*FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.*

[FR Doc. 2010–21454 Filed 8–26–10; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### Environmental Impact Statement: Stanislaus County, CA

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of Intent.

**SUMMARY:** The FHWA, on behalf of the California Department of Transportation (Caltrans), is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed highway project in Stanislaus County, California.

**DATES:** Public scoping meetings to be held Wednesday, September 8, 2010 and Monday, September 13, 2010. All written scoping comments must be received by September 30, 2010.

**ADDRESSES:** The Wednesday, September 8, 2010 meeting will occur at the Oakdale Community Center, 110 South Second Avenue, Oakdale, California 95361. The Monday, September 13, 2010 meeting will occur at the Salida Regional Library, 4835 Sisk Road, Salida, California 95368.

**FOR FURTHER INFORMATION CONTACT:** Gail Miller, Senior Environmental Planner, Central Sierra Environmental Analysis Branch, California Department of Transportation, 2015 East Shields Avenue, Suite 100, Fresno, California 93726, (559) 243–8274 or (209) 948–3646, *gail_miller@dot.ca.gov.*

**SUPPLEMENTARY INFORMATION:** Effective July 1, 2007, FHWA assigned, and Caltrans assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Caltrans as the delegated National Environmental Policy Act agency, in cooperation with the North County Corridor Transportation Expressway Authority, will prepare an EIS on a proposal for the North County Corridor highway project in Stanislaus County, California. The North County Corridor project begins from State Route 99 in the vicinity of Kiernan Avenue/the Salida community, and extends east approximately 25 miles to State Route 108/120, east of the city of Oakdale. The North County Corridor project is proposed to relocate State Route 108 with a freeway/expressway and is considered necessary to accommodate anticipated traffic growth in northern Stanislaus County, alleviate traffic on parallel roadways, accommodate multi-modal travel, provide interregional connectivity, and to provide for economic growth. Total funding for the future 25 mile relocation of State Route 108 has not been identified. As a result, Caltrans is planning a phased approach as additional funds become available for the construction of the future 25 mile freeway/expressway facility with interchanges, grade-separated railroad crossings, at-grade intersections, frontage roads, and street alignments.

Current alternatives under consideration at this time include, but not necessarily limited to, (1) taking no action and (2) consideration of at least three different alignments for the potential relocation of State Route 108. It is anticipated that the proposed project may require the following federal permits and approvals: A Biological Opinion from the United States Fish & Wildlife Service, approval of a $PM_{10}$–$PM_{2.5}$ Hot Spot Analysis by the Inter-Agency Consultation Committee, an Air Quality Conformity determination from the FHWA, Section 401, 402 and 404 permits under the Clean Water Act and a Farmland Conversion Impact Rating For Corridor Type Projects from the United States Soil Conservation Service. The EIS for this initial phase of the proposed project would authorize preservation of the corridor from McHenry to State Route 99 and construction and operation of the first constructible phase from McHenry to State Route 108/120. Subsequent funded project phases will require either re-evaluation and/or subsequent environmental documentation for project-specific impacts.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, Participating and Cooperating Agencies, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. Letters will be sent to the following tribal groups: Tule River Indian Tribe, Southern Sierra Miwuk Nation, and North Valley Yokuts Tribe.

The environmental scoping process begins with the publication of this Notice of Intent. Public scoping meetings will be held in the Oakdale Community Center, 110 South Second Avenue, Oakdale, California 95361 on Wednesday, September 8, 2010 from 6:30 p.m. to 8 p.m., and in the Salida Regional Library, 4835 Sisk Road, Salida, California 95368 on Monday, September 13, 2010 from 6:30 p.m. to 8 p.m.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to Caltrans at the address provided above. All written scoping comments must be received by September 30, 2010.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: August 23, 2010.

**Cindy Vigue,**

*Director, State Programs Federal Highway Administration Sacramento, California.*

[FR Doc. 2010–21336 Filed 8–26–10; 8:45 am]

**BILLING CODE 4910–22–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### Notice of Funding Availability Application Procedure and Deadlines for the Truck Parking Facilities Program

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice; solicitation of applications.

**SUMMARY:** This notice solicits applications for the truck parking facilities initiative for which funding is available under section 1305 of Public Law 109–59, 119 Stat. 1214–15, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU). The SAFETEA–LU directed the Secretary to establish a pilot program to address the shortage of long-term parking for commercial motor vehicles (CMV) on the National Highway System. States, metropolitan planning organizations (MPOs) and

local governments are eligible for the funding available for fiscal years (FY) 2006–2009. Section 411 of Title IV of Public Law 111–147, the Surface Transportation Extension Act of 2010, 124 Stat. 78, extended funding for the Truck Parking Facilities program for FY 2010 and the first quarter of FY 2011 (through December 31, 2010). The SAFETEA–LU section 1305 authorizes a wide range of eligible projects and activities, ranging from construction of commercial motor vehicle spaces and other capital improvements that facilitate CMV parking including the use of intelligent transportation systems (ITS) technology to increase information on the availability of both public and private CMV parking spaces. For purposes of this program, long-term parking is defined as parking available for 10 or more consecutive hours.

**DATES:** Applications must be received by the FHWA no later than October 26, 2010.

**ADDRESSES:** The FHWA Office of Freight Management and Operations mailing address is FHWA–HOFM, 1200 New Jersey Avenue, SE.; MS E84–402, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Mr. Tom Kearney, Office of Freight Management and Operations, (518) 431–4125 ext. 218, *tom.kearney@dot.gov*; for legal questions, Mr. Robert Black, Office of the Chief Counsel, (202) 366–1359, *robert.black@dot.gov;* Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

**Electronic Access**

An electronic copy of this notice may be downloaded from the Office of the Federal Register's home page at *http://www.archives.gov* and the Government Printing Office's Web site at *http://www.access.gpo.gov*.

**I. Background**

The Truck Parking Facilities Program furthers the goals of the DOT in addressing congestion and safety concerns on the Nation's highways. By creating a program that provides funds to address long-term truck parking on the National Highway System (NHS), the DOT anticipates that commercial motor vehicles will be better able to plan rest stops and better time their transit or loading/unloading within urban areas, thereby reducing the urban area's congestion and supporting safe highway operations.

The shortage of long-term truck parking on the NHS is a problem that needs to be addressed. Several States have completed truck parking needs analyses recently and have found that severe and pervasive shortages exist. Their recommendations include expansion or improvement of public rest areas; expansion or improvement of commercial truck stops and travel plazas; use of public-private partnerships; and educating or informing drivers about available spaces. This lack of available parking not only adds to congestion in urban areas, but also may affect safety by reducing the opportunities for drivers to obtain rest needed to comply with the Federal Motor Carrier Safety Regulations, Hours of Service of Drivers (49 CFR 395.3(a)(1)). Further, parking areas are often designed or maintained for short-term parking only. Section 1305 of SAFETEA–LU directed the Secretary of Transportation to establish a pilot program to address the long-term parking shortages along the NHS. Eligible projects under section 1305 include projects that:

1. Promote the real-time dissemination of publicly or privately provided commercial motor vehicle parking availability on the NHS using ITS and other technology based solutions;

2. Open non-traditional facilities to commercial motor vehicle parking, including inspection and weigh stations, and park and ride facilities;

3. Make capital improvements to public commercial motor vehicle parking facilities currently closed on a seasonal basis to allow the facilities to remain open year round;

4. Construct turnouts or connectors along the NHS (which must comply with appropriate design standards) to facilitate commercial motor vehicle access to parking facilities, and/or improve the geometric design of interchanges to improve access to commercial motor vehicle parking facilities. This should include improvements to the local street network or access to the proposed parking site. Applicable references, including standards, recommended industry practices, and references that provide technical guidance to assist State and local agencies in addressing truck parking issues, are listed below:

AASHTO (*http://www.transportation.org*)
- A Policy on Geometric Design of Highways and Streets, 2004 (Green Book)
- A Policy on Design Standards Interstate System, January 2005
- Guide to Park and Ride Facilities, 2004
- Guide for Development of Rest Areas on Major Arterials and Freeways, Third Edition

Transportation Research Board (*http://trb.org*)
- Access Management Manual

Institute of Transportation Engineers (*http://www.ite.org*)
- Transportation Impact Analysis for Site Development: An ITE Proposed Recommended Practice, 2006

5. Construct commercial motor vehicle parking facilities adjacent to commercial truck stops and travel plazas; and

6. Construct safety rest areas that include parking for commercial motor vehicles.

In FY 2008, FHWA awarded funding to two projects designed to disseminate information on the availability and/or location of public or private long-term parking spaces to provide the greatest opportunity to maximize the effectiveness of this pilot program. These projects, being developed on the I–95 Corridor in the Northeast and the I–5 Corridor in California, employ a program based on improving the truck operator's awareness of truck parking opportunities. In June 2010, five additional awards were made by the DOT to projects in Utah, Mississippi, Oregon, Tennessee, and Pennsylvania. Work to be completed by these projects include expanding current truck parking facilities, converting a weigh station to a truck parking facility, and disseminating truck parking opportunities to drivers by using ITS and 511 traveler information systems.

The Secretary is authorized to provide Federal grant assistance for the Truck Parking Facilities pilot program on a discretionary basis. The FHWA will make recommendations to the Secretary toward projects that should be considered for funding. Accordingly, FHWA will give priority consideration to applications for Truck Parking projects from those States, MPO's, and local governments that have measurable safety, congestion reduction and air quality benefits. The FHWA seeks solutions at a corridor level and encourages multi-State cooperation in proposals for this program.

The candidate projects must meet the eligibility criteria for the Truck Parking Facilities Program and will be evaluated on the selection criteria established for the program along with the safety and congestion criteria described below. Although funding for the Truck Parking Facilities Program is limited, large-scale corridor focused projects are encouraged

to apply for Truck Parking Facilities Program funding.

Highway safety continues to remain a focus and priority for FHWA. Targeting discretionary funding, in a results-oriented comprehensive approach to safety, is a means of directing limited discretionary funding to those projects that will yield tangible transportation and safety benefits. With respect to safety, applicants should describe the safety benefits associated with the project or activity for which funding is sought, including whether the project, activity, or improvement:

- Will result in a measurable reduction in the loss of property, injury, or life;
- Incorporates innovative safety design techniques that support safe highway operations and advance the "state-of-the practice" in delivering highway safety projects focusing on commercial vehicle operations or other operational techniques;
- Incorporates innovative construction work zone strategies to improve safety;
- Is located on a rural road that is in need of priority attention based on analysis of safety experience; and/or
- Is located in an urban area of high injury or fatality, and is an initiative to improve the design, operation or other aspect of the existing facility that will result in a measurable safety improvement.

Increasing national mobility and productivity while reducing congestion is also a priority for FHWA. In support of a high-velocity, global supply chain that supports competitiveness in the global economy, safe and efficient commercial vehicle operations are essential. Reliability of travel times and the sustainability of benefits generated through investments in the U.S. highway system are key objectives that FHWA is striving to achieve to support national economic competitiveness. The application of discretionary funding to improve mobility and reduce congestion will yield tangible transportation and economic benefits that should far exceed the limited amount of discretionary funding provided to the project. In furtherance of measuring the congestion reduction and mobility benefits associated with a project that qualifies for funding under the Truck Parking Facilities Program, within the application, the applicant should describe how the project, activity or improvement:

- Relieves congestion in an urban area or along a major transportation corridor;
- Employs operational and technological improvements that promote safety and congestion relief, and/or addresses major freight bottlenecks.

Appropriate quantitative data should be provided to support the safety and congestion relief discussion.

## II. Funding Information

The FHWA expects that approximately $7.3 million will be available to award under this solicitation for projects. Projects funded under this section shall be treated as projects on a Federal-aid System under Chapter 1 of Title 23, United States Code (U.S.C.).

Grants may be funded at an 80 to 100 percent funding level based on the criteria specified in sections 120(b) and 120(c) of Title 23, U.S.C.

## III. Application Submission

This notice will also be posted on the FHWA Office of Freight Management and Operations Web site, *http://www.ops.fhwa.dot.gov/freight.* Electronic versions of project applications in .pdf file format should be attached to an e-mail and submitted to *truckparking10@dot.gov.* Alternatively, hard copies of project applications may be submitted; in that case, an original and 10 copies of each application can be submitted. Please note electronic submissions in .pdf file format are encouraged in place of hard copy submissions. Awarded projects will be administered by the applicable State Department of Transportation as a Federal-aid grant.

In accordance with the Paperwork Reduction Act, we have received clearance from the Office of Management and Budget (OMB) for this action (OMB Control number 2125–0610, April 30, 2013).

## IV. Proposal Content

All proposals should include the following:

1. A detailed project description, which would include a description of the severity and extent of the long-term truck parking shortage in the corridor to be addressed, along with contact information for the project's primary point of contact, and whether funds are being requested under 23 U.S.C. 120(b) or 120(c). Data helping to define the shortage may include truck volume (Average Daily Truck Traffic—ADTT) in the corridor to be addressed, current number of long-term commercial motor vehicle parking spaces, use of current long-term parking spaces, driver surveys, observational field studies, proximity to freight loading/unloading facilities, and proximity to the NHS.

2. The rationale for the project should include an analysis and demonstration of how the proposed project will positively affect truck parking, safety, economic competitiveness and sustainability, traffic congestion, or air quality in the identified corridor.

3. The scope of work should include a complete listing of activities to be funded by the request, including technology development, information processing, information integration activities, developmental phase activities (planning, feasibility analysis, environmental review, engineering or design work, and other activities), construction, reconstruction, acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, acquisition of equipment, and operational improvements.

4. Stakeholder identification should include evidence of prior consultation and/or partnership with affected MPOs, local governments, community groups, private providers of commercial motor vehicle parking, and motorist and trucking organizations. Also include a listing of all public and private partners, and the role each will play in the execution of the project. Commitment/consultation examples may include: Memorandums of Agreement, Memorandums of Understanding, contracts, meeting minutes, letters of support/commitment, and documentation in a metropolitan transportation improvement program (TIP) or statewide transportation improvement program (STIP).

5. A detailed quantification of eligible project costs by activity, an identification of all funding sources that will supplement the grant and be necessary to fully fund the project, and the anticipated dates on which the additional funds are to be made available. Public and private sources of funds (non-Federal commitment) will be considered by the FHWA as an in-kind match contributing to the project. Matching funds will be required for projects eligible under 23 U.S.C. 120(b).

6. Applicants should provide a timeline that includes work to be completed and anticipated funding cycles. Gantt charts are preferred.

7. Include a timeline for complying with National Environmental Policy Act requirements and the type of clearance received or anticipated.

8. Include a project map that consists of a schematic illustration depicting the project and connecting transportation infrastructure. Digital maps should accompany all submissions, either hard copy or electronic submissions made in

.pdf file format. Please reference in the proposal if the maps are available.

9. Describe a measurement plan to determine whether or not the project achieved its intended results. The measurement plan should continue for 3 years beyond the completion date of the project. After the 3-year period, a final report quantifying the results of the project should be submitted to the FHWA.

10. Proposals should not exceed 20 pages in length.

**Special Note:** A description of the project management approach that will guide advancement of the project must be included for project applications proposing ITS or other technology based truck parking solutions. The FHWA encourages in the project management approach a minimum of a communications plan, a risk management plan and a work breakdown structure.

## V. Application Review Information

Grant applications that contain the elements detailed in this notice will be scored competitively according to the soundness of their methodology and subject to the criteria listed below. Sub-factors listed under each factor are of equal importance unless otherwise noted.

*A. Scoring Criteria*

1. Demonstration of severe shortage (number of spaces, access to existing spaces or information/knowledge of space availability) of commercial motor vehicle parking capacity/utilization in the corridor. (Multi-State highway corridors are the focus of these projects. Consider the business requirements of getting the goods to market, while also considering the government regulations associated with hours of service.) (20 percent)

Examples used to demonstrate severe shortage may include:

○ ADTT in proposal area.

○ Average daily shortfall of truck parking in proposal area.

○ Ratio of ADTT to average daily shortfall of truck parking in proposal area.

○ Proximity to NHS.

2. The extent to which the proposed solution resolves the described shortage. (35 percent)

Examples should include:

○ Number of truck parking spaces per day that will be used as a result of the proposed solution.

○ The effect on highway safety, economic competitiveness and sustainability, traffic congestion, and/or air quality.

3. Cost effectiveness of proposal. (25 percent)

Examples should include:

○ How many truck parking spaces will be used per day per dollar expended.

○ Total cost of project, including all non-Federal funds that will be contributed to the project.

4. Scope of proposal. (20 percent)

Examples should include:

○ Evidence of a wide range of input from affected parties, including State and local governments, community groups, private providers of commercial motor vehicle parking, and motorist and trucking organizations.

○ For projects that are ITS-based, the project management plan presented in the application should demonstrate the project will successfully be delivered.

○ Whether the principles outlined in the proposal can be applied to other locations/projects and possibly serve as a model for other locations.

*B. Review Standards*

1. All applications for grants should be submitted to the e-mail address or mailing address provided in this Notice by the date specified in this notice.

2. Applicants should ensure that the project proposal is compatible with or documented on their planning documents (TIP and STIP). They should also validate, to the extent they can, any analytic data.

3. Each application will be reviewed for conformance with the provisions in this notice.

4. Applications lacking any of the mandatory elements or arriving after the deadline for submission will not be considered. To assure full consideration, proposals should not exceed 20 pages in length.

5. Applicants may be contacted for additional information or clarification.

6. Applications complying with the requirements outlined in this notice will be evaluated competitively by a review panel, and will be scored as described in the scoring criteria.

7. If the FHWA determines that the project is technically or financially unfeasible, FHWA will notify the applicant, in writing.

8. The FHWA reserves the right to partially fund or request modification of projects.

9. All information described in the submitter's proposal elements should be quantifiable and sourced.

## VI. Award Administration Information

The Secretary recognizes that each funded project is unique, and therefore may attach conditions to project award documents. The FHWA will send an award letter with a grant agreement that contains all the terms and conditions for the grant. These successful applicants must execute and return the grant agreement, accompanied by any additional items required by the grant agreement.

**Authority:** Section 1305, Pub. L. 109–59, 119 Stat. 1214, Aug. 10, 2005; Section 411, Pub. L. 111–147, 124 Stat. 78.

Issued on: August 17, 2010.

**Victor M. Mendez,**

*Administrator.*

[FR Doc. 2010–21323 Filed 8–26–10; 8:45 am]

**BILLING CODE 4910–22–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Aviation Rulemaking Advisory Committee; Transport Airplane and Engine Issues—New Task

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of new task assignment for the Aviation Rulemaking Advisory Committee (ARAC).

**SUMMARY:** The FAA assigned the Aviation Rulemaking Advisory Committee a new task to review and submit recommendations in response to the Federal Aviation Administration's approach to update, reorganize and improve the level of safety of requirements for flammability of materials. This notice is to inform the public of this ARAC activity.

**FOR FURTHER INFORMATION CONTACT:** Jeff Gardlin, Airframe/Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Federal Aviation Administration, 1601 Lind Avenue, SW., Renton, Washington 98057, telephone (425) 227–2194, facsimile (425) 227–1149; e-mail *jeff.gardlin@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

## Background

The FAA established the Aviation Rulemaking Advisory Committee to provide advice and recommendations to the FAA Administrator on the FAA's rulemaking activities with respect to aviation-related issues. This includes obtaining advice and recommendations on flammability requirements for interior materials on transport category airplanes. The committee will address the task under ARAC's Transport Airplane and Engine Issues and has established a new Materials Flammability Working Group to support this task.

The flammability requirements for interior materials on transport category airplanes have evolved significantly over the years, and have become more

threat-based. That is, a realistic test method based on the type of fire hazard most critical for the components in question. Historically, these requirements were based on a mix of threat, usage (*e.g.,* sidewall), and material type (*e.g.,* elastomeric materials). This has led to multiple requirements applying to the same component; conflicting requirements for the same component depending on what material it is made from; and ambiguous requirements for components not explicitly listed in § 25.853 or Appendix F, part I. This last aspect results in the requirements of § 25.853 or Appendix F, part I, being obsolete whenever materials change or incomplete because components that have been developed since the regulation and Appendix F were issued are not specifically identified.

The FAA has drafted an approach that would simplify compliance demonstrations, and upgrade the level of safety for flammability throughout the airplane. The objective of the proposed approach is to completely revisit the flammability requirements and take advantage of the wealth of data available from FAA research and advances in material fire safety to provide a simpler regulation that provides a higher level of safety for transport category airplanes.

This initiative originated in response to a request by aviation industry organizations who participate in the International Aircraft Materials Fire Test Working Group. The working group is sponsored by the FAA's William J. Hughes Technical Center and is not affiliated with the ARAC.

The proposed approach would clearly delineate threat-based requirements, primarily based on a component's function and location in the airplane. Appendix F to part 25 could be organized based on these threats, and the current part I, in particular, could be greatly simplified. In addition, this approach could include new requirements pertaining to inaccessible areas of the airplane, where in-flight fire is the greatest risk, by expanding the requirements to include air ducts and electrical wiring systems, as well as other high volume materials. This could include § 25.855 for materials in cargo compartments. The approach would also generalize the requirements for heat release and smoke emissions to include all exposed large surface areas in the passenger cabin. This would eliminate the need for special conditions that are currently required for seats with non-traditional, large, non-metallic panels.

Because this task could result in a significant change to the type certification requirements, the FAA is very interested in obtaining international harmonization. Therefore, the FAA specifically invites the participation of other regulatory authorities in developing the responses to the below task.

**The Task**

The ARAC is asked to consider the merits of the FAA's proposed approach for a threat-based structure for part 25, Appendix F, and make recommendations for improvement, classification of the various parts of Appendix F, and advisory material necessary for implementation.

FAA will provide ARAC with the proposed approach. The ARAC working group is expected to produce a report within 18 months from publication of the tasking statement in the **Federal Register**. The report should address the following questions for the proposed approach, including the rationale for the responses.

1. Is the proposed threat-based approach for § 25.853 and Appendix F, parts II through VII organized correctly?

2. Is Appendix F, part I, necessary for items covered in parts II through VII?

3. Are there regions of the airplane not currently covered by flammability requirements that should be?

4. Can the flammability requirements be further simplified while maintaining or improving the existing level of safety?

5. How should non-metallic structure (*e.g.,* airframe and seats) be addressed?

6. What advisory material is needed to implement the new structure?

*Schedule:* Required Completion date is 18 months after the FAA publishes the task in the **Federal Register**.

**ARAC Acceptance of Task**

ARAC accepted the task and assigned the task to the newly formed Materials Flammability Working Group, Transport Airplane and Engine Issues. The working group serves as staff to ARAC and assists in the analysis of assigned tasks. ARAC must review and approve the working group's recommendations. If ARAC accepts the working group's recommendations, it will forward them to the FAA.

**Working Group Activity**

The Materials Flammability Working Group must comply with the procedures adopted by ARAC. As part of the procedures, the working group must:

1. Recommend a work plan for completion of the task, including the rationale supporting such a plan for consideration at the next meeting of the ARAC on Transport Airplane and Engine Issues held following publication of this notice.

2. Give a detailed conceptual presentation of the proposed recommendations prior to proceeding with the work stated in item 3 below.

3. Draft the appropriate documents and required analyses and/or any other related materials or documents.

4. Provide a status report at each meeting of the ARAC held to consider Transport Airplane and Engine Issues.

**Participation in the Working Group**

The Materials Flammability Working Group will be composed of technical experts having an interest in the assigned task. A working group member need not be a member, or a representative of a member, of the full committee.

If you have expertise in the subject matter and wish to become a member of the working group, write to the person listed under the caption **FOR FURTHER INFORMATION CONTACT** expressing that desire. Describe your interest in the task and state the expertise you would bring to the working group. We must receive all requests by September 16, 2010. The assistant chair and the assistant executive director will review the requests and advise you whether or not your request is approved.

If you are chosen for membership on the working group, you must represent your aviation community segment and actively participate in the working group by attending all meetings, and providing written comments when requested to do so. You must devote the resources necessary to support the working group in meeting any assigned deadlines. You must keep your management chain and those you represent advised of working group activities and decisions to ensure that the proposed technical solutions don't conflict with your sponsoring organization's position when the subject being considered is presented to ARAC for approval. Once the working group has begun deliberations, members will not be added or substituted without the approval of the assistant chair, the assistant executive director and the working group chair.

The Secretary of Transportation determined that the formation and use of the ARAC is necessary and in the public interest in connection with the performance of duties imposed on the FAA by law.

Meetings of the ARAC are open to the public. Meetings of the Materials Flammability Working Group will not be open to the public, except to the extent individuals with an interest and expertise are selected to participate. The FAA will make no public

announcement of working group meetings.

Issued in Washington, DC, on August 23, 2010.

**Pamela Hamilton-Powell,**

*Executive Director, Aviation Rulemaking Advisory Committee.*

[FR Doc. 2010–21333 Filed 8–26–10; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA-2010–0202]**

### Qualification of Drivers; Exemption Applications; Diabetes Mellitus

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA).

**ACTION:** Notice of applications for exemption from the diabetes mellitus standard; request for comments.

**SUMMARY:** FMCSA announces receipt of applications from 39 individuals for exemption from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

**DATES:** Comments must be received on or before September 27, 2010.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2010–0202 using any of the following methods:

- *Federal eRulemaking Portal: Go to http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

*Instructions:* Each submission must include the Agency name and the docket numbers for this Notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

*Privacy Act:* Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8–785.pdf.*

**FOR FURTHER INFORMATION CONTACT:** Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

**Background**

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The statute also allows the Agency to renew exemptions at the end of the 2-year period. The 39 individuals listed in this notice have recently requested such an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3), which applies to drivers of CMV in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by the statutes.

**Qualifications of Applicants**

*Angel Bergendale*

Mr. Bergendale, age 30, has had ITDM since 2010. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Bergendale meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Massachusetts.

*Charles K. Bond*

Mr. Bond, 45, has had ITDM since 2009. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Bond meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A Commercial Driver's License (CDL) from Pennsylvania.

*Dennis J. Callanan*

Mr. Callanan, 56, has had ITDM since 2008. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Callanan meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Massachusetts.

*Philip F. Carpenter*

Mr. Carpenter, 50, has had ITDM since 2009. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring;

has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Carpenter meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from North Dakota.

*Brandon M. Coleman*

Mr. Coleman, 31, has had ITDM since 1991. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Coleman meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from California.

*George B. Ferris*

Mr. Ferris, 42, has had ITDM since 2009. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Ferris meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from New York.

*John B. Flood*

Mr. Flood, 59, has had ITDM since 2009. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Flood meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Missouri.

*John F. Galione*

Mr. Galione, age 45, has had ITDM since 2009. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in a loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Galione meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A Commercial Driver's License (CDL) from New Jersey.

*Jeffrey G. Giguere*

Mr. Giguere, 45, has had ITDM since 1984. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Giguere meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from Maine.

*Allen C. Hartshaw*

Mr. Hartshaw, 60, has had ITDM since 2010. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Hartshaw meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Pennsylvania.

*Michael Hawkins*

Mr. Hawkins, 49, has had ITDM since 2004. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Hawkins meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2009 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from South Carolina.

*Timothy U. Herring*

Mr. Herring, 46, has had ITDM since 1990. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Herring meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from North Carolina.

*Richard L. Hines*

Mr. Hines, 53, has had ITDM since 2009. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Hines meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from North Carolina.

*David M. Hughes*

Mr. Hughes, 54, has had ITDM since 2005. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Hughes meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have

diabetic retinopathy. He holds a Class A CDL from Utah.

*Eugene G. Hunter*

Mr. Hunter, 64, has had ITDM since 1993. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Hunter meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from Washington.

*William F. Kanable*

Mr. Kanable, 54, has had ITDM since 1998. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Kanable meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Wisconsin.

*William C. Kenney*

Mr. Kenney, 59, has had ITDM since 2005. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Kenney meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class C CDL from California.

*Paul D. Kimmel*

Mr. Kimmel, 60, has had ITDM since 2010. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Kimmel meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Iowa.

*Gregory L. Kuharski*

Mr. Kuharski, 42, has had ITDM since 2010. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Kuharski meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Minnesota.

*Joe D. Lammey*

Mr. Lammey, 60, has had ITDM since 2006. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Lammey meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class B CDL from Missouri.

*Robert B. Langston, III*

Mr. Langston, 60, has had ITDM since 2008. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Langston meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class R operator's license from Mississippi.

*Mark W. Lavorini*

Mr. Lavorini, 39, has had ITDM since 1977. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Lavorini meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class C operator's license from Pennsylvania.

*Justin T. Mattice*

Mr. Mattice, 21, has had ITDM since 1994. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Mattice meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Arizona.

*Leldon W. McCutcheon*

Mr. McCutcheon, 59, has had ITDM since 2010. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. McCutcheon meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Alabama.

*Ray A. May*

Mr. May, 58, has had ITDM since 2009. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. May meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from California.

*Richard E. Moore*

Mr. Moore, 63, has had ITDM since 1988. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Moore meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class B CDL from New York.

*Robert F. Naples, Jr.*

Mr. Naples, 55, has had ITDM since 2009. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Naples meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New York.

*Robert C. Nemeth*

Mr. Nemeth, 45, has had ITDM since 2009. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Nemeth meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Ohio.

*Mark P. Norwood*

Mr. Norwood, 30, has had ITDM since 1986. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Norwood meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class B operator's license from Nevada.

*Todd H. Pack*

Mr. Pack, 39, has had ITDM since 1996. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Pack meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from California.

*Christopher M. Provance*

Mr. Provance, 26, has had ITDM since 1999. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Provance meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class O operator's license from Nebraska, which allows him to drive any non-commercial vehicle except motorcycles.

*Michael E. Reck*

Mr. Reck, 50, has had ITDM since 2009. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Reck meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2009 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Ohio.

*Warren A. Richter*

Mr. Richter, 51, has had ITDM since 2000. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Richter meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

*James E. Seymour*

Mr. Seymour, 52, has had ITDM since 2009. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Seymour meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class B CDL from Pennsylvania.

*Karl G. Skweres*

Mr. Skweres, 26, has had ITDM since 1992. His endocrinologist examined him

in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Skweres meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Minnesota.

*Kyle N. Stach*

Mr. Stach, 31, has had ITDM since 1994. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Stach meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class D operator's license from Wisconsin.

*William R. Thome*

Mr. Thome, 74, has had ITDM since 1997. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Thome meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Iowa.

*Richard T. Whitney*

Mr. Whitney, 69, has had ITDM since 2000. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Whitney meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

*Allan M. Younglas*

Mr. Younglas, 23, has had ITDM since 1991. His endocrinologist examined him in 2010 and certified that he has had no hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Younglas meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Ohio.

**Request for Comments**

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the Notice.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441).[1] The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) Elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 USC. 31136(e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary.

The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the Notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

Issued on: August 13, 2010.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

[FR Doc. 2010–21425 Filed 8–26–10; 8:45 am]

**BILLING CODE P**

[1] Section 4129(a) refers to the 2003 Notice as a "final rule." However, the 2003 Notice did not issue a "final rule" but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2010–0247]**

### Qualification of Drivers; Exemption Applications; Diabetes Mellitus

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA).

**ACTION:** Notice of applications for exemption from the diabetes mellitus standard; request for comments.

**SUMMARY:** FMCSA announces receipt of applications from 35 individuals for exemption from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

**DATES:** Comments must be received on or before September 27, 2010.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2010–0247 using any of the following methods:

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

• *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

• *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

• *Fax:* 1–202–493–2251.

*Instructions:* Each submission must include the Agency name and the docket number for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

*Privacy Act:* Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the FDMS published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8–785.pdf.*

**FOR FURTHER INFORMATION CONTACT:** Dr. Mary D. Gunnels, Director, Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

## Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The statute also allows the Agency to renew exemptions at the end of the 2-year period. The 35 individuals listed in this notice have recently requested such an exemption from the diabetes prohibition in 49 CFR 391.41(b) (3), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by the statutes.

## Qualifications of Applicants

*Eric A. Anderson*

Mr. Anderson, age 43, has had ITDM since 2008. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Anderson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A Commercial Driver's License (CDL) from North Dakota.

*Leslie R. Auger*

Mr. Auger, 52, has had ITDM since 2009. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Auger meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Missouri.

*Charlie L. Beach*

Mr. Beach, 57, has had ITDM since 2009. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Beach meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Georgia.

*James R. Beals*

Mr. Beals, 52, has had ITDM since 2006. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Beals meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Pennsylvania.

*Craig G. Benson*

Mr. Benson, 47, has had ITDM since 1981. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Benson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

*Gary B. Bland*

Mr. Bland, 41, has had ITDM since 1990. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the

assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Bland meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from Georgia.

*Juan E. Boyd*

Mr. Boyd, 39, has had ITDM since 2007. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Boyd meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from North Carolina.

*Stanley A. Brown*

Mr. Brown, 24, has had ITDM since 2006. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Brown meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from Maine.

*Bradley R. Burns*

Mr. Burns, 27, has had ITDM since 1991. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Burns meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Ohio.

*Leo G. Dinero*

Mr. Dinero, 24, has had ITDM since 2005. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Dinero meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class C CDL from Georgia.

*Matthew A. Donaldson*

Mr. Donaldson, 28, has had ITDM since 1990. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Donaldson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he has stable nonproliferative diabetic retinopathy. He holds a chauffeur's license from Michigan.

*Francisco Espinoza*

Mr. Espinoza, 61, has had ITDM since 1990. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Espinoza meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Florida.

*Terry W. Ferguson*

Mr. Ferguson, 50, has had ITDM since 2004. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Ferguson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Georgia.

*Thomas G. Flanagan*

Mr. Flanagan, 77, has had ITDM since 2000. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Flanagan meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Indiana.

*Stacey W. Fortner*

Mr. Fortner, 31, has had ITDM since 2008. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable

control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Fortner meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Wyoming.

*Donald K. Fraase*

Mr. Fraase, 46, has had ITDM since 2009. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Fraase meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from North Dakota.

*David W. Fraunberger*

Mr. Fraunberger, 46, has had ITDM since 2009. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Fraunberger meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class B CDL from Florida.

*Jason W. Geier*

Mr. Geier, 36, has had ITDM since 2009. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Geier meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Montana.

*Howard W. Girvin*

Mr. Girvin, 63, has had ITDM since 2004. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Girvin meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Oregon.

*Scott R. Grange*

Mr. Grange, 27, has had ITDM since 1985. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Grange meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from California.

*John A. Hayes*

Mr. Hayes, 49, has had ITDM since 2006. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Hayes meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New York.

*Bradley D. Heagel*

Mr. Heagel, 41 has had ITDM since 2005. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Heagel meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Iowa.

*Richard P. Holmen*

Mr. Holmen, 55, has had ITDM since 2001. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Holmen meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

*Richard A. Homstad*

Mr. Homstad, 63, has had ITDM since 2009. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Homstad meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have

diabetic retinopathy. He holds a Class A CDL from North Dakota.

*John R. Johnson*

Mr. Johnson, 58, has had ITDM since 2007. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Johnson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New Mexico.

*Johnny O. Laws, Sr.*

Mr. Laws, 56, has had ITDM since 2009. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Laws meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from Maryland.

*Harold A. Meeker, Jr.*

Mr. Meeker, 56, has had ITDM since 2008. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Meeker meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Massachusetts.

*Ronald D. Olson*

Mr. Olson, 47, has had ITDM since 1993. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Olson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Wisconsin.

*Maria C. Paraschivescu*

Ms. Paraschivescu, 31, has had ITDM since 2007. Her endocrinologist examined her in 2010 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable control of her diabetes using insulin; and is able to drive a CMV safely. Ms. Paraschivescu meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her ophthalmologist examined her in 2010 and certified that she does not have diabetic retinopathy. She holds an operator's license from Michigan.

*Paul S. Perry*

Mr. Perry, 56, has had ITDM since 2006. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Perry meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class D operator's license from Massachusetts.

*Michael Pittman*

Mr. Pittman, 52, has had ITDM since 2009. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Pittman meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class C CDL from Virginia.

*Israel Ramos*

Mr. Ramos, 44, has had ITDM since 2010. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Ramos meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New York.

*Todd E. Rowley*

Mr. Rowley, 45, has had ITDM since 2007. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Rowley meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from North Carolina.

*Daniel E. Velasco*

Mr. Velasco, 57, has had ITDM since 2009. His endocrinologist examined him

in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Velasco meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2010 and certified that he does not have diabetic retinopathy. He holds a Class A CDL license from Maryland.

*Joshua R. Wiery*

Mr. Wiery, 39, has had ITDM since 1978. His endocrinologist examined him in 2010 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years; understands diabetes management and monitoring; has stable control of his diabetes using insulin; and is able to drive a CMV safely. Mr. Wiery meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2010 and certified that he has stable proliferative diabetic retinopathy. He holds a Class D operator's license from Ohio.

**Request for Comments**

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441).[1] The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) Elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 U.S.C. 31136(e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary. The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

Issued on: August 20, 2010.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

[FR Doc. 2010–21428 Filed 8–26–10; 8:45 am]

**BILLING CODE 4915–01–P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[Docket No. FD 35386]**

### R.J. Corman Railroad Company/ Central Kentucky Lines, LLC—Trackage Rights Exemption—CSX Transportation, Inc.

Pursuant to a written supplemental agreement dated July 28, 2010, CSX Transportation, Inc. (CSXT) has agreed to grant additional limited overhead trackage rights [1] to R.J. Corman Railroad Company/Central Kentucky Lines, LLC (RJCC) over a CSXT line of railroad extending between (1) milepost 00T 12.5 at HK Tower and milepost 00T 2.6 at Frankfort Avenue; and (2) milepost 00T 2.6 at Frankfort Avenue and milepost 000 6.4 at Osborne Yard in the vicinity of Big Ditch, all in the vicinity of Louisville, Ky., a distance of approximately 17 miles.[2]

The transaction may be consummated on or after September 10, 2010, the effective date of the exemption (30 days after the exemption is filed). The purpose of the amended trackage rights agreement is to allow RJCC to move ties, ballast and other track material efficiently in coordination with the movement of its aluminum unit trains.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Railway—Trackage Rights—Burlington Northern, Inc.,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Railway—Lease and Operate—California Western Railroad,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed by September 3, 2010 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35386, 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 Michael J. Barron, Jr., Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: August 23, 2010.

[1] Section 4129(a) refers to the 2003 Notice as a "final rule." However, the 2003 Notice did not issue a "final rule" but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

[1] The original rights were obtained by R.J. Corman Railroad Property, LLC (RJCP) as incidental trackage rights to a lease of another line exempted under 49 CFR § 1150.41 in *R.J. Corman Railroad Property, LLC—Lease Exemption—Line of CSX Transportation, Inc.,* FD 34625 (STB served Mar. 4, 2005). RJCP assigned the trackage rights to RJCC, its corporate affiliate. The assignment was exempted under 49 CFR § 1150.41 in *R.J. Corman Railroad/Central Kentucky Lines, LLC—Acquisition and Operation Exemption—Line of R.J. Corman Railroad Property, LLC,* FD 34624 (STB served Feb. 23, 2005). In 2008, the parties' limited overhead trackage rights agreement was modified to allow RJCC to move carloads of cement and general merchandise between specified points in Kentucky. *See R.J.Corman R.R./Cent. Ky. Lines, LLC—Trackage Rights Exemption—CSX Transp., Inc.,* FD 35124, (STB served Apr. 10, 2008).

[2] Applicant states that the earlier notices of exemption (FD 34624, FD 34625, and FD 35124) referred to the HK Tower being located at milepost 12.49. In this notice, it is referred to as being located at milepost 12.5, but applicant explains that it is in the same location as before.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

**Kulunie L. Cannon,**

*Clearance Clerk.*

[FR Doc. 2010–21330 Filed 8–26–10; 8:45 am]

**BILLING CODE 4915–01–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Public Notice for Waiver of Aeronautical Land-Use Assurance; Rickenbacker International Airport, Columbus, OH

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of release of waiver with respect to land.

**SUMMARY:** The Federal Aviation Administration (FAA) is considering a proposal to change a portion of the airport from aeronautical use to non-aeronautical use and to authorize the release of 13.105 acres of airport property for the proposed development of bulk warehouse/distribution facilities as a component of the Rickenbacker Global Logistics Park. The land was acquired by the Rickenbacker Port Authority through two Quitclaim Deeds dated March 30, 1984 from the Administrator of General Services for the United States of America and May 11, 1999 from the United States of America, acting by and through the Secretary of the Air Force. The property is no longer needed for aeronautical use. Approval does not constitute a commitment by the FAA to financially assist in the disposal of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA. The disposition of proceeds from the disposal of the airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999.

In accordance with section 47107(h) of title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

**DATES:** Comments must be received on or before September 27, 2010.

**FOR FURTHER INFORMATION CONTACT:** Diane Morse, Program Manager, Detroit Airports District Office, 11677 South Wayne Road, Suite 107, Romulus, Michigan 48174. *Telephone Number:* (734)–229–2929/FAX Number: (734)–229–2950. Documents reflecting this FAA action may be reviewed at this same location or at Rickenbacker International Airport, Columbus, Ohio.

**SUPPLEMENTARY INFORMATION:** Following is a legal description of the property situated in the State of Ohio, County of Pickaway, Townships of Harrison and Madison, lying in Section 18, Township 10, Range 21, Congress Lands, being part of the remainder of the original 2995.065 acre tract conveyed as Tract 1 to Columbus Municipal Airport Authority by deed of record in Official Record 514, Page 2561, (all references are to the records of the Recorder's Office, Pickaway County, Ohio) and being more particularly described as follows:

**Legal Description of Property**

Beginning at an angle point in the southerly line said 2995.065 acre (Tract 1) at the northwesterly corner of a 201.7757 acre tract conveyed to The Landings at Rickenbacker, LLC;

Thence the following six (6) courses and distances on, over and across the said 2995.065 acre (Tract 1):

North 39°42′45″ West, a distance of 666.60 feet, to a point;

North 53°46′55″ West, a distance of 821.06 feet, to a point;

North 86°24′00″ West, a distance of 151.16 feet, to a point;

North 03°24′05″ East, a distance of 607.19 feet, to a point;

South 44°30′28″ East, a distance of 2298.53 feet, to a point on the northerly line of said 201.7757 acre tract;

North 86°24′01″ West, a distance of 408.93 feet, along said northerly line to the Point of Beginning, containing 13.105 acres, more or less, in Pickaway County.

The bearings in the above description are based on the bearing of North 86°24′01″ West, for the southerly line of the 2995.065 Acre (Tract 1) conveyed to Columbus Regional Airport Authority.

This description was prepared from record information from Recorder's Office, Franklin and Pickaway Countries and is not for the use of the transfer of real property.

**Stephanie R. Swann,**

*Acting Manager, Detroit Airports District Office FAA, Great Lakes Region.*

[FR Doc. 2010–21210 Filed 8–26–10; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

August 24, 2010.

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 calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury PRA Clearance Officer, Department of the Treasury, 1750 Pennsylvania Avenue, NW., Suite 11010, Washington, DC 20220.

**DATES:** Written comments should be received on or before September 27, 2010 to be assured of consideration.

**Internal Revenue Service (IRS)**

*OMB Number:* 1545–0823.

*Type of Review:* Extension without change to a currently approved collection.

*Title:* FI–221–83 (NPRM) FI–100–83 (Temporary Regulations) Indian Tribal Governments Treated as States For Certain Purposes.

*Abstract:* These regulations relate to the treatment of Indian tribal governments as States for certain Federal tax purposes. The regulations provide that if the governing body of a tribe, or its subdivision, is not designated as an Indian tribal government or subdivision thereof for purpose of sections 7701(a)(40) and 7871, it may apply for a ruling from the IRS.

*Respondents:* State, Local, and Tribal Governments.

*Estimated Total Burden Hours:* 25 hours.

*OMB Number:* 1545–1013.

*Type of Review:* Extension without change to a currently approved collection.

*Title:* Return of Excise Tax on Undistributed Income of Real Estate Investment Trusts.

*Form:* 8612.

*Abstract:* Form 8612 is used by real estate investment trusts to compute and pay the excise tax on undistributed income imposed under section 4981. IRS uses the information to verify that the correct amount of tax has been reported.

*Respondents:* Private Sector: Businesses or other for-profits.

*Estimated Total Burden Hours:* 196 hours.

*OMB Number:* 1545–1710.

*Type of Review:* Revision of a currently approved collection.

*Title:* Revenue Procedure 2005–60, Form 940 e-file Program.

*Abstract:* Revenue Procedure 2005–60 (supersedes 2001–9) provides guidance

and the requirements for participating in the form 940 e-file program.

*Respondents:* Private Sector: Businesses or other for-profits.

*Estimated Total Burden Hours:* 717,338 hours.

*OMB Number:* 1545–1878.

*Type of Review:* Revision of a currently approved collection.

*Title:* IRS e-file Signature Authorization for an Exempt Organization.

*Form:* 8879–EO.

*Abstract:* Form 8879–EO authorizes an officer of an exempt organization and electronic return originator (ERO) to use a personal identification number (PIN) to electronically sign an organization's electronic income tax return and, if applicable, Electronic Funds Withdrawal Consent.

*Respondents:* Private Sector: Not-for-profit institutions.

*Estimated Total Burden Hours:* 425,714 hours.

*Bureau Clearance Officer:* R. Joseph Durbala, Internal Revenue Service, 1111 Constitution Avenue, NW., Room 6129, Washington, DC 20224; (202) 622–3634.

*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. 2010–21353 Filed 8–26–10; 8:45 am]

**BILLING CODE 4830–01–P**

Federal Register

Friday,
August 27, 2010

Part II

# Department of Housing and Urban Development

## Federal Property Suitable as Facilities To Assist the Homeless; Notice

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–5375–N–33]**

## Federal Property Suitable as Facilities To Assist the Homeless

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

**FOR FURTHER INFORMATION CONTACT:** Kathy Ezzell, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7266, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

**SUPPLEMENTARY INFORMATION:** In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for "off-site use only" recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Theresa Rita, Division of Property Management, Program Support Center, HHS, room 5B–17, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: **COAST GUARD:** Commandant, U.S. Coast Guard, Office of Civil Engineering, Ms. Jennifer Stomber, 2100 Second St., SW., Stop 7901, Washington, DC 20593; (202) 475–5609; COE: Mr. Scott Whiteford, Army Corps of Engineers, Real Estate, CEMP–CR, 441 G Street, NW., Washington, DC 20314; (202) 761–5542; **ENERGY:** Mr. Mark Price, Department of Energy, Office of Engineering & Construction Management, MA–50, 1000 Independence Ave, SW., Washington, DC 20585: (202) 586–5422; **GSA:** Mr. Gordon Creed, General Services Administration, Office of Property Disposal, 18th and F St., NW., Washington, DC 20405; (202) 501–0084; **VA:** Mr. George Szwarcman, Real Property Service, Department of Veterans Affairs, 811 Vermont Ave., NW., Room 555, Washington, DC 20420; (202) 461–8234; (These are not toll-free numbers).

Dated: August 19, 2010.

**Mark R. Johnston,**

*Deputy Assistant Secretary for Special Needs.*

**TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM; FEDERAL REGISTER REPORT FOR 08/27/2010**

**Suitable/Available Properties**

*Building*

California

4 Bldgs.
OTH–B Radar Site
Tulelake CA 91634
Landholding Agency: COE
Property Number: 31200840001
Status: Unutilized
Comments: most recent use—communications/vehicle maint., off-site use only

Colorado

Bldg. 2
VAMC
2121 North Avenue
Grand Junction Co: Mesa CO 81501
Landholding Agency: VA
Property Number: 97200430001
Status: Unutilized
Comments: 3298 sq. ft., needs major rehab, presence of asbestos/lead paint

Bldg. 3
VAMC
2121 North Avenue
Grand Junction Co: Mesa CO 81501
Landholding Agency: VA
Property Number: 97200430002
Status: Unutilized
Comments: 7275 sq. ft., needs major rehab, presence of asbestos/lead paint

Georgia

Ft. Benning Railroad Corridor
Cusseta Road
Columbus GA 31401
Landholding Agency: GSA
Property Number: 54201030006
Status: Excess
GSA Number: 4–D–GA–0518AD
Comments: 55 linear acres, multiple easements, most recent use—railroad/utility corridor, portion is under lease until 12/31/2010

Indiana

Bldg. 105, VAMC

East 38th Street
Marion Co: Grant IN 46952
Landholding Agency: VA
Property Number: 97199230006
Status: Excess
Comments: 310 sq. ft., 1 story stone structure, no sanitary or heating facilities, Natl Register of Historic Places

Bldg. 10
VA Northern Indiana Health Care System
Marion Campus, 1700 East 38th Street
Marion Co: Grant IN 46953
Landholding Agency: VA
Property Number: 97199810002
Status: Underutilized
Comments: 16,361 sq. ft., presence of asbestos, most recent use—psychiatric ward, National Register of Historic Places

Bldg. 11
VA Northern Indiana Health Care System
Marion Campus, 1700 East 38th Street
Marion Co: Grant IN 46953
Landholding Agency: VA
Property Number: 97199810003
Status: Underutilized
Comments: 16,361 sq. ft., presence of asbestos, most recent use—psychiatric ward, National Register of Historic Places

Bldg. 18
VA Northern Indiana Health Care System
Marion Campus, 1700 East 38th Street
Marion Co: Grant IN 46953
Landholding Agency: VA
Property Number: 97199810004
Status: Underutilized
Comments: 13,802 sq. ft., presence of asbestos, most recent use—psychiatric ward, National Register of Historic Places

Bldg. 25
VA Northern Indiana Health Care System
Marion Campus, 1700 East 38th Street
Marion Co: Grant IN 46953
Landholding Agency: VA
Property Number: 97199810005
Status: Unutilized
Comments: 32,892 sq. ft., presence of asbestos, most recent use—psychiatric ward, National Register of Historic Places

Bldg. 1
N. Indiana Health Care System
Marion Co: Grant IN 46952
Landholding Agency: VA
Property Number: 97200310001
Status: Unutilized
Comments: 20,287 sq. ft., needs extensive repairs, presence of asbestos, most recent use—patient ward

Bldg. 3
N. Indiana Health Care System
Marion Co: Grant IN 46952
Landholding Agency: VA
Property Number: 97200310002
Status: Unutilized
Comments: 20,550 sq. ft., needs extensive repairs, presence of asbestos, most recent use—patient ward

Bldg. 4
N. Indiana Health Care System
Marion Co: Grant IN 46952
Landholding Agency: VA
Property Number: 97200310003
Status: Unutilized
Comments: 20,550 sq .ft., needs extensive repairs, presence of asbestos, most recent use—patient ward

Bldg. 13
N. Indiana Health Care System
Marion Co: Grant IN 46952
Landholding Agency: VA
Property Number: 97200310004
Status: Unutilized
Comments: 8971 sq. ft., needs extensive repairs, presence of asbestos, most recent use—office

Bldg. 42
N. Indiana Health Care System
Marion Co: Grant IN 46952
Landholding Agency: VA
Property Number: 97200310007
Status: Unutilized
Comments: 5025 sq. ft., needs extensive repairs, presence of asbestos, most recent use—office

Bldg. 60
N. Indiana Health Care System
Marion Co: Grant IN 46952
Landholding Agency: VA
Property Number: 97200310008
Status: Unutilized
Comments: 18,126 sq. ft., needs extensive repairs, presence of asbestos, most recent use—office

Bldg. 122
N. Indiana Health Care System
Marion Co: Grant IN 46952
Landholding Agency: VA
Property Number: 97200310009
Status: Unutilized
Comments: 37,135 sq. ft., needs extensive repairs, presence of asbestos, most recent use—dining hall/kitchen

Iowa

Former SSA Bldg.
3012 Division Street
Burlington IA 52601
Landholding Agency: GSA
Property Number: 54201020005
Status: Excess
GSA Number: 7–G–IA–0508
Comments: 5060 sq. ft., most recent use—office

Kentucky

Green River Lock #3
Rochester Co: Butler KY 42273
Landholding Agency: COE
Property Number: 31199010022
Status: Unutilized
Directions: SR 70 west from Morgantown, KY., approximately 7 miles to site.
Comments: 980 sq. ft.; 2 story wood frame; two story residence; potential utilities; needs major rehab.

Louisiana

FAA Outermarker
St. Charles Parish
New Orleans LA 70094
Landholding Agency: GSA
Property Number: 54201030007
Status: Excess
GSA Number: 7–U–LA–574–1
Comments: 48 sq. ft., legal constraints, mining leases, located near landfill/airport, most recent use—storage

Montana

Bldg. 1
Butte Natl Guard
Butte Co: Silverbow MT 59701
Landholding Agency: COE
Property Number: 31200040010
Status: Unutilized
Comments: 22799 sq. ft., presence of asbestos, most recent use—cold storage, off-site use only

Bldg. 2
Butte Natl Guard
Butte Co: Silverbow MT 59701
Landholding Agency: COE
Property Number: 31200040011
Status: Unutilized
Comments: 3292 sq. ft., most recent use—cold storage, off-site use only

Bldg. 3
Butte Natl Guard
Butte Co: Silverbow MT 59701
Landholding Agency: COE
Property Number: 31200040012
Status: Unutilized
Comments: 964 sq. ft., most recent use—cold storage, off-site use only

Bldg. 4
Butte Natl Guard
Butte Co: Silverbow MT 59701
Landholding Agency: COE
Property Number: 31200040013
Status: Unutilized
Comments: 72 sq. ft., most recent use—cold storage, off-site use only

Bldg. 5
Butte Natl Guard
Butte Co: Silverbow MT 59701
Landholding Agency: COE
Property Number: 31200040014
Status: Unutilized
Comments: 1286 sq. ft., most recent use—cold storage, off-site use only

New York

Bldg. 3
VA Medical Center
Batavia Co: Genesee NY 14020
Landholding Agency: VA
Property Number: 97200520001
Status: Unutilized
Comments: 5840 sq. ft., needs rehab, presence of asbestos, most recent use—offices, eligible for Natl Register of Historic Places

Ohio

Barker Historic House
Willow Island Locks and Dam
Newport Co: Washington OH 45768–9801
Landholding Agency: COE
Property Number: 31199120018
Status: Unutilized
Directions: Located at lock site, downstream of lock and dam structure
Comments: 1600 sq. ft. bldg. with ½ acre of land, 2 story brick frame, needs rehab, on Natl Register of Historic Places, no utilities, off-site use only

Bldg. MURDOT–23142
5153 State Rd
Dover OH 44622
Landholding Agency: COE
Property Number: 31201020001
Status: Unutilized
Comments: 664 sq. ft. office bldg., presence of asbestos/lead paint, off-site use only

Belmont Cty Memorial USAR Ctr
5305 Guernsey St.
Bellaire OH 43906
Landholding Agency: GSA
Property Number: 54201020008

Status: Excess
GSA Number: 1–D–OH–837
Comments: 11,734 sq. ft.—office/drill hall; 2,519 sq. ft.—maint. shop

Army Reserve Center
5301 Hauserman Rd.
Parma Co: Cuyahoga OH 44130
Landholding Agency: GSA
Property Number: 54201020009
Status: Excess
GSA Number: I–D–OH–842
Comments: 29, 212, and 6,097 sq. ft.; most recent use: office, storage, classroom, and drill hall; water damage on 2nd floor; and wetland property

2LT George F. Pennington USARC
2164 Harding Hwy. E.
Marion OH 43302
Landholding Agency: GSA
Property Number: 54201020010
Status: Excess
GSA Number: I–D–OH–838
Comments: 4,396 and 1,325 sq. ft; current use: office and storage; asbestos identified

Pennsylvania

Mahoning Creek Reservoir
New Bethlehem Co: Armstrong PA 16242
Landholding Agency: COE
Property Number: 31199210008
Status: Unutilized
Comments: 1015 sq. ft., 2 story brick residence, off-site use only

Dwelling
Lock 6, Allegheny River, 1260 River Rd.
Freeport Co: Armstrong PA 16229–2023
Landholding Agency: COE
Property Number: 31199620008
Status: Unutilized
Comments: 2652 sq. ft., 3-story brick house, in close proximity to Lock and Dam, available for interim use for nonresidential purposes

Dwelling
Lock 4, Allegheny River
Natrona Co: Allegheny PA 15065–2609
Landholding Agency: COE
Property Number: 31199710009
Status: Unutilized
Comments: 1664 sq. ft., 2-story brick residence, needs repair, off-site use only

Dwelling #1
Crooked Creek Lake
Ford City Co: Armstrong PA 16226–8815
Landholding Agency: COE
Property Number: 31199740002
Status: Excess
Comments: 2030 sq. ft., most recent use—residential, good condition, off-site use only

Dwelling #2
Crooked Creek Lake
Ford City Co: Armstrong PA 16226–8815
Landholding Agency: COE
Property Number: 31199740003
Status: Excess
Comments: 3045 sq. ft., most recent use—residential, good condition, off-site use only

Govt Dwelling
East Branch Lake
Wilcox Co: Elk PA 15870–9709
Landholding Agency: COE
Property Number: 31199740005
Status: Underutilized
Comments: approx. 5299 sq. ft., 1-story, most recent use—residence, off-site use only

Dwelling #1
Loyalhanna Lake
Saltsburg Co: Westmoreland PA 15681–9302
Landholding Agency: COE
Property Number: 31199740006
Status: Excess
Comments: 1996 sq. ft., most recent use—residential, good condition, off-site use only

Dwelling #2
Loyalhanna Lake
Saltsburg Co: Westmoreland PA 15681–9302
Landholding Agency: COE
Property Number: 31199740007
Status: Excess
Comments: 1996 sq. ft., most recent use—residential, good condition, off-site use only

Dwelling #2
Lock 6, 1260 River Road
Freeport Co: Armstrong PA 16229–2023
Landholding Agency: COE
Property Number: 31199740009
Status: Excess
Comments: 2652 sq. ft., most recent use—residential, good condition, off-site use only

Residence A
2045 Pohopoco Drive
Lehighton Co: Carbon PA 18235
Landholding Agency: COE
Property Number: 31200410007
Status: Unutilized
Comments: 1200 sq. ft., presence of asbestos, off-site use only

BEL–007
2145 Pohopco Dr.
Lehighton PA 18235
Landholding Agency: COE
Property Number: 31201030001
Status: Unutilized
Comments: 1188 sq. ft., off-site use only

South Dakota

Camp Crook Bldg. No. 2002
Camp Crook Co: Harding SD 57724
Landholding Agency: GSA
Property Number: 54201020007
Status: Surplus
GSA Number: 7–A–SD–0535–1
Comments: off-site removal only, 2395 sq. ft., needs repair, and presence of asbestos

Virginia

Sewell's Point Substation
Hampton Blvd.
Norfolk VA 23505
Landholding Agency: GSA
Property Number: 54201030009
Status: Excess
GSA Number: 4–N–VA–0753
Comments: 400 sq. ft., permanent utility easement, most recent use—electrical substation

Washington

Fox Island Naval Lab
630 3rd Ave.
Fox Island Co: Pierce WA 98333
Landholding Agency: GSA
Property Number: 54201020012
Status: Surplus
GSA Number: 9–D–WA–1245
Comments: 6405 sq. ft.; current use: office and lab

West Virginia

Harley O. Staggers Bldg.
75 High St.
Morgantown WV 26505
Landholding Agency: GSA
Property Number: 54201020013
Status: Excess
GSA Number: 4–G–WV–0557
Comments: 57,600 sq. ft; future owners must maintain exposure prevention methods (details in deed); most recent use: P.O. and Federal offices

*Land*

Alabama

VA Medical Center
VAMC
Tuskegee Co: Macon AL 36083
Landholding Agency: VA
Property Number: 97199010053
Status: Underutilized
Comments: 40 acres, buffer to VA Medical Center, potential utilities, undeveloped

Iowa

40.66 acres
VA Medical Center
1515 West Pleasant St.
Knoxville Co: Marion IA 50138
Landholding Agency: VA
Property Number: 97199740002
Status: Unutilized
Comments: golf course, easement requirements

Kentucky

Tract 2625
Barkley Lake, Kentucky, and Tennessee
Cadiz Co: Trigg KY 42211
Landholding Agency: COE
Property Number: 31199010025
Status: Excess
Directions: Adjoining the village of Rockcastle
Comments: 2.57 acres; rolling and wooded

Tract 2709–10 and 2710–2
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg KY 42211
Landholding Agency: COE
Property Number: 31199010026
Status: Excess
Directions: 2½ miles in a southerly direction from the village of Rockcastle
Comments: 2.00 acres; steep and wooded

Tract 2708–1 and 2709–1
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg KY 42211
Landholding Agency: COE
Property Number: 31199010027
Status: Excess
Directions: 2½ miles in a southerly direction from the village of Rockcastle
Comments: 3.59 acres; rolling and wooded; no utilities

Tract 2800
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg KY 42211
Landholding Agency: COE
Property Number: 31199010028
Status: Excess
Directions: 4½ miles in a southeasterly direction from the village of Rockcastle
Comments: 5.44 acres; steep and wooded

Tract 2915
Barkley Lake, Kentucky and Tennessee

Cadiz Co: Trigg KY 42211
Landholding Agency: COE
Property Number: 31199010029
Status: Excess
Directions: 6½ miles west of Cadiz
Comments: 5.76 acres; steep and wooded; no utilities

Tract 2702
Barkley Lake, Kentucky and Tennessee
Cadiz Co: Trigg KY 42211
Landholding Agency: COE
Property Number: 31199010031
Status: Excess
Directions: 1 mile in a southerly direction from the village of Rockcastle
Comments: 4.90 acres; wooded; no utilities

Tract 4318
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212
Landholding Agency: COE
Property Number: 31199010032
Status: Excess
Directions: Trigg Co. adjoining the city of Canton, KY. on the waters of Hopson Creek
Comments: 8.24 acres; steep and wooded

Tract 4502
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212
Landholding Agency: COE
Property Number: 31199010033
Status: Excess
Directions: 3½ miles in a southerly direction from Canton, KY
Comments: 4.26 acres; steep and wooded

Tract 4611
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212
Landholding Agency: COE
Property Number: 31199010034
Status: Excess
Directions: 5 miles south of Canton, KY
Comments: 10.51 acres; steep and wooded; no utilities

Tract 4619
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212
Landholding Agency: COE
Property Number: 31199010035
Status: Excess
Directions: 4½ miles south from Canton, KY
Comments: 2.02 acres; steep and wooded; no utilities

Tract 4817
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212
Landholding Agency: COE
Property Number: 31199010036
Status: Excess
Directions: 6½ miles south of Canton, KY
Comments: 1.75 acres; wooded

Tract 1217
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030
Landholding Agency: COE
Property Number: 31199010042
Status: Excess
Directions: On the north side of the Illinois Central Railroad
Comments: 5.80 acres; steep and wooded

Tract 1906
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030
Landholding Agency: COE
Property Number: 31199010044
Status: Excess
Directions: Approximately 4 miles east of Eddyville, KY
Comments: 25.86 acres; rolling steep and partially wooded; no utilities

Tract 1907
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42038
Landholding Agency: COE
Property Number: 31199010045
Status: Excess
Directions: On the waters of Pilfen Creek, 4 miles east of Eddyville, KY
Comments: 8.71 acres; rolling steep and wooded; no utilities

Tract 2001 #1
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030
Landholding Agency: COE
Property Number: 31199010046
Status: Excess
Directions: Approximately 4½ miles east of Eddyville, KY
Comments: 47.42 acres; steep and wooded; no utilities

Tract 2001 #2
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030
Landholding Agency: COE
Property Number: 31199010047
Status: Excess
Directions: Approximately 4½ miles east of Eddyville, KY
Comments: 8.64 acres; steep and wooded; no utilities

Tract 2005
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030
Landholding Agency: COE
Property Number: 31199010048
Status: Excess
Directions: Approximately 5½ miles east of Eddyville, KY
Comments: 4.62 acres; steep and wooded; no utilities

Tract 2307
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030
Landholding Agency: COE
Property Number: 31199010049
Status: Excess
Directions: Approximately 7½ miles southeasterly of Eddyville, KY
Comments: 11.43 acres; steep; rolling and wooded; no utilities

Tract 2403
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030
Landholding Agency: COE
Property Number: 31199010050
Status: Excess
Directions: 7 miles southeasterly of Eddyville, KY
Comments: 1.56 acres; steep and wooded; no utilities

Tract 2504
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030
Landholding Agency: COE
Property Number: 31199010051
Status: Excess
Directions: 9 miles southeasterly of Eddyville, KY
Comments: 24.46 acres; steep and wooded; no utilities

Tract 214
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045
Landholding Agency: COE
Property Number: 31199010052
Status: Excess
Directions: South of the Illinois Central Railroad, 1 mile east of the Cumberland River
Comments: 5.5 acres; wooded; no utilities

Tract 215
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045
Landholding Agency: COE
Property Number: 31199010053
Status: Excess
Directions: 5 miles southwest of Kuttawa
Comments: 1.40 acres; wooded; no utilities

Tract 241
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045
Landholding Agency: COE
Property Number: 31199010054
Status: Excess
Directions: Old Henson Ferry Road, 6 miles west of Kuttawa, KY
Comments: 1.26 acres; steep and wooded; no utilities

Tracts 306, 311, 315 and 325
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045
Landholding Agency: COE
Property Number: 31199010055
Status: Excess
Directions: 2.5 miles southwest of Kuttawa, KY on the waters of Cypress Creek
Comments: 38.77 acres; steep and wooded; no utilities

Tracts 2305, 2306, and 2400–1
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42030
Landholding Agency: COE
Property Number: 31199010056
Status: Excess
Directions: 6½ miles southeasterly of Eddyville, KY
Comments: 97.66 acres; steep rolling and wooded; no utilities

Tracts 5203 and 5204
Barkley Lake, Kentucky and Tennessee
Linton Co: Trigg KY 42212
Landholding Agency: COE
Property Number: 31199010058
Status: Excess
Directions: Village of Linton, KY State highway 1254
Comments: 0.93 acres; rolling, partially wooded; no utilities

Tract 5240
Barkley Lake, Kentucky and Tennessee
Linton Co: Trigg KY 42212
Landholding Agency: COE
Property Number: 31199010059
Status: Excess
Directions: 1 mile northwest of Linton, KY
Comments: 2.26 acres; steep and wooded; no utilities

Tract 4628
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212
Landholding Agency: COE
Property Number: 31199011621
Status: Excess
Directions: 4½ miles south from Canton, KY

Comments: 3.71 acres; steep and wooded; subject to utility easements

Tract 4619–B
Barkley Lake, Kentucky and Tennessee
Canton Co: Trigg KY 42212
Landholding Agency: COE
Property Number: 31199011622
Status: Excess
Directions: 4½ miles south from Canton, KY
Comments: 1.73 acres; steep and wooded; subject to utility easements

Tract 2403–B
Barkley Lake, Kentucky and Tennessee
Eddyville Co: Lyon KY 42038
Landholding Agency: COE
Property Number: 31199011623
Status: Unutilized
Directions: 7 miles southeasterly from Eddyville, KY
Comments: 0.70 acres, wooded; subject to utility easements

Tract 241–B
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045
Landholding Agency: COE
Property Number: 31199011624
Status: Excess
Directions: South of Old Henson Ferry Road, 6 miles west of Kuttawa, KY
Comments: 11.16 acres; steep and wooded; subject to utility easements

Tracts 212 and 237
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045
Landholding Agency: COE
Property Number: 31199011625
Status: Excess
Directions: Old Henson Ferry Road, 6 miles west of Kuttawa, KY
Comments: 2.44 acres; steep and wooded; subject to utility easements

Tract 215–B
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045
Landholding Agency: COE
Property Number: 31199011626
Status: Excess
Directions: 5 miles southwest of Kuttawa
Comments: 1.00 acres; wooded; subject to utility easements

Tract 233
Barkley Lake, Kentucky and Tennessee
Grand Rivers Co: Lyon KY 42045
Landholding Agency: COE
Property Number: 31199011627
Status: Excess
Directions: 5 miles southwest of Kuttawa
Comments: 1.00 acres; wooded; subject to utility easements

Tract N–819
Dale Hollow Lake Project
Illwill Creek, Hwy 90
Hobart Co: Clinton KY 42601
Landholding Agency: COE
Property Number: 31199140009
Status: Underutilized
Comments: 91 acres, most recent use—hunting, subject to existing easements

Oklahoma

Pine Creek Lake
Section 27 (See County) Co: McCurtain OK
Landholding Agency: COE
Property Number: 31199010923
Status: Unutilized
Comments: 3 acres; no utilities; subject to right of way for Oklahoma State Highway 3

Pennsylvania

Mahoning Creek Lake
New Bethlehem Co: Armstrong PA 16242–9603
Landholding Agency: COE
Property Number: 31199010018
Status: Excess
Directions: Route 28 north to Belknap, Road #4
Comments: 2.58 acres; steep and densely wooded

Tracts 610, 611, 612
Shenango River Lake
Sharpsville Co: Mercer PA 16150
Landholding Agency: COE
Property Number: 31199011001
Status: Excess
Directions: I–79 North, I–80 West, Exit Sharon. R18 North 4 miles, left on R518, right on Mercer Avenue
Comments: 24.09 acres; subject to flowage easement

Tracts L24, L26
Crooked Creek Lake
Null Co: Armstrong PA 03051
Landholding Agency: COE
Property Number: 31199011011
Status: Unutilized
Directions: Left bank—55 miles downstream of dam
Comments: 7.59 acres; potential for utilities

Portion of Tract L–21A
Crooked Creek Lake, LR 03051
Ford City Co: Armstrong PA 16226
Landholding Agency: COE
Property Number: 31199430012
Status: Unutilized
Comments: Approximately 1.72 acres of undeveloped land, subject to gas rights

South Dakota

Portion/Tract A127
Gavins Point Dam
Yankton SD
Landholding Agency: COE
Property Number: 31200940001
Status: Unutilized
Comments: 0.3018 acre, road right of way

Tennessee

Tract 6827
Barkley Lake
Dover Co: Stewart TN 37058
Landholding Agency: COE
Property Number: 31199010927
Status: Excess
Directions: 2½ miles west of Dover, TN
Comments: .57 acres; subject to existing easements

Tracts 6002–2 and 6010
Barkley Lake
Dover Co: Stewart TN 37058
Landholding Agency: COE
Property Number: 31199010928
Status: Excess
Directions: 3½ miles south of village of Tabaccoport
Comments: 100.86 acres; subject to existing easements

Tract 11516
Barkley Lake
Ashland City Co: Dickson TN 37015
Landholding Agency: COE
Property Number: 31199010929
Status: Excess
Directions: ½ mile downstream from Cheatham Dam
Comments: 26.25 acres; subject to existing easements

Tract 2319
J. Percy Priest Dam and Resorvoir
Murfreesboro Co: Rutherford TN 37130
Landholding Agency: COE
Property Number: 31199010930
Status: Excess
Directions: West of Buckeye Bottom Road
Comments: 14.48 acres; subject to existing easements

Tract 2227
J. Percy Priest Dam and Resorvoir
Murfreesboro Co: Rutherford TN 37130
Landholding Agency: COE
Property Number: 31199010931
Status: Excess
Directions: Old Jefferson Pike
Comments: 2.27 acres; subject to existing easements

Tract 2107
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford TN 37130
Landholding Agency: COE
Property Number: 31199010932
Status: Excess
Directions: Across Fall Creek near Fall Creek camping area
Comments: 14.85 acres; subject to existing easements

Tracts 2601, 2602, 2603, 2604
Cordell Hull Lake and Dam Project
Doe Row Creek
Gainesboro Co: Jackson TN 38562
Landholding Agency: COE
Property Number: 31199010933
Status: Unutilized
Directions: TN Highway 56
Comments: 11 acres; subject to existing easements

Tract 1911
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford TN 37130
Landholding Agency: COE
Property Number: 31199010934
Status: Excess
Directions: East of Lamar Road
Comments: 6.92 acres; subject to existing easements

Tract 7206
Barkley Lake
Dover Co: Stewart TN 37058
Landholding Agency: COE
Property Number: 31199010936
Status: Excess
Directions: 2½ miles SE of Dover, TN
Comments: 10.15 acres; subject to existing easements

Tracts 8813, 8814
Barkley Lake
Cumberland Co: Stewart TN 37050
Landholding Agency: COE
Property Number: 31199010937
Status: Excess
Directions: 1½ miles East of Cumberland City
Comments: 96 acres; subject to existing easements

Tract 8911

Barkley Lake
Cumberland City Co: Montgomery TN 37050
Landholding Agency: COE
Property Number: 31199010938
Status: Excess
Directions: 4 miles east of Cumberland City
Comments: 7.7 acres; subject to existing easements

Tract 11503
Barkley Lake
Ashland City Co: Cheatham TN 37015
Landholding Agency: COE
Property Number: 31199010939
Status: Excess
Directions: 2 miles downstream from Cheatham Dam
Comments: 1.1 acres; subject to existing easements

Tracts 11523, 11524
Barkley Lake
Ashland City Co: Cheatham TN 37015
Landholding Agency: COE
Property Number: 31199010940
Status: Excess
Directions: 2½ miles downstream from Cheatham Dam
Comments: 19.5 acres; subject to existing easements

Tract 6410
Barkley Lake
Bumpus Mills Co: Stewart TN 37028
Landholding Agency: COE
Property Number: 31199010941
Status: Excess
Directions: 4½ miles SW. of Bumpus Mills
Comments: 17 acres; subject to existing easements

Tract 9707
Barkley Lake
Palmyer Co: Montgomery TN 37142
Landholding Agency: COE
Property Number: 31199010943
Status: Excess
Directions: 3 miles NE of Palmyer, TN. Highway 149
Comments: 6.6 acres; subject to existing easements

Tract 6949
Barkley Lake
Dover Co: Stewart TN 37058
Landholding Agency: COE
Property Number: 31199010944
Status: Excess
Directions: 1½ miles SE of Dover, TN
Comments: 29.67 acres; subject to existing easements

Tracts 6005 and 6017
Barkley Lake
Dover Co: Stewart TN 37058
Landholding Agency: COE
Property Number: 31199011173
Status: Excess
Directions: 3 miles south of Village of Tobaccoport
Comments: 5 acres; subject to existing easements

Tracts K–1191, K–1135
Old Hickory Lock and Dam
Hartsville Co: Trousdale TN 37074
Landholding Agency: COE
Property Number: 31199130007
Status: Underutilized
Comments: 54 acres, (portion in floodway), most recent use—recreation

Tract A–102
Dale Hollow Lake Project
Canoe Ridge, State Hwy 52
Celina Co: Clay TN 38551
Landholding Agency: COE
Property Number: 31199140006
Status: Underutilized
Comments: 351 acres, most recent use—hunting, subject to existing easements

Tract A–120
Dale Hollow Lake Project
Swann Ridge, State Hwy No. 53
Celina Co: Clay TN 38551
Landholding Agency: COE
Property Number: 31199140007
Status: Underutilized
Comments: 883 acres, most recent use—hunting, subject to existing easements

Tract D–185
Dale Hollow Lake Project
Ashburn Creek, Hwy No. 53
Livingston Co: Clay TN 38570
Landholding Agency: COE
Property Number: 31199140010
Status: Underutilized
Comments: 97 acres, most recent use—hunting, subject to existing easements

Texas

Land
Olin E. Teague Veterans Center
1901 South 1st Street
Temple Co: Bell TX 76504
Landholding Agency: VA
Property Number: 97199010079
Status: Underutilized
Comments: 13 acres, portion formerly landfill, portion near flammable materials, railroad crosses property, potential utilities

Utah

Processing and Disposal Site
Monticello UT 84535
Landholding Agency: GSA
Property Number: 54201030008
Status: Surplus
GSA Number: 7–B–UT–431–AO
Comments: 175.41 acres, permanent utility easement, small portion may have contaminated groundwater, most recent use—grazing/farming

Wisconsin

VA Medical Center
County Highway E
Tomah Co: Monroe WI 54660
Landholding Agency: VA
Property Number: 97199010054
Status: Underutilized
Comments: 12.4 acres, serves as buffer between center and private property, no utilities

**Suitable/Unavailable Properties**

*Building*

Alaska

18 Fuel Storage Tanks
Point Barrow Long Range
Radar Site
Barrow AK 99723
Landholding Agency: GSA
Property Number: 54200930009
Status: Excess
GSA Number: 9–D–AK–824
Comments: 18,000–65,000 gallons, off-site use only

Salmonberry Qtrs.
157 Salmonberry
Bethel AK 99559
Landholding Agency: GSA
Property Number: 54200940001
Status: Excess
GSA Number: 9–U–AK–825
Comments: 2600 sq. ft., most recent use—residential

Dalton-Cache Border Station
Mile 42 Haines Highway
Haines AK 99827
Landholding Agency: GSA
Property Number: 54201010019
Status: Excess
GSA Number: 9–G–AK–0833
Directions: Bldgs. 1 and 2
Comments: 1,940 sq. ft., most recent use-residential, and off-site removal only

California

Defense Fuel Support Pt.
Estero Bay Facility
Morro Bay CA 93442
Landholding Agency: GSA
Property Number: 54200810001
Status: Surplus
GSA Number: 9–N–CA–1606
Comments: former 10 acre fuel tank farm w/ associated bldgs/pipelines/equipment, possible asbestos/PCBs

Former SSA Bldg.
1230 12th Street
Modesto CA 95354
Landholding Agency: GSA
Property Number: 54201020002
Status: Surplus
GSA Number: 9–G–CA–1610
Comments: 11,957 sq. ft., needs rehab/ seismic retrofit work, potential groundwater contamination below site, potential flooding

Illinois

Bldg. 7
Ohio River Locks No. 53
Grand Chain Co: Pulaski IL 62941–9801
Landholding Agency: COE
Property Number: 31199010001
Status: Unutilized
Directions: Ohio River Locks and Dam No. 53 at Grand Chain
Comments: 900 sq. ft.; 1 floor wood frame; most recent use—residence

Bldg. 6
Ohio River Locks No. 53
Grand Chain Co: Pulaski IL 62941–9801
Landholding Agency: COE
Property Number: 31199010002
Status: Unutilized
Directions: Ohio River Locks and Dam No. 53 at Grand Chain
Comments: 900 sq. ft.; one floor wood frame; most recent use—residence

Bldg. 5
Ohio River Locks No. 53
Grand Chain Co: Pulaski IL 62941–9801
Landholding Agency: COE
Property Number: 31199010003
Status: Unutilized
Directions: Ohio River Locks and Dam No. 53 at Grand Chain
Comments: 900 sq. ft.; one floor wood frame; most recent use—residence

Bldg. 4

Ohio River Locks No. 53
Grand Chain Co: Pulaski IL 62941–9801
Landholding Agency: COE
Property Number: 31199010004
Status: Unutilized
Directions: Ohio River Locks and Dam No. 53 at Grand Chain
Comments: 900 sq. ft.; one floor wood frame; most recent use—residence

Bldg. 3
Ohio River Locks No. 53
Grand Chain Co: Pulaski IL 62941–9801
Landholding Agency: COE
Property Number: 31199010005
Status: Unutilized
Directions: Ohio River Locks and Dam No. 53 at Grand Chain
Comments: 900 sq. ft.; one floor wood frame

Bldg. 2
Ohio River Locks No. 53
Grand Chain Co: Pulaski IL 62941–9801
Landholding Agency: COE
Property Number: 31199010006
Status: Unutilized
Directions: Ohio River Locks and Dam No. 53 at Grand Chain
Comments: 900 sq. ft.; one floor wood frame; most recent use—residence

Bldg. 1
Ohio River Locks No. 53
Grand Chain Co: Pulaski IL 62941–9801
Landholding Agency: COE
Property Number: 31199010007
Status: Unutilized
Directions: Ohio River Locks and Dam No. 53 at Grand Chain
Comments: 900 sq. ft.; one floor wood frame; most recent use—residence

Iowa

U.S. Army Reserve
620 West 5th St.
Garner IA 50438
Landholding Agency: GSA
Property Number: 54200920017
Status: Excess
GSA Number: 7–D–IA–0510
Comments: 5743 sq. ft., presence of lead paint, most recent use—offices/classrooms/storage, subject to existing easements

Maine

Border Patrol Station
Rt 1A
Van Buren ME 46278
Landholding Agency: GSA
Property Number: 54200930015
Status: Excess
GSA Number: 1–X–ME–0689
Comments: bldg.—approx. 1717 sq. ft., attached trailer—approx. 460 sq. ft.

Maryland

Federal Office Building
7550 Wisconsin Ave.
Bethesda MD 20814
Landholding Agency: GSA
Property Number: 54200920007
Status: Surplus
GSA Number: GMR–1101–1
Comments: 100,000 sq. ft., 10-story, requires major renovation, limited parking

Michigan

Social Security Bldg.
929 Stevens Road
Flint MI 48503
Landholding Agency: GSA
Property Number: 54200720020
Status: Excess
GSA Number: 1–G–MI–822
Comments: 10,283 sq. ft., most recent use—office

Missouri

Federal Bldg/Courthouse
339 Broadway St.
Cape Girardeau MO 63701
Landholding Agency: GSA
Property Number: 54200840013
Status: Excess
GSA Number: 7–G–MO–0673
Comments: 47,867 sq. ft., possible asbestos/lead paint, needs maintenance & seismic upgrades, 30% occupied—tenants to relocate within 2 yrs

Montana

VA MT Healthcare
210 S. Winchester
Miles City Co: Custer MT 59301
Landholding Agency: VA
Property Number: 97200030001
Status: Underutilized
Comments: 18 buildings, total sq. ft. = 123,851, presence of asbestos, most recent use—clinic/office/food production

New Hampshire

Federal Building
719 Main St.
Parcel ID: 424–124–78
Laconia NH 03246
Landholding Agency: GSA
Property Number: 54200920006
Status: Excess
GSA Number: 1–G–NH–0503
Comments: 31,271 sq. ft., most recent use—office bldg., National Register nomination pending

New Jersey

Camp Pedricktown Sup. Facility
U.S. Route 130
Pedricktown NJ 08067
Landholding Agency: GSA
Property Number: 54200740005
Status: Excess
GSA Number: 1–D–NJ–0662
Comments: 21 bldgs., need rehab, most recent use—barracks/mess hall/garages/quarters/admin., may be issues w/right of entry, utilities privately controlled, contaminants

Ohio

Bldg.—Berlin Lake
7400 Bedell Road
Berlin Center Co: Mahoning OH 44401–9797
Landholding Agency: COE
Property Number: 31199640001
Status: Unutilized
Comments: 1420 sq. ft., 2-story brick w/garage and basement, most recent use—residential, secured w/alternate access

NIKE Site Cd–46
Felicity OH
Landholding Agency: GSA
Property Number: 31200740015
Status: Excess
GSA Number: 1–D–OH–0832
Comments: 8 bldgs., most recent use—Ohio Air Natl Guard site

PFC Joe R. Hastings
Army Reserve Center
3120 Parkway Dr.
Canton OH 44708
Landholding Agency: GSA
Property Number: 54200840008
Status: Excess
GSA Number: 1–D–OH–835
Comments: 27,603 sq.ft./admin bldg. & vehicle maint. bldg., presence of asbestos/lead paint/radon/PCBs

Oxford USAR Facility
6557 Todd Road
Oxford OH 45056
Landholding Agency: GSA
Property Number: 54201010007
Status: Excess
GSA Number: 1–D–OH–833
Comments: office bldg./mess hall/barracks/simulator bldg./small support bldgs., structures range from good to needing major rehab

Bldg. 116
VA Medical Center
Dayton Co: Montgomery OH 45428
Landholding Agency: VA
Property Number: 97199920002
Status: Unutilized
Comments: 3 floors, potential utilities, needs major rehab, presence of asbestos/lead paint, historic property

Oregon

3 Bldgs/Land
OTHR–B Radar
Cty Rd 514
Christmas Valley OR 97641
Landholding Agency: GSA
Property Number: 54200840003
Status: Excess
GSA Number: 9–D–OR–0768
Comments: 14000 sq. ft. each/2626 acres, most recent use—radar site, right-of-way

U.S. Customs House
220 NW 8th Ave.
Portland OR
Landholding Agency: GSA
Property Number: 54200840004
Status: Excess
GSA Number: 9–D–OR–0733
Comments: 100,698 sq. ft., historical property/National Register, most recent use—office, needs to be brought up to meet earthquake code and local bldg codes, presence of asbestos/lead paint

Pennsylvania

Tract 403A
Grays Landing Lock Project
Greensboro Co: Greene PA 15338
Landholding Agency: COE
Property Number: 31199430021
Status: Unutilized
Comments: 620 sq. ft., 2-story, needs repair, most recent use—residential, if used for habitation must be flood proofed or removed off-site

Tract 403B
Grays Landing Lock Project
Greensboro Co: Greene PA 15338
Landholding Agency: COE
Property Number: 31199430022
Status: Unutilized
Comments: 1600 sq. ft., 2-story, brick structure, needs repair, most recent use—residential, if used for habitation must be flood proofed or removed off-site

Tract 403C
Grays Landing Lock Project
Greensboro Co: Greene PA 15338
Landholding Agency: COE
Property Number: 31199430023
Status: Unutilized
Comments: 672 sq. ft., 2-story carriage house/stable barn type structure, needs repair, most recent use—storage/garage, if used for habitation must be flood proofed or removed

Tennessee

NOAA Admin. Bldg.
456 S. Illinois Ave.
Oak Ridge TN 38730
Landholding Agency: GSA
Property Number: 54200920015
Status: Excess
GSA Number: 4–B–TN–0664–AA
Comments: 15,955 sq. ft., most recent use—office/storage/lab

Texas

Bldgs. 5, 6, 7
Federal Center
501 West Felix Street
Ft. Worth Co: Tarrant TX 76115
Landholding Agency: GSA
Property Number: 54200640002
Status: Excess
GSA Number: 7–G–TX–0767–3
Comments: 3 warehouses with concrete foundation, off-site use only

Washington

Residence
Turnbull Natl Wildlife Refuge
26010 South Smith Road
Cheney WA 99004
Landholding Agency: GSA
Property Number: 54201010010
Status: Excess
GSA Number: 9–I–WA–1249–AA
Comments: 1600 sq. ft., off-site use only, all costs associated with the move are buyer's responsibility

West Virginia

Naval Reserve Center
841 Jackson Ave.
Huntington WV 25704
Landholding Agency: GSA
Property Number: 54200930014
Status: Excess
GSA Number: 4–N–WV–0555
Comments: 31,215 sq. ft., presence of asbestos/lead paint, most recent use—office

Wisconsin

Bldg. 8
VA Medical Center
County Highway E
Tomah Co: Monroe WI 54660
Landholding Agency: VA
Property Number: 97199010056
Status: Underutilized
Comments: 2200 sq. ft., 2 story wood frame, possible asbestos, potential utilities, structural deficiencies, needs rehab

Bldg. 2
VA Medical Center
5000 West National Ave.
Milwaukee WI 53295
Landholding Agency: VA
Property Number: 97199830002
Status: Underutilized
Comments: 133,730 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—storage

*Land*

Arizona

Parking Lot
322 n 2nd Ave.
Phoenix AZ 85003
Landholding Agency: GSA
Property Number: 54200740007
Status: Surplus
GSA Number: AZ–6293–1
Comments: approx. 21,000 sq. ft., parcel in OU3 study area for clean-up

Salt River Project
Pecos/Alma School Road
#USBR–08–020
Chander AZ 85225
Landholding Agency: GSA
Property Number: 54200920001
Status: Surplus
GSA Number: 9–I–AZ–0850
Comments: approx. 34,183 sq. ft., ranges from 10–20 ft. wide, very long and narrow

0.23 acres
87th Ave.
Glendale AZ
Landholding Agency: GSA
Property Number: 54201010005
Status: Excess
GSA Number: 9–I–AZ–853
Comments: 0.23 acres used for irrigation canal

Guadalupe Road Land
Ironwood Road
Apache Junction AZ 95971
Landholding Agency: GSA
Property Number: 54201010012
Status: Surplus
GSA Number: 9–AZ–851–1
Comments: 1.36 acres, most recent use—aqueduct reach

Houston Road Land
Ironwood Road
Apache Junction AZ 85278
Landholding Agency: GSA
Property Number: 54201010013
Status: Surplus
GSA Number: 9–AZ–854
Comments: 5.89 acres, most recent use—aqueduct reach

Land
95th Ave/Bethany Home Rd
Glendale AZ 85306
Landholding Agency: GSA
Property Number: 54201010014
Status: Surplus
GSA Number: 9–AZ–852
Comments: 0.29 acre, most recent use—irrigation canal

California

Quincy Scaling Station
1495 E. Main St.
Quincy CA 95971
Landholding Agency: GSA
Property Number: 54200930004
Status: Surplus
GSA Number: 9–A–CA–1679–1
Comments: 0.98 acre

Iowa

38 acres
VA Medical Center
1515 West Pleasant St.
Knoxville Co: Marion IA 50138
Landholding Agency: VA
Property Number: 97199740001
Status: Unutilized
Comments: golf course

Kansas

Sunflower Hill Club & Cottage Sites
Hwy17/Hwy400
Fall River KS 67047
Landholding Agency: GSA
Property Number: 54201010002
Status: Excess
GSA Number: 7–D–KS–0513
Comments: approx. 126 acres, right-of-way access for roads and power lines

Massachusetts

FAA Site
Massasoit Bridge Rd.
Nantucket MA 02554
Landholding Agency: GSA
Property Number: 54200830026
Status: Surplus
GSA Number: MA–0895
Comments: approx 92 acres, entire parcel within MA Division of Fisheries & Wildlife Natural Heritage & Endangered Species Program

FAA Locator Antenna LOM
Coleman Road
Southhampton MA 01073
Landholding Agency: GSA
Property Number: 54200920005
Status: Excess
GSA Number: MA–0913–AA
Comments: 1.41 acres

Michigan

Former Elf Comm. Facility
3041 County Road
Republic MI 49879
Landholding Agency: GSA
Property Number: 54200840012
Status: Excess
GSA Number: 1–N–MI–0827
Comments: 6.69 acres w/transmiter bldg, support bldg., gatehouse, endangered species

VA Medical Center
5500 Armstrong Road
Battle Creek Co: Calhoun MI 49016
Landholding Agency: VA
Property Number: 97199010015
Status: Underutilized
Comments: 20 acres, used as exercise trails and storage areas, potential utilities

Missouri

Tract LLWAS K3
Mexico City Ave.
Kansas City MO 64153
Landholding Agency: GSA
Property Number: 54200940004
Status: Surplus
GSA Number: 7–U–MO–0687AA
Comments: 0.034 w/easements

Ohio

Former Outer Marker Facility
Cleves Warsaw/Muddy Creek
Cincinnati OH 45233
Landholding Agency: GSA
Property Number: 54201010008
Status: Excess
GSA Number: 1–U–OH–0841
Comments: 0.319 acres, river valley terrain/relatively steep hills

Pennsylvania

East Branch Clarion River Lake
Wilcox Co: Elk PA
Landholding Agency: COE
Property Number: 31199011012
Status: Underutilized
Directions: Free camping area on the right bank off entrance roadway
Comments: 1 acre; most recent use—free campground

Dashields Locks and Dam
(Glenwillard, PA)
Crescent Twp. Co: Allegheny PA 15046–0475
Landholding Agency: COE
Property Number: 31199210009
Status: Unutilized
Comments: 0.58 acres, most recent use—baseball field

approx. 16.88
271 Sterrettania Rd.
Erie PA 16506
Landholding Agency: GSA
Property Number: 54200820011
Status: Surplus
GSA Number: 4–D–PA–0810
Comments: vacant land

VA Medical Center
New Castle Road
Butler Co: Butler PA 16001
Landholding Agency: VA
Property Number: 97199010016
Status: Underutilized
Comments: Approx. 9.29 acres, used for patient recreation, potential utilities

Land No. 645
VA Medical Center
Highland Drive
Pittsburgh Co: Allegheny PA 15206
Landholding Agency: VA
Property Number: 97199010080
Status: Unutilized
Directions: Between Campania and Wiltsie Streets
Comments: 90.3 acres, heavily wooded, property includes dump area and numerous site storm drain outfalls

Land—34.16 acres
VA Medical Center
1400 Black Horse Hill Road
Coatesville Co: Chester PA 19320
Landholding Agency: VA
Property Number: 97199340001
Status: Underutilized
Comments: 34.16 acres, open field, most recent use—recreation/buffer

Texas

Cottonwood Bay
14th St/Skyline Rd.
Grand Prairie TX
Landholding Agency: GSA
Property Number: 54201010004
Status: Surplus
GSA Number: 7–N–TX–846
Comments: 110 acres includes a 79 acre water body, primary storm water discharge basin. remediation responsibilities, subject to all institutional controls

**Suitable/To be Excessed**

*Land*

Georgia

Lake Sidney Lanier
null Co: Forsyth GA 30130
Landholding Agency: COE
Property Number: 31199440010
Status: Unutilized
Directions: Located on Two Mile Creek adj. to State Route 369
Comments: 0.25 acres, endangered plant species

Lake Sidney Lanier-3 parcels
Gainesville Co: Hall GA 30503
Landholding Agency: COE
Property Number: 31199440011
Status: Unutilized
Directions: Between Gainesville H.S. and State Route 53 By-Pass
Comments: 3 parcels totalling 5.17 acres, most recent use—buffer zone, endangered plant species

Massachusetts

Buffumville Dam
Flood Control Project
Gale Road
Carlton Co: Worcester MA 01540–0155
Landholding Agency: COE
Property Number: 31199010016
Status: Excess
Directions: Portion of tracts B–200, B–248, B–251, B–204, B–247, B–200 and B–256
Comments: 1.45 acres

Tennessee

Tract D–456
Cheatham Lock and Dam
Ashland Co: Cheatham TN 37015
Landholding Agency: COE
Property Number: 31199010942
Status: Excess
Directions: Right downstream bank of Sycamore Creek
Comments: 8.93 acres; subject to existing easements

Texas

Corpus Christi Ship Channel
Corpus Christi Co: Neuces TX
Landholding Agency: COE
Property Number: 31199240001
Status: Unutilized
Directions: East side of Carbon Plant Road, approx. 14 miles NW of downtown Corpus Christi
Comments: 4.4 acres, most recent use—farm land

**Unsuitable Properties**

*Building*

Alabama

Comfort Station
Clailborne Lake
Camden AL 36726
Landholding Agency: COE
Property Number: 31200540001
Status: Unutilized
Reasons: Extensive deterioration

Pumphouse
Dannelly Reservoir
Camden AL 36726
Landholding Agency: COE
Property Number: 31200540002
Status: Unutilized
Reasons: Extensive deterioration

15 Bldgs.
Dauphin Island
Mobile AL
Landholding Agency: Coast Guard
Property Number: 88200930002
Status: Underutilized
Reasons: Secured Area

Bldg. 7
VA Medical Center
Tuskegee Co: Macon AL 36083
Landholding Agency: VA
Property Number: 97199730001
Status: Underutilized
Reasons: Secured Area

Bldg. 8
VA Medical Center
Tuskegee Co: Macon AL 36083
Landholding Agency: VA
Property Number: 97199730002
Status: Underutilized
Reasons: Secured Area

Alaska

Transmitter Bldg. B4A
Loran Station
St. Paul AK 99660
Landholding Agency: Coast Guard
Property Number: 88200920001
Status: Excess
Reasons: Contamination

Arkansas

Dwelling
Bull Shoals Lake/Dry Run Road
Oakland Co: Marion AR 72661
Landholding Agency: COE
Property Number: 31199820001
Status: Unutilized
Reasons: Extensive deterioration

Helena Casting Plant
Helena Co: Phillips AR 72342
Landholding Agency: COE
Property Number: 31200220001
Status: Unutilized
Reasons: Extensive deterioration

BSHOAL–43560
Mountain Home Project
Mountain Home AR 72653
Landholding Agency: COE
Property Number: 31200630001
Status: Unutilized
Reasons: Extensive deterioration

BSHOAL–43561
Mountain Home Project
Mountain Home AR 72653
Landholding Agency: COE
Property Number: 31200630002
Status: Unutilized
Reasons: Extensive deterioration

BSHOAL–43652
Mountain Home Project
Mountain Home AR 72653
Landholding Agency: COE
Property Number: 31200630003
Status: Unutilized
Reasons: Extensive deterioration

NRFORK–48769
Mountain Home Project
Mountain Home AR 72653
Landholding Agency: COE
Property Number: 31200630004
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 43336, 44910, 44949
Nimrod-Blue Mountain Project
Plainview AR 72858
Landholding Agency: COE
Property Number: 31200630005
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 44913, 44925
Nimrod-Blue Mountain Project
Plainview AR 72857
Landholding Agency: COE
Property Number: 31200630006
Status: Unutilized
Reasons: Extensive deterioration

Well House
Mountain Home Project
Mountain Home AR 72653
Landholding Agency: COE
Property Number: 31200820001
Status: Unutilized
Reasons: Secured Area

Property 44333, 64120, 44653
Little Rock District
DeQueen AR 71832
Landholding Agency: COE
Property Number: 31201020009
Status: Excess
Reasons: Extensive deterioration

Radio Tower Property
DeQueen Lake
DeQueen AR 71832
Landholding Agency: COE
Property Number: 31201030002
Status: Unutilized
Reasons: Extensive deterioration

California

Soil Testing Lab
Sausalito CA 00000
Landholding Agency: COE
Property Number: 31199920002
Status: Excess
Reasons: Other—contamination

Bldg. S 00108
Sharpe
Lathrop CA 95231
Landholding Agency: COE
Property Number: 31200820002
Status: Underutilized
Reasons: Secured Area

Bldgs. MO3, MO14, MO17
Sandia National Lab
Livermore Co: Alameda CA 94550
Landholding Agency: Energy
Property Number: 41200220001
Status: Excess
Reasons: Extensive deterioration

Bldgs. C920, C921, C922
Sandia Natl Laboratories
Livermore Co: Alameda CA 94551
Landholding Agency: Energy
Property Number: 41200540001
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 175
Livermore National Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200630001
Status: Excess
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Trailer 1403
Livermore National Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200630003
Status: Excess
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Trailer 3703
Livermore National Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200630004
Status: Excess
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Bldg. 363
National Laboratory
Livermore CA
Landholding Agency: Energy
Property Number: 41200710001
Status: Excess
Reasons: Secured Area

Bldgs. 436, 446
National Laboratory
Livermore CA
Landholding Agency: Energy
Property Number: 41200710002
Status: Excess
Reasons: Secured Area

Bldg. 3520
National Laboratory
Livermore CA
Landholding Agency: Energy
Property Number: 41200710003
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 4182, 4184, 4187
National Laboratory
Livermore CA
Landholding Agency: Energy
Property Number: 41200710004
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 5974
National Laboratory
Livermore CA
Landholding Agency: Energy
Property Number: 41200710005
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 194A, 198
Lawrence Livermore Natl Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200720007
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 213, 280
Lawrence Livermore Natl Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200720008
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 312, 345
Lawrence Livermore Natl Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200720009
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 2177, 2178
Lawrence Livermore Natl Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200720010
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 2687, 3777
Lawrence Livermore Natl Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200720011
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 263, 419
Lawrence Livermore Natl Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200720012
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 1401, 1402, 1404
Lawrence Livermore Natl Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200720013
Status: Excess
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Bldgs. 1405, 1406, 1407
Lawrence Livermore Natl Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200720014
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 1408, 1413, 1456
Lawrence Livermore Natl Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200720015
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 2684
Lawrence Livermore Natl Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200720016
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. CM46A
Sandia Natl Lab
Livermore CA 94551
Landholding Agency: Energy
Property Number: 41200730005
Status: Excess
Reasons: Secured Area

Bldgs. 445, 534
Lawrence Livermore Natl Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200740001
Status: Excess
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

4 Bldgs.
Lawrence Livermore Natl Lab
802A, 811, 830, 854A
Livermore CA
Landholding Agency: Energy
Property Number: 41200740002
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

Bldgs. 8806, 8710, 8711
Lawrence Livermore Natl Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200740003
Status: Excess
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Bldgs. 1492, 1526, 1579
Lawrence Livermore
National Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200740005
Status: Excess
Reasons: Secured Area

Bldgs. 1601, 1632
Lawrence Livermore
National Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200740006
Status: Excess
Reasons: Secured Area

Bldgs. 2552, 2685, 2728
Lawrence Livermore
National Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200740007
Status: Excess
Reasons: Secured Area

Bldgs. 2801, 2802
Lawrence Livermore
National Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200740008
Status: Excess
Reasons: Secured Area

Bldgs. 3175, 3751, 3775
Lawrence Livermore
National Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200740009
Status: Excess
Reasons: Secured Area

4 Bldgs.
Lawrence Livermore
National Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200740010
Status: Excess
Directions: 4161, 4316, 4384, 4388
Reasons: Secured Area

Bldgs. 4406, 4475
Lawrence Livermore
National Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200740011
Status: Excess
Reasons: Secured Area

Bldgs. 4905, 4906, 4926
Lawrence Livermore
National Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200740012
Status: Excess
Reasons: Secured Area

Bldg. 5425
Lawrence Livermore
National Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200740013
Status: Excess
Reasons: Secured Area

10 Bldgs.
Lawrence Livermore Natl Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200830002
Status: Excess
Directions: 2127, 4302, 4377, 4378, 4383, 5225, 5976, 5979, 5980, 6203
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

5 Bldgs.
Lawrence Livermore Natl Lab
1481, 1527, 1884, 1885, 1927
Livermore CA
Landholding Agency: Energy
Property Number: 41200840001
Status: Excess
Reasons: Extensive deterioration

Bldgs. 3577, 3982, 4128
Lawrence Livermore Natl Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200840002
Status: Excess
Reasons: Secured Area

Bldgs. 328, 367, 376
Lawrence Livermore Natl Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200840008
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. 5125
Lawrence Livermore Natl Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200840009
Status: Excess
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

6 Bldgs.
Lawrence Livermore Natl Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200840010
Status: Excess
Directions: 1407, 1408, 1413, 1492, 1526, 1579
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

6 Bldgs.
Lawrence Livermore Natl Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200840011
Status: Excess
Directions: 3775, 4161, 4316, 4388, 4905, 4906
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Bldgs. 8710, 8711, 8806
Lawrence Livermore Natl Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200840012
Status: Excess
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

6 Bldgs.
Lawrence Livermore Natl Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200920005
Status: Excess
Directions: 1541, 1878, 2727, 3180, 4107, 5477
Reasons: Secured Area

Bldg. 004J
Lawrence Livermore Natl Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200930003
Status: Excess
Reasons: Secured Area

Bldg. 050D
Lawrence Berkeley Natl Lab
Berkeley CA 94720
Landholding Agency: Energy
Property Number: 41201020002
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldg. 1578
Lawrence Livermore Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41201020003
Status: Excess
Reasons: Secured Area

11 Bldgs.
Lawrence Berkeley Nat'l Lab
Berkeley Co: Alameda CA 94720
Landholding Agency: Energy
Property Number: 41201020008
Status: Excess
Directions: Bldg. Nos. 25, 25A, 25B, 44, 44A, 44B, 46C, 46D, 52,52A, and 75A
Reasons: Secured Area

Bldg. 210
Coast Guard Training Center
Petaluma CA 94952
Landholding Agency: Coast Guard
Property Number: 88201020002
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 220
Coast Guard Training Center
Petaluma CA 95452
Landholding Agency: Coast Guard
Property Number: 88201020003
Status: Unutilized
Reasons: Secured Area

Connecticut

Hezekiah S. Ramsdell Farm
West Thompson Lake
North Grosvenordale Co: Windham CT 06255–9801
Landholding Agency: COE
Property Number: 31199740001
Status: Unutilized
Reasons: Extensive deterioration, Floodway

Bldgs. 25 and 26
Prospect Hill Road
Windsor Co: Hartford CT 06095
Landholding Agency: Energy
Property Number: 41199440003
Status: Excess
Reasons: Secured Area

9 Bldgs.

Knolls Atomic Power Lab, Windsor Site
Windsor Co: Hartford CT 06095
Landholding Agency: Energy
Property Number: 41199540004
Status: Excess
Reasons: Secured Area

Bldg. 8, Windsor Site
Knolls Atomic Power Lab
Windsor Co: Hartford CT 06095
Landholding Agency: Energy
Property Number: 41199830006
Status: Unutilized
Reasons: Extensive deterioration

Boathouse
USCG Academy
New London CT 06320
Landholding Agency: Coast Guard
Property Number: 88200930001
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Florida

Bldg. SF–17
Sub-Office Operations
Clewiston Co: Hendry FL 33440
Landholding Agency: COE
Property Number: 31200430005
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. SF–33
Franklin Lock
Alva Co: Lee FL 33920
Landholding Agency: COE
Property Number: 31200620008
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 25
(f) Richmond Naval Air Station
15810 SW 129th Ave.
Miami Co: Dade FL 33177
Landholding Agency: COE
Property Number: 31200620031
Status: Excess
Reasons: Extensive deterioration

Bldg. SF–14
S. Florida Operations Ofc. Reservation
Clewiston Co: Hendry FL 33440
Landholding Agency: COE
Property Number: 31200710001
Status: Unutilized
Reasons: Secured Area

Bldg. L–10
Jim Woodruff Reservoir
Chattachoochee FL 32324
Landholding Agency: COE
Property Number: 31200820003
Status: Unutilized
Reasons: Extensive deterioration

Bldg. SF–78
Lock & Dam
Moore Haven FL
Landholding Agency: COE
Property Number: 31200920026
Status: Unutilized
Reasons: Extensive deterioration

Georgia

Bldg. #WRSH18
West Point Lake
West Point GA 31833
Landholding Agency: COE
Property Number: 31200430006
Status: Unutilized
Reasons: Secured Area

Bldg. W03
West Point Lake
West Point GA 31833
Landholding Agency: COE
Property Number: 31200430007
Status: Unutilized
Reasons: Extensive deterioration, Secured Area, Within 2000 ft. of flammable or explosive material

Gatehouse #W03
West Point Lake
West Point GA 31833–9517
Landholding Agency: COE
Property Number: 31200510001
Status: Unutilized
Reasons: Extensive deterioration

WRSH14, WRSH15, WRSH18
West Point Lake
West Point GA 31833–9517
Landholding Agency: COE
Property Number: 31200510002
Status: Unutilized
Reasons: Extensive deterioration

Pumphouse
Carters Lake
Oakman GA 30732
Landholding Agency: COE
Property Number: 31200520002
Status: Unutilized
Reasons: Extensive deterioration

Vault Toilet
Lake Sidney Lanier
Buford GA 30518
Landholding Agency: COE
Property Number: 31200540003
Status: Unutilized
Reasons: Extensive deterioration

Bldg. WC–19
Walter F. George Lake
Fort Gaines GA 39851
Landholding Agency: COE
Property Number: 31200630007
Status: Unutilized
Reasons: Extensive deterioration

Radio Room
Walter F. George Lake
Ft. Gaines GA 39851
Landholding Agency: COE
Property Number: 31200640004
Status: Unutilized
Reasons: Extensive deterioration

Bldg. JST–16711
Hesters Ferry Campground
Lincoln GA
Landholding Agency: COE
Property Number: 31200710002
Status: Unutilized
Reasons: Extensive deterioration

4 Bldgs.
West Point Lake
WH16, WH18, WR02, WA03
West Point GA 31833
Landholding Agency: COE
Property Number: 31200820004
Status: Unutilized
Reasons: Extensive deterioration

Pumphouse
Carters Lake
Oakman GA 30732
Landholding Agency: COE
Property Number: 31200820005
Status: Unutilized
Reasons: Extensive deterioration

4 Stables
Di-Lane Plantation
Elberton GA 30635
Landholding Agency: COE
Property Number: 31200820006
Status: Unutilized
Reasons: Extensive deterioration

9 Comfort Stations
Hartwell Lake & Dam
Hartwell GA 30643
Landholding Agency: COE
Property Number: 31200920001
Status: Unutilized
Directions: HAR 16099, 16100, 16102, 16555, 16920, 16838, 18482, 18483
Reasons: Extensive deterioration

RBR–19069
Richard B. Russell Lake
Elberton GA 30635
Landholding Agency: COE
Property Number: 31200920002
Status: Unutilized
Reasons: Extensive deterioration

5 Comfort Stations
Hartwell Lake & Dam
Hartwell GA 30643
Landholding Agency: COE
Property Number: 31200920027
Status: Unutilized
Directions: HAR–16113, 18157, 18172, 18357, 18524
Reasons: Extensive deterioration

Well House #3
JST–15732
McCormick GA
Landholding Agency: COE
Property Number: 31200920028
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. LC–05, LC–06, LC–07
West Point Lake
West Point GA 31833
Landholding Agency: COE
Property Number: 31201010001
Status: Unutilized
Reasons: Extensive deterioration

12 Bldgs.
West Point Lake
West Point GA 31833
Landholding Agency: COE
Property Number: 31201020002
Status: Unutilized
Directions: WLC06, LC05, LC06, LC07, RP07, WEC04, WEC05, WYJ03, WH17, WR01, WGB04, RP09
Reasons: Extensive deterioration

HAR–16465, 16179
Hartwell Lake & Dam
Hartwell GA 30643
Landholding Agency: COE
Property Number: 31201020010
Status: Unutilized
Reasons: Extensive deterioration

RBR–16227, RBR–18650
Richard B. Russell Lake & Dam
Elberton GA 30635
Landholding Agency: COE
Property Number: 31201020011
Status: Unutilized
Reasons: Extensive deterioration

Idaho

Bldg. AFD0070
Albeni Falls Dam
Oldtown Co: Bonner ID 83822

Landholding Agency: COE
Property Number: 31199910001
Status: Unutilized
Reasons: Extensive deterioration

Bldg. CPP–691
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41199610003
Status: Unutilized
Reasons: Secured Area

Bldg. TRA–669
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41199610013
Status: Unutilized
Reasons: Secured Area

Bldg. TRA–673
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41199610018
Status: Unutilized
Reasons: Secured Area

Bldg. PBF–620
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41199610019
Status: Unutilized
Reasons: Secured Area

Bldg. PBF–619
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41199610022
Status: Unutilized
Reasons: Secured Area

Bldg. TRA–641
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41199610034
Status: Unutilized
Reasons: Secured Area

Bldg. CF–606
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41199610037
Status: Unutilized
Reasons: Secured Area

Bldgs. CPP638, CPP642
Idaho Natl Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200410014
Status: Excess
Reasons: Secured Area

Bldg. CPP 743
Idaho Natl Eng lab
Scoville Co: Butte ID 83–415
Landholding Agency: Energy
Property Number: 41200410020
Status: Excess
Reasons: Secured Area

Bldgs. CPP1647, 1653
Idaho Natl Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200410022
Status: Excess
Reasons: Secured Area

Bldg. CPP1677
Idaho Natl Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200410023
Status: Excess
Reasons: Secured Area

Bldg. 694
Idaho Natl Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200410034
Status: Excess
Reasons: Secured Area

Bldgs. CPP1604–CPP1608
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430071
Status: Excess
Reasons: Secured Area

Bldgs. CPP1617–CPP1619
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430072
Status: Excess
Reasons: Secured Area

6 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430073
Status: Excess
Directions: CPP1631, CPP1634, CPP1635, CPP1636, CPP1637, CPP1638
Reasons: Secured Area

5 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430074
Status: Excess
Directions: CPP1642, CPP1643, CPP1644, CPP1646, CPP1649
Reasons: Secured Area

3 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430075
Status: Excess
Directions: CPP1650, CPP1651, CPP1656
Reasons: Secured Area

5 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430076
Status: Excess
Directions: CPP1662, CPP1663, CPP1671, CPP1673, CPP1674
Reasons: Secured Area

5 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430077
Status: Excess
Directions: CPP1678, CPP1682, CPP1683, CPP1684, CPP1686
Reasons: Secured Area

5 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430078
Status: Excess
Directions: CPP1713, CPP1749, CPP1750, CPP1767, CPP1769
Reasons: Secured Area

5 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430079
Status: Excess
Directions: CPP1770, CPP1771, CPP1772, CPP1774, CPP1776
Reasons: Secured Area

4 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430081
Status: Excess
Directions: CPP1789, CPP1790, CPP1792, CPP1794
Reasons: Secured Area

Bldgs. CPP2701, CPP2706
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430082
Status: Excess
Reasons: Secured Area

3 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430089
Status: Excess
Directions: TRA603, TRA604, TRA610
Reasons: Secured Area

Bldg. TAN611
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430090
Status: Excess
Reasons: Secured Area

5 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430091
Status: Excess
Directions: TRA626, TRA635, TRA642, TRA648, TRA654
Reasons: Secured Area

Bldg. TAN655
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430092
Status: Excess
Reasons: Secured Area

3 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430093
Status: Excess
Directions: TRA657, TRA661, TRA668
Reasons: Secured Area

Bldg. TAN711
Idaho National Eng Lab
Scoville Co: Butte ID 83415

Landholding Agency: Energy
Property Number: 41200430094
Status: Excess
Reasons: Secured Area

6 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430095
Status: Excess
Directions: CPP602–CPP606, CPP609
Reasons: Secured Area

5 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430096
Status: Excess
Directions: CPP611–CPP614, CPP616
Reasons: Secured Area

4 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430097
Status: Excess
Directions: CPP621, CPP626, CPP630, CPP639
Reasons: Secured Area

4 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430098
Status: Excess
Directions: CPP641, CPP644, CPP645, CPP649
Reasons: Secured Area

Bldgs. CPP651–CPP655
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430099
Status: Excess
Reasons: Secured Area

Bldgs. CPP659–CPP663
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440001
Status: Excess
Reasons: Secured Area

Bldgs. CPP666, CPP668
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440002
Status: Excess
Reasons: Secured Area

1 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440004
Status: Excess
Directions: CPP684
Reasons: Secured Area

5 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440005
Status: Excess
Directions: CPP692, CPP694, CPP697–CPP699
Reasons: Secured Area

3 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440006
Status: Excess
Directions: CPP701, CPP701A, CPP708
Reasons: Secured Area

Bldgs. 711, 719A
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440007
Status: Excess
Reasons: Secured Area

4 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440008
Status: Excess
Directions: CPP724–CPP726, CPP728
Reasons: Secured Area

Bldg. CPP729/741
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440012
Status: Excess
Reasons: Secured Area

Bldgs. CPP733, CPP736
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440013
Status: Excess
Reasons: Secured Area

Bldgs. CPP740, CPP742
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440014
Status: Excess
Reasons: Secured Area

Bldgs. CPP746, CPP748
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440015
Status: Excess
Reasons: Secured Area

3 Bldgs.
Idaho National Eng Lab
CPP750, CPP751, CPP752
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440016
Status: Excess
Reasons: Secured Area

3 Bldgs.
Idaho National Eng Lab
CPP753, CPP753A, CPP754
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440017
Status: Excess
Reasons: Secured Area

Bldgs. CPP760, CPP763
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440018
Status: Excess
Reasons: Secured Area

Bldgs. CPP764, CPP765
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440019
Status: Excess
Reasons: Secured Area

Bldgs. CPP767, CPP768
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440020
Status: Excess
Reasons: Secured Area

Bldgs. CPP791, CPP795
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440021
Status: Excess
Reasons: Secured Area

3 Bldgs.
Idaho National Eng Lab
CPP796, CPP797, CPP799
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440022
Status: Excess
Reasons: Secured Area

Bldgs. CPP701B, CPP719
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440023
Status: Excess
Reasons: Secured Area

Bldgs. CPP720A, CPP720B
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440024
Status: Excess
Reasons: Secured Area

Bldg. CPP1781
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440025
Status: Excess
Reasons: Secured Area

2 Bldgs.
Idaho National Eng Lab
CPP0000VES–UTI–111, VES–UTI–112
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440026
Status: Excess
Reasons: Secured Area

Bldgs. TAN704, TAN733
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440028
Status: Excess
Reasons: Secured Area

Bldgs. TAN1611, TAN1614
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440029
Status: Excess
Reasons: Secured Area

Bldg. CF633

Idaho Natl Laboratory
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200520005
Status: Excess
Reasons: Extensive deterioration

Bldgs. B23–602, B27–601
Idaho Natl Laboratory
Idaho Falls ID 83415
Landholding Agency: Energy
Property Number: 41200820003
Status: Unutilized
Reasons: Secured Area

Bldgs. CF–635, CF650
Idaho Natl Laboratory
Idaho Falls ID 83415
Landholding Agency: Energy
Property Number: 41200820005
Status: Unutilized
Reasons: Secured Area

Within 2000 ft. of flammable or explosive material

Bldgs. CF–662, CF–692
Idaho Natl Laboratory
Idaho Falls ID 83415
Landholding Agency: Energy
Property Number: 41200820006
Status: Unutilized
Reasons: Secured Area

Extensive deterioration

Bldg. CF–666
Idaho National Laboratory
Idaho Falls ID 83415
Landholding Agency: Energy
Property Number: 41201010005
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

Illinois

Bldg. CB562–7141
Wilborn Creek
Shelbyville IL 62565
Landholding Agency: COE
Property Number: 31200620009
Status: Excess
Reasons: Extensive deterioration

Bldg. CB562–7153
Wilborn Creek
Shelbyville IL 62565
Landholding Agency: COE
Property Number: 31200620010
Status: Excess
Reasons: Extensive deterioration

Bldg. CB562–7162
Bo Wood
Shelbyville IL 62565
Landholding Agency: COE
Property Number: 31200620011
Status: Excess
Reasons: Extensive deterioration

Bldg. CB562–7163
Bo Wood
Shelbyville IL 62565
Landholding Agency: COE
Property Number: 31200620012
Status: Excess
Reasons: Extensive deterioration

Bldg. CB562–7164
Bo Wood
Shelbyville IL 62565
Landholding Agency: COE
Property Number: 31200620013
Status: Excess
Reasons: Extensive deterioration

Bldg. CB562–7165
Bo Wood
Shelbyville IL 62565
Landholding Agency: COE
Property Number: 31200620014
Status: Excess
Reasons: Extensive deterioration

Bldg. CB562–7196
Whitley Creek
Shelbyville IL 62565
Landholding Agency: COE
Property Number: 31200620015
Status: Excess
Reasons: Extensive deterioration

Bldg. CB562–7197
Whitley Creek
Shelbyville IL 62565
Landholding Agency: COE
Property Number: 31200620016
Status: Excess
Reasons: Extensive deterioration

Bldg. CB562–7199
Whitley Creek
Shelbyville IL 62565
Landholding Agency: COE
Property Number: 31200620017
Status: Excess
Reasons: Extensive deterioration

Bldg. CB562–7200
Whitley Creek
Shelbyville IL 62565
Landholding Agency: COE
Property Number: 31200620018
Status: Excess
Reasons: Extensive deterioration

Bldg. CB562–9042
Whitley Creek
Shelbyville IL 62565
Landholding Agency: COE
Property Number: 31200620019
Status: Excess
Reasons: Extensive deterioration

Bldg. CB639–7876
Rend Lake
Benton IL 62812
Landholding Agency: COE
Property Number: 31200620020
Status: Excess
Reasons: Extensive deterioration

Fee Booth
Bo Wood Recreation Area
Shelbyville IL 62565
Landholding Agency: COE
Property Number: 31200630008
Status: Unutilized
Reasons: Extensive deterioration

Comfort Station
Rend Lake
Benton IL 62812
Landholding Agency: COE
Property Number: 31200710004
Status: Excess
Reasons: Extensive deterioration

Comfort Station
Rend Lake Project
Benton IL 62812
Landholding Agency: COE
Property Number: 31200740001
Status: Excess
Reasons: Extensive deterioration

Repair Unit Land
400 Old Rock Rd.
Granite City IL 62040
Landholding Agency: COE
Property Number: 31200920005
Status: Unutilized
Reasons: Extensive deterioration

22 Comfort Stations
Carlyle Lake Project
Carlyle IL 62231
Landholding Agency: COE
Property Number: 31200920032
Status: Unutilized
Directions: CB561–7908, 7909, 7911, 7926, 7927, 7997, 7998, 7999, 8016, 8035, 8037, 8038, 8039, 8040, 8041, 8042, 8078, 8079, 8081, 8097, 8106, 8126
Reasons: Extensive deterioration

8 Bldgs.
Lake Shelbyville Project
Shelbyville IL 62565
Landholding Agency: COE
Property Number: 31200920033
Status: Excess
Directions: CB562–7062, 7087, 7088, 7089, 7106, 7140, 7166, 9038
Reasons: Extensive deterioration

23 Bldgs.
Rend Lake Project
Benton IL 62812
Landholding Agency: COE
Property Number: 31200920034
Status: Excess
Directions: CB639–7750, 8771, 7757, 7800, 7801, 7811, 7824, 7833, 7834, 7835, 7836, 7838, 7842, 7840, 7839, 7841, 7850, 7870, 7874, 7875, 7877, 7878, 7891
Reasons: Extensive deterioration

Trailer
Rend Lake Project
Benton IL 62812
Landholding Agency: COE
Property Number: 31200940003
Status: Excess
Reasons: Extensive deterioration

Bldgs. 004R43, 003R60
Carlyle Lake
Clinton IL 62231
Landholding Agency: COE
Property Number: 31201020003
Status: Excess
Reasons: Extensive deterioration

Bldgs. 306A, B, C, TR–5
Argonne National Lab
Argonne IL 60439
Landholding Agency: Energy
Property Number: 41200720017
Status: Excess
Reasons: Secured Area

Bldgs. 310, 330
Argonne National Lab
DuPage IL 60439
Landholding Agency: Energy
Property Number: 41200920007
Status: Excess
Reasons: Contamination; Secured Area

Bldg. 621
FERMILAB
Batavia IL
Landholding Agency: Energy
Property Number: 41201020007
Status: Excess
Reasons: Extensive deterioration, Secured Area

Bldgs. OB1, OB2, OM2
U.S. Coast Guard Station
Calumet Harbor
Chicago IL 60617

Landholding Agency: Coast Guard
Property Number: 88200940005
Status: Excess
Reasons: Secured Area, Extensive deterioration

Indiana

Bldg. 62, VA Medical Center
East 38th Street
Marion Co: Grant IN 46952
Landholding Agency: VA
Property Number: 97199230003
Status: Excess
Reasons: Extensive deterioration

Iowa

Tract 137
Camp Dodge
Johnston Co: Polk IA 50131–1902
Landholding Agency: COE
Property Number: 31200410001
Status: Excess
Reasons: Extensive deterioration

Bldg. 29355
Island View Park
Centerville IA 52544
Landholding Agency: COE
Property Number: 31201010002
Status: Excess
Reasons: Extensive deterioration

Kansas

No. 01017
Kanopolis Project
Marquette Co: Ellsworth KS 67456
Landholding Agency: COE
Property Number: 31200210001
Status: Unutilized
Reasons: Extensive deterioration

6 Bldgs.
Cottonwood Point/Hillsboro Cove
Marion Co: Coffey KS 66861
Landholding Agency: COE
Property Number: 31200340001
Status: Excess
Reasons: Extensive deterioration

20 Bldgs.
Riverside
Burlington Co: Coffey KS 66839–8911
Landholding Agency: COE
Property Number: 31200340002
Status: Excess
Reasons: Extensive deterioration

2 Bldgs.
Canning Creek/Richey Cove
Council Grove Co: Morris KS 66846–9322
Landholding Agency: COE
Property Number: 31200340003
Status: Excess
Reasons: Extensive deterioration

6 Bldgs.
Santa Fe Trail/Outlet Channel
Council Grove Co: Morris KS 66846
Landholding Agency: COE
Property Number: 31200340004
Status: Excess
Reasons: Extensive deterioration

16 Bldgs.
Cottonwood Point
Marion KS
Landholding Agency: COE
Property Number: 31200530003
Status: Excess
Reasons: Extensive deterioration

3 Bldgs.
Damsite PUA
Fall River Co: Greenwood KS 67047
Landholding Agency: COE
Property Number: 31200530004
Status: Excess
Reasons: Extensive deterioration

2 Bldgs.
Damsite PUA
Fall River Co: Greenwood KS 67047
Landholding Agency: COE
Property Number: 31200530005
Status: Excess
Reasons: Extensive deterioration

Bldgs.
Canning Creek
Council Grove Co: Morris KS 66846
Landholding Agency: COE
Property Number: 31200620022
Status: Excess
Reasons: Extensive deterioration

Bldgs. 28370, 28373, 28298
Melvern Lake
Melvern Co: Osage KS 66510
Landholding Agency: COE
Property Number: 31200710006
Status: Excess
Reasons: Extensive deterioration

Bldgs. 51026, 40016
Outlet Park
Junction City KS 66441
Landholding Agency: COE
Property Number: 31201010003
Status: Excess
Reasons: Extensive deterioration

Kentucky

Spring House
Kentucky River Lock and Dam No. 1
Highway 320
Carrollton Co: Carroll KY 41008
Landholding Agency: COE
Property Number: 21199040416
Status: Unutilized
Reasons: Other—Spring House

6–Room Dwelling
Green River Lock and Dam No. 3
Rochester Co: Butler KY 42273
Landholding Agency: COE
Property Number: 31199120010
Status: Unutilized
Directions: Off State Hwy 369, which runs off of Western Ky. Parkway
Reasons: Floodway

2-Car Garage
Green River Lock and Dam No. 3
Rochester Co: Butler KY 42273
Landholding Agency: COE
Property Number: 31199120011
Status: Unutilized
Directions: Off State Hwy 369, which runs off of Western Ky. Parkway
Reasons: Floodway

Office and Warehouse
Green River Lock and Dam No. 3
Rochester Co: Butler KY 42273
Landholding Agency: COE
Property Number: 31199120012
Status: Unutilized
Directions: Off State Hwy 369, which runs off of Western Ky. Parkway
Reasons: Floodway

2 Pit Toilets
Green River Lock and Dam No. 3
Rochester Co: Butler KY 42273
Landholding Agency: COE
Property Number: 31199120013
Status: Unutilized
Reasons: Floodway

Tract 1379
Barkley Lake
Eddyville Co: Lyon KY 42038
Landholding Agency: COE
Property Number: 31200420001
Status: Unutilized
Reasons: Other—landlocked

Tract 4300
Barkley Lake
Cadiz Co: Trigg KY 42211
Landholding Agency: COE
Property Number: 31200420002
Status: Unutilized
Reasons: Floodway

Tracts 317, 318, 319
Barkley Lake
Grand Rivers Co: Lyon KY 42045
Landholding Agency: COE
Property Number: 31200420003
Status: Unutilized
Reasons: Floodway

Steel Structure
Mcalpine Locks
Louisville KY 40212
Landholding Agency: COE
Property Number: 31200440006
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material Floodway

Comfort Station
Mcalpine Locks
Louisville KY 40212
Landholding Agency: COE
Property Number: 31200440007
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material Floodway

Shelter
Mcalpine Locks
Louisville KY 40212
Landholding Agency: COE
Property Number: 31200440008
Status: Excess
Reasons: Floodway, Within 2000 ft. of flammable or explosive material

Parking Lot
Mcalpine Locks
Louisville KY 40212
Landholding Agency: COE
Property Number: 31200440009
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material Floodway

Loading Docks
Nolin Lake
Bee Spring KY 42007
Landholding Agency: COE
Property Number: 31200540006
Status: Unutilized
Reasons: Extensive deterioration

Sewage Treatment Plant
Smith Ridge Rec Area
Campbellsville KY 42718
Landholding Agency: COE
Property Number: 31200740008
Status: Excess
Reasons: Extensive deterioration

Sewage Treatment Plant
Carr Creek Lake
Sassafras KY 41759
Landholding Agency: COE
Property Number: 31200920029

Status: Unutilized
Reasons: Extensive deterioration, Floodway

Sewage Plant, Pump Station
Nolin River Lake
Bee Spring KY
Landholding Agency: COE
Property Number: 31200930005
Status: Excess
Reasons: Extensive deterioration

Launching Ramp
Wolf Creek Dam
Somerset KY 42501
Landholding Agency: COE
Property Number: 31200940005
Status: Unutilized
Reasons: Floodway

Maryland

4 Bldg.
Coast Guard
Annapolis MD 21403
Landholding Agency: Coast Guard
Property Number: 88201010006
Status: Excess
Directions: Qtrs. A–OJ1 and Qtrs. B–OJ2, Qtrs. A–OV4 and Qtrs. B–OV5
Reasons: Secured Area

Massachusetts

Lee House
Knightville Dam Project
Huntington MA
Landholding Agency: COE
Property Number: 31200720003
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 5202
USCG Air Station
Bourne MA 02540
Landholding Agency: Coast Guard
Property Number: 88200810002
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

3 Sheds
USCG Sector Southeastern
Falmouth MA 02543
Landholding Agency: Coast Guard
Property Number: 88200910001
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

5 Bldgs.
USCG Air Station
3434, 3435, 3436, 5424, 5451
Bourne MA 02542
Landholding Agency: Coast Guard
Property Number: 88200920002
Status: Excess
Reasons: Extensive deterioration, Secured Area

Boathouse/Wharf/Pier
USCG Menemsha
Chilmark MA 02535
Landholding Agency: Coast Guard
Property Number: 88201030002
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Westview Street Wells
Lexington MA 02173
Landholding Agency: VA
Property Number: 97199920001
Status: Unutilized
Reasons: Extensive deterioration

Michigan

Admin. Bldg.
Station Saginaw River
Essexville Co: Bay MI 48732
Landholding Agency: Coast Guard
Property Number: 88200510001
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 001
USCG Sector
Sault Ste Marie MI 49783
Landholding Agency: Coast Guard
Property Number: 88200920003
Status: Unutilized
Reasons: Secured Area

Bldg. 022
U.S. Coast Guard Station
Marquette MI 49855
Landholding Agency: Coast Guard
Property Number: 88200920004
Status: Excess
Reasons: Secured Area

Mississippi

Bldg. CB–70
Columbus Lake
Columbus MS 39701
Landholding Agency: COE
Property Number: 31200820009
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 3053
ERDC
Vicksburg MS 39180
Landholding Agency: COE
Property Number: 31200930008
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 6, Boiler Plant
Biloxi VA Medical Center
Gulfport Co: Harrison MS 39531
Landholding Agency: VA
Property Number: 97199410001
Status: Unutilized
Reasons: Floodway

Bldg. 67
Biloxi VA Medical Center
Gulfport Co: Harrison MS 39531
Landholding Agency: VA
Property Number: 97199410008
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 68
Biloxi VA Medical Center
Gulfport Co: Harrison MS 39531
Landholding Agency: VA
Property Number: 97199410009
Status: Unutilized
Reasons: Extensive deterioration

Missouri

Rec Office
Harry S. Truman Dam
Osceola Co: St. Clair MO 64776
Landholding Agency: COE
Property Number: 31200110001
Status: Unutilized
Reasons: Extensive deterioration

Privy/Nemo Park
Pomme de Terre Lake
Hermitage MO 65668
Landholding Agency: COE
Property Number: 31200120001
Status: Excess
Reasons: Extensive deterioration

Privy No. 1/Bolivar Park
Pomme de Terre Lake
Hermitage MO 65668
Landholding Agency: COE
Property Number: 31200120002
Status: Excess
Reasons: Extensive deterioration

Privy No. 2/Bolivar Park
Pomme de Terre Lake
Hermitage MO 65668
Landholding Agency: COE
Property Number: 31200120003
Status: Excess
Reasons: Extensive deterioration

#07004, 60006, 60007
Crabtree Cove/Stockton Area
Stockton MO 65785
Landholding Agency: COE
Property Number: 31200220007
Status: Excess
Reasons: Extensive deterioration

Bldg.
Old Mill Park Area
Stockton MO 65785
Landholding Agency: COE
Property Number: 31200310007
Status: Excess
Reasons: Extensive deterioration

Stockton Lake Proj. Ofc.
Stockton Co: Cedar MO 65785
Landholding Agency: COE
Property Number: 31200330004
Status: Unutilized
Reasons: Extensive deterioration

House
Tract 1105
Thurnau Mitigation Site
Craig Co: Holt MO 64437
Landholding Agency: COE
Property Number: 31200420005
Status: Unutilized
Reasons: Extensive deterioration

30x36 Barn
Tract 1105
Thurnau Mitigation Site
Craig Co: Holt MO 64437
Landholding Agency: COE
Property Number: 31200420006
Status: Unutilized
Reasons: Extensive deterioration

30x26 Barn
Tract 1105
Thurnau Mitigation Site
Craig Co: Holt MO 64437
Landholding Agency: COE
Property Number: 31200420007
Status: Unutilized
Reasons: Extensive deterioration

30x10 Shed
Tract 1105
Thurnau Mitigation Site
Craig Co: Holt MO 64437
Landholding Agency: COE
Property Number: 31200420008
Status: Unutilized
Reasons: Extensive deterioration

30x26 Shed
Tract 1105
Thurnau Mitigation Site
Craig Co: Holt MO 64437
Landholding Agency: COE
Property Number: 31200420009
Status: Unutilized

Reasons: Extensive deterioration

9x9 Shed
Tract 1105
Thurnau Mitigation Site
Craig Co: Holt MO 64437
Landholding Agency: COE
Property Number: 31200420010
Status: Unutilized
Reasons: Extensive deterioration

Tract 1111
Thurnau Mitigation Site
Craig Co: Holt MO 64437
Landholding Agency: COE
Property Number: 31200420011
Status: Excess
Reasons: Extensive deterioration

Shower
Pomme de Terre Lake
Hermitage Co: Polk MO 65668
Landholding Agency: COE
Property Number: 31200420012
Status: Unutilized
Reasons: Extensive deterioration

11 Bldgs.
Warsaw MO 65355
Landholding Agency: COE
Property Number: 31200430013
Status: Excess
Directions: Fairfield, Tally Bend, Cooper Creek, Shawnee Bend
Reasons: Extensive deterioration

2 Storage Bldgs.
District Service Base
St. Louis MO
Landholding Agency: COE
Property Number: 31200430014
Status: Excess
Reasons: Extensive deterioration

Privy
Pomme de Terre Lake
Wheatland Co: Hickory MO
Landholding Agency: COE
Property Number: 31200440010
Status: Underutilized
Reasons: Floodway

Vault Toilet
Ruark Bluff
Stockton MO
Landholding Agency: COE
Property Number: 31200440011
Status: Excess
Reasons: Extensive deterioration

Comfort Station
Overlook Area
Stockton MO
Landholding Agency: COE
Property Number: 31200440012
Status: Excess
Reasons: Extensive deterioration

Maintenance Building
Missouri River Area
Napoleon Co: Lafayette MO 64074
Landholding Agency: COE
Property Number: 31200510007
Status: Excess
Reasons: Floodway

Bldg. 34001
Orleans Trail Park
Stockton MO 65785
Landholding Agency: COE
Property Number: 31200510008
Status: Excess
Reasons: Extensive deterioration

Bldgs. 34016, 34017
Orleans Trail Park
Stockton MO 65785
Landholding Agency: COE
Property Number: 31200510009
Status: Excess
Reasons: Extensive deterioration

Bldg.
Pomme de Terre Lake
Hermitage MO 65668
Landholding Agency: COE
Property Number: 31200610008
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 43841, 43919
Clearwater Project
Piedmont MO 63957
Landholding Agency: COE
Property Number: 31200630010
Status: Unutilized
Reasons: Extensive deterioration

Dwelling
Harry S. Truman Project
Roscoe MO
Landholding Agency: COE
Property Number: 31200640013
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 50005
Ruark Bluff East
Stockton MO 65785
Landholding Agency: COE
Property Number: 31200710011
Status: Excess
Reasons: Extensive deterioration

Bldg. 07002
Crabtree Cove Park
Stockton MO 65785
Landholding Agency: COE
Property Number: 31200710012
Status: Excess
Reasons: Extensive deterioration

Comfort Station
Riverlands Way Access
West Alton MO 63386
Landholding Agency: COE
Property Number: 31200710013
Status: Excess
Reasons: Extensive deterioration

Bldg. #55001
Cooper Creek
Warsaw MO 65355
Landholding Agency: COE
Property Number: 31200720005
Status: Excess
Reasons: Extensive deterioration

Bldgs. 40006, 40007
Pomme de Terre Lake
Pittsburg MO 65724
Landholding Agency: COE
Property Number: 31200730012
Status: Excess
Reasons: Extensive deterioration

3 Facilities
Wappapello Lake Project
Wayne MO 63966
Landholding Agency: COE
Property Number: 31200730013
Status: Excess
Reasons: Extensive deterioration

Bldgs. 05004, 05008
Cedar Ridge Park
Stockton MO 65785
Landholding Agency: COE
Property Number: 31200740009
Status: Excess
Reasons: Extensive deterioration

Bldg. 11002
Greenfield Access
Stockton MO 65785
Landholding Agency: COE
Property Number: 31200740010
Status: Excess
Reasons: Extensive deterioration

Bldgs. 14008, 14009, 14010
Hawker Point Park
Stockton MO 65785
Landholding Agency: COE
Property Number: 31200740011
Status: Excess
Reasons: Extensive deterioration

Bldg. 34006
Orleans Trail Park
Stockton MO 65785
Landholding Agency: COE
Property Number: 31200740012
Status: Excess
Reasons: Extensive deterioration

Bldg. ES801–8319
Wappapello Lake Project
Wayne MO 63966
Landholding Agency: COE
Property Number: 31200740013
Status: Excess
Reasons: Extensive deterioration

Bldg. 14004
Hawker Point Park
Stockton MO 65785
Landholding Agency: COE
Property Number: 31200820008
Status: Excess
Reasons: Extensive deterioration

Picnic Shelter
ES801–8357, 009R31
Wappapello MO 63966
Landholding Agency: COE
Property Number: 31200830001
Status: Excess
Reasons: Extensive deterioration

Picnic Shelter
ES801–8358, 009R32
Wappapello MO 63966
Landholding Agency: COE
Property Number: 31200830002
Status: Excess
Reasons: Extensive deterioration

Bldgs. 23002, 23006
Masters Park
Stockton MO 65785
Landholding Agency: COE
Property Number: 31200840009
Status: Excess
Reasons: Extensive deterioration

Bldgs. 50014, 50015
Ruark Bluff West
Stockton MO 65785
Landholding Agency: COE
Property Number: 31200840010
Status: Excess
Reasons: Extensive deterioration

10 Vault Comfort Station
Mark Twain Lake
Monroe City MO 63456
Landholding Agency: COE
Property Number: 31200920045
Status: Excess
Directions: CC302–7388, 7396, 7413, 7486, 7535, 7536, 7542, 7543, 7552, 7553
Reasons: Extensive deterioration

Picnic Shelter ES801–8343
Wappapello Lake Project
Wappapello MO 63966
Landholding Agency: COE
Property Number: 31200920046
Status: Excess
Reasons: Extensive deterioration

42 Privies
Stockton Project Office
Stockton MO 65785
Landholding Agency: COE
Property Number: 31200920047
Status: Excess
Directions: Cedar Ridge, Crabtree Cove, Hawker Point, High Point, Masters, Mutton Creek, Orleans Trail, Ruark Bluff East, Ruark Bluff West, Stockton Area
Reasons: Extensive deterioration

Bldgs. 47005, 47018
Pomme de Terre Lake
Hermitage MO 65724
Landholding Agency: COE
Property Number: 31200920048
Status: Unutilized
Reasons: Extensive deterioration

30 Bldgs.
Harry S. Truman Reservoir
Warsaw MO 65355
Landholding Agency: COE
Property Number: 31200920049
Status: Unutilized
Directions: 13012, 13014, 13015, 31005, 31006, 31007, 40005, 40006, 40007, 51008, 51009, 60005, 60006, 60007, 60008, 60009, 60010, 70004, 70005, 70006, 13013, 51006, 51007, 51010, 63009, 63011, 70003, 07010, 60016, 63030
Reasons: Extensive deterioration

Bldg. 34010
Orleans Trail Park
Stockton MO
Landholding Agency: COE
Property Number: 31200930006
Status: Excess
Reasons: Extensive deterioration

8 Bldgs.
Harry Truman Reservoir
Warsaw MO 65355
Landholding Agency: COE
Property Number: 31200930007
Status: Unutilized
Directions: #07007, 07008, 07009, 05011, 49008, 49009, 63004, 63005
Reasons: Extensive deterioration

5 Well Houses
Wappapello Lake Project
Wayne MO 63966
Landholding Agency: COE
Property Number: 31200940009
Status: Unutilized
Reasons: Extensive deterioration

CC3029057, CC3027354
Mark Twain Lake
Monroe City MO 63456
Landholding Agency: COE
Property Number: 31201010004
Status: Excess
Reasons: Extensive deterioration

Bldg. 3
VA Medical Center
Jefferson Barracks Division
St. Louis MO 63125
Landholding Agency: VA
Property Number: 97200340001
Status: Underutilized
Reasons: Secured Area

Bldg. 4
VA Medical Center
Jefferson Barracks Division
St. Louis MO
Landholding Agency: VA
Property Number: 97200340002
Status: Underutilized
Reasons: Secured Area

Bldg. 27
VA Medical Center
Jefferson Barracks Division
St. Louis MO 63125
Landholding Agency: VA
Property Number: 97200340003
Status: Underutilized
Reasons: Secured Area

Bldg. 28
VA Medical Center
Jefferson Barracks Division
St. Louis MO 63125
Landholding Agency: VA
Property Number: 97200340004
Status: Underutilized
Reasons: Secured Area

Bldg. 29
VA Medical Center
Jefferson Barracks Division
St. Louis MO 63125
Landholding Agency: VA
Property Number: 97200340005
Status: Underutilized
Reasons: Secured Area

Bldg. 50
VA Medical Center
Jefferson Barracks Division
St. Louis MO 63125
Landholding Agency: VA
Property Number: 97200340006
Status: Underutilized
Reasons: Secured Area

Nebraska

Vault Toilets
Harlan County Project
Republican NE 68971
Landholding Agency: COE
Property Number: 31200210006
Status: Unutilized
Reasons: Extensive deterioration

Patterson Treatment Plant
Harlan County Project
Republican NE 68971
Landholding Agency: COE
Property Number: 31200210007
Status: Unutilized
Reasons: Extensive deterioration

#30004
Harlan County Project
Republican Co: Harlan NE 68971
Landholding Agency: COE
Property Number: 31200220008
Status: Unutilized
Reasons: Extensive deterioration

#3005, 3006
Harlan County Project
Republican Co: Harlan NE 68971
Landholding Agency: COE
Property Number: 31200220009
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 70001, 70002
South Outlet Park
Republican City NE
Landholding Agency: COE
Property Number: 31200510010
Status: Excess
Reasons: Extensive deterioration

Bldgs. 40002, 40003, 40006
Harlan County Lake
Republican City NE 68971
Landholding Agency: COE
Property Number: 31200610009
Status: Excess
Reasons: Extensive deterioration

Bldg. 40020
Harlan County Lake
Republican City NE 68971
Landholding Agency: COE
Property Number: 31200610010
Status: Excess
Reasons: Extensive deterioration

4 Bldgs.
43004, 43007, 43008, 43009
Republican City NE 68971
Landholding Agency: COE
Property Number: 31200610011
Status: Excess
Reasons: Extensive deterioration

6 Bldgs.
Harlan County Lake
Republican City NE 68971
Landholding Agency: COE
Property Number: 31200610012
Status: Excess
Directions:
50003, 50004, 50005, 50006, 50007, 50008
Reasons: Extensive deterioration

Nevada

28 Facilities
Nevada Test Site
Mercury Co: Nye NV 89023
Landholding Agency: Energy
Property Number: 41200310018
Status: Excess
Reasons: Secured Area, Other—contamination

31 Bldgs./Facilities
Nellis AFB
Tonopah Test Range
Tonopah Co: Nye NV 89049
Landholding Agency: Energy
Property Number: 41200330003
Status: Unutilized
Reasons: Secured Area

42 Bldgs.
Nellis Air Force Base
Tonopah Co: Nye NV 89049
Landholding Agency: Energy
Property Number: 41200410029
Status: Unutilized
Directions: 49–01, NM104, NM105, 03–35A–H, 03–35J–N, 03–36A–C, 03–36E–H, 03–36J–N, 03–36R, 03–37, 15036, 03–44A–D, 03–46, 03–47, 03–49, 03–88, 03–89, 03–90
Reasons: Secured Area

241 Bldgs.
Tonopah Test Range
Tonopah Co: Nye NV 89049
Landholding Agency: Energy
Property Number: 41200440036
Status: Excess
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

10 Bldgs.
Nevada Test Site
Mercury Co: Nye NV 89023
Landholding Agency: Energy

Property Number: 41200610003
Status: Excess
Reasons: Secured Area

Approx 200 Misc Blgs/Structure
Tonopah Test Range
Tonopah NV 89049
Landholding Agency: Energy
Property Number: 41201020001
Status: Excess
Directions: Nellis AFB
Reasons: Extensive deterioration

New Jersey

Bldg. RPFN OM1
U.S. Coast Guard Station
Fortescue NJ 08321
Landholding Agency: Coast Guard
Property Number: 88200940004
Status: Unutilized
Reasons: Extensive deterioration

New Mexico

Campground Fee Booth
Cochiti Lake Project
Pena Blanca NM 87041
Landholding Agency: COE
Property Number: 31201030003
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 9252, 9268
Kirtland Air Force Base
Albuquerque Co: Bernalillo NM 87185
Landholding Agency: Energy
Property Number: 41199430002
Status: Unutilized
Reasons: Extensive deterioration

Tech Area II
Kirtland Air Force Base
Albuquerque Co: Bernalillo NM 87105
Landholding Agency: Energy
Property Number: 41199630004
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldg. 26, TA–33
Los Alamos National Laboratory
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199810004
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 2, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199810008
Status: Underutilized
Reasons: Secured Area

Bldg. 5, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199810011
Status: Unutilized
Reasons: Secured Area

Bldg. 116, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199810013
Status: Unutilized
Reasons: Secured Area

Bldg. 286, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199810016
Status: Unutilized
Reasons: Secured Area

Bldg. 516, TA–16
Los Alamos National Laboratory
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199810021
Status: Unutilized
Reasons: Secured Area, Extensive deterioration, Within 2000 ft. of flammable or explosive material

Bldg. 517, TA–16
Los Alamos National Laboratory
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199810022
Status: Unutilized
Reasons: Extensive deterioration, Secured Area, Within 2000 ft. of flammable or explosive material

Bldg. 31
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199930003
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 38, TA–14
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199940004
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 9, TA–15
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199940006
Status: Unutilized
Reasons: Secured Area

Bldg. 141, TA–15
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199940008
Status: Unutilized
Reasons: Secured Area

Bldg. 44, TA–15
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199940009
Status: Unutilized
Reasons: Secured Area

Bldg. 2, TA–18
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199940010
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 5, TA–18
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199940011
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 186, TA–18
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199940012
Status: Unutilized
Reasons: Extensive deterioration; Secured Area

Bldg. 188, TA–18
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199940013
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. 44, TA–36
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199940015
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. 45, TA–36
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199940016
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 258, TA–46
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199940019
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

TA–3, Bldg. 208
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200010010
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

TA–14, Bldg. 5
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200010019
Status: Unutilized
Reasons: Secured Area

TA–21, Bldg. 150
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200010020
Status: Unutilized
Reasons: Secured Area

Bldg. 149, TA–21
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200010024
Status: Unutilized
Reasons: Secured Area

Bldg. 312, TA–21
Los Alamos National Lab

Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200010025
Status: Unutilized
Reasons: Secured Area

Bldg. 313, TA–21
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200010026
Status: Unutilized
Reasons: Secured Area

Bldg. 314, TA–21
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200010027
Status: Unutilized
Reasons: Secured Area

Bldg. 315, TA–21
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200010028
Status: Unutilized
Reasons: Secured Area

Bldg. 1, TA–8
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200010029
Status: Unutilized
Reasons: Secured Area

Bldg. 2, TA–8
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200010030
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 3, TA–8
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200020001
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. 51, TA–9
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200020002
Status: Unutilized
Reasons: Secured Area

Bldg. 30, TA–14
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200020003
Status: Unutilized
Reasons: Secured Area

Bldg. 16, TA–3
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200020009
Status: Unutilized
Reasons: Secured Area

Bldg. 48, TA–55
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200020017
Status: Unutilized
Reasons: Secured Area

Bldg. 125, TA–55
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200020018
Status: Unutilized
Reasons: Secured Area

Bldg. 162, TA–55
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200020019
Status: Unutilized
Reasons: Secured Area

Bldg. 22, TA–33
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200020022
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 23, TA–49
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200020023
Status: Unutilized
Reasons: Secured Area

Bldg. 37, TA–53
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200020024
Status: Unutilized
Reasons: Secured Area

Bldg. 121, TA–49
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200020025
Status: Unutilized
Reasons: Secured Area

Bldg. B117
Kirtland Operations
Albuquerque Co: Bernalillo NM 87117
Landholding Agency: Energy
Property Number: 41200220032
Status: Excess
Reasons: Extensive deterioration

Bldg. B118
Kirtland Operations
Albuquerque Co: Bernalillo NM 87117
Landholding Agency: Energy
Property Number: 41200220033
Status: Excess
Reasons: Extensive deterioration

Bldg. B119
Kirtland Operations
Albuquerque Co: Bernalillo NM 87117
Landholding Agency: Energy
Property Number: 41200220034
Status: Excess
Reasons: Extensive deterioration

Bldg. 2, TA–11
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200240004
Status: Unutilized
Reasons: Secured Area

Bldg. 4, TA–41
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200240005
Status: Unutilized
Reasons: Secured Area

Bldg. 116, TA–21
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200310003
Status: Unutilized
Reasons: Secured Area

Bldgs. 1, 2, 3, 4, 5, TA–28
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200310004
Status: Unutilized
Reasons: Secured Area

Bldgs. 447, 1483
Los Alamos Natl Laboratory
Los Alamos NM
Landholding Agency: Energy
Property Number: 41200410002
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldg. 99650
Sandia National Laboratory
Albuquerque Co: Bernalillo NM 87185
Landholding Agency: Energy
Property Number: 41200510004
Status: Unutilized
Reasons: Secured Area

Bldgs. 807, 6017 CAMU2&CAMU3
Sandia Natl Laboratories
Albuquerque NM 87185
Landholding Agency: Energy
Property Number: 41200730001
Status: Unutilized
Reasons: Secured Area

Bldg. 6502
Sandia National Lab
Albuquerque NM 87185
Landholding Agency: Energy
Property Number: 41200810002
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. 6596
Sandia National Labs
Albuquerque NM 87185
Landholding Agency: Energy
Property Number: 41200920001
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

9 Bldgs.
Los Alamos National Lab
Los Alamos NM
Landholding Agency: Energy
Property Number: 41200920006
Status: Excess
Directions: 08–0026, 08–0030, 08–0065, 16–0193, 16–0242, 16–0244, 16–0897, 16–1489, 55–0107
Reasons: Secured Area

2 Bldgs.
Los Alamos National Lab
18–0257, 18–0258
Los Alamos NM 87545
Landholding Agency: Energy

Property Number: 41200920008
Status: Excess
Reasons: Secured Area, Extensive deterioration

9 Bldgs.
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200920009
Status: Excess
Directions: 53–0401, 53–0403, 53–0409, 53–0456, 53–0514, 53–0525, 53–0535, 53–0544, 53–0675
Reasons: Extensive deterioration, Secured Area

6 Bldgs.
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200920010
Status: Excess
Directions: 54–0117, 54–0185, 54–210, 54–211, 54–221, 54–221, 60–0282
Reasons: Secured Area, Extensive deterioration

6 Bldgs.
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200920011
Status: Excess
Directions: 21–0155, 21–0209, 21–0213, 21–0227, 21–0229, 21–0257
Reasons: Secured Area, Extensive deterioration

8 Bldgs.
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200920012
Status: Excess
Directions: 54–0226, 63–0001, 63–0002, 63–0003, 63–0004, 63–0077, 63–0078, 63–0093
Reasons: Secured Area, Extensive deterioration

7 Bldgs.
Los Alamos National Lab
Los Alamos NM
Landholding Agency: Energy
Property Number: 41200930001
Status: Unutilized
Directions: 16–0421, 18–0005, 18–0026, 18–0129, 18–0141, 18–0147, 18–0189
Reasons: Secured Area, Extensive deterioration

7 Bldgs.
Los Alamos National Lab
Los Alamos NM
Landholding Agency: Energy
Property Number: 41200930002
Status: Unutilized
Directions: 52–0035, 52–0036, 52–0105, 52–0123, 60–0045, 69–0002, 69–0005
Reasons: Extensive deterioration, Secured Area

11 Bldgs.
Los Alamas Natl Lab
Los Alamos NM
Landholding Agency: Energy
Property Number: 41200930004
Status: Excess
Directions: 21–0031, 21–0042, 21–0080, 21–0212, 21–0328, 21–0355, 21–0357, 21–0370, 54–0062, 54–0215, 54–0216
Reasons: Secured Area, Extensive deterioration

11 Bldgs.
Los Alamos Natl Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200930005
Status: Excess
Directions: 03–2239, 03–02240, 03–1535, 03–1651, 03–1790, 16–0251, 16–0898, 16–1407, 48–0046, 48–0047, 64–0027
Reasons: Secured Area

5 Bldgs.
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200940001
Status: Excess
Directions: 54–0002, 54–0008, 54–0011, 54–0020, 54–0048
Reasons: Secured Area, Extensive deterioration

10 Bldgs.
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200940002
Status: Excess
Directions: 54–0153, 54–0156, 54–0224, 54–0242, 54–0281, 54–0282, 54–0289, 54–0464, 54–1051, 54–1052
Reasons: Secured Area, Extensive deterioration

10 Bldgs.
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200940003
Status: Excess
Directions: 15–0263, 16–0306, 16–0430, 16–0435, 16–0437, 18–0028, 18–0037, 18–0138, 18–0227, 18–0297
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

13 Bldgs.
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200940004
Status: Unutilized
Directions: 54–0306, 54–0315, 54–0324, 54–0325, 54–1058, 54–0296, 54–0304, 54–0367, 54–0483, 54–1027, 54–1028, 54–1030, 54–1041
Reasons: Secured Area, Extensive deterioration

9 Bldgs.
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200940005
Status: Unutilized
Directions: 35–0046, 35–0224, 35–0226, 35–0227, 35–0249, 35–0250, 35–0256, 35–0337, 35–0382
Reasons: Secured Area, Extensive deterioration

4 Bldgs.
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41201010001
Status: Unutilized
Directions: 46–0002, 46–0075, 46–0180, 46–0194
Reasons: Secured Area

9 Bldgs.
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41201010002
Status: Unutilized
Directions: 57–0018, 57–0041, 57–0074, 57–0084, 57–0085, 57–0086, 57–0121, 57–0122, 57–0123
Reasons: Secured Area

13 Bldgs.
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41201010003
Status: Unutilized
Directions: 03–2237, 09–0273, 36–0082, 46–0165, 46–0179, 46–0185, 46–0231, 46–0232, 46–0234, 46–0254, 46–0314, 46–0546, 52–0043
Reasons: Extensive deterioration, Secured Area

11 Bldgs.
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41201010004
Status: Unutilized
Directions: 03–1516, 03–1533, 03–1559, 03–1566, 08–0020, 08–0032, 09–0051, 09–0214, 11–0024, 11–0036, 14–0006
Reasons: Secured Area, Extensive deterioration

28 Bldgs.
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41201020004
Status: Unutilized
Directions: 03–0406, 03–0480, 03–1524, 03–1525, 03–1526, 03–1530, 03–1540, 03–1541, 03–1736, 03–1737, 03–1738, 03–1903, 18–0184, 49–0135, 55–0043, 57–0115, 59–0029, 59–0030, 59–0031, 59–0032, 59–0033, 59–0034, 50–0035, 59–0036, 59–0037, 59–0118, 59–0119, 59–0123
Reasons: Secured Area

22 Bldgs.
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41201020005
Status: Unutilized
Directions: 16–0280, 16–0281, 16–0283, 16–0285, 16–0286, 16–0460, 16–0462, 16–0463, 16–1477, 16–1481, 16–1488, 18–0030, 18–0032, 18–0116, 18–0119, 18–0122, 18–0127, 18–0138, 18–0187, 18–0188, 18–0190, 18–0256
Reasons: Secured Area

4 Bldgs.
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41201020010
Status: Unutilized
Directions: 03–1525, 03–1540, 15–0027, 21–8002
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

9 Bldgs.
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy

Property Number: 41201020011
Status: Unutilized
Directions: 33–0129, 35–0250, 36–0005, 36–0006, 37–0006, 37–0008, 37–0009, 37–0019, 37–0020
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

12 Bldgs.
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41201020012
Status: Unutilized
Directions: 41–0004, 43–0020, 43–0037, 43–0045, 46–0001, 46–0036, 46–0075, 46–0119, 46–0178, 46–0201, 46–0342, 48–0203
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

4 Bldgs.
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41201020013
Status: Unutilized
Directions: 55–0125, 57–0041, 57–0077, 57–0082
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

3 Bldgs.
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41201020014
Status: Unutilized
Directions: 63–0113, 63–0114, 64–0045
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

10 Bldgs.
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41201020015
Status: Unutilized
Directions: 22–0007, 22–0009, 22–0010, 22–0011, 22–0012, 22–0014, 22–0015, 22–0016, 22–0017, 22–0019
Reasons: Secured Area

7 Bldgs.
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41201020016
Status: Unutilized
Directions: 22–0021, 22–0022, 22–0023, 22–0024, 22–0032, 22–0035, 22–0069
Reasons: Secured Area

New York

Warehouse
Whitney Lake Project
Whitney Point Co: Broome NY 13862–0706
Landholding Agency: COE
Property Number: 31199630007
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 0096
Brookhaven National Lab
Upton NY 11973
Landholding Agency: Energy
Property Number: 41200730004
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. 913T
Brookhaven Natl Laboratory
Upton NY 11973
Landholding Agency: Energy
Property Number: 41200830001
Status: Unutilized
Reasons: Extensive deterioration, Secured Area, Within 2000 ft. of flammable or explosive material

Bldgs. 680B, 680C
Brookhaven Natl Lab
Upton NY 11973
Landholding Agency: Energy
Property Number: 41200920002
Status: Excess
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material Extensive deterioration

Bldg. 0051
Brookhaven National Lab
Upton NY 11973
Landholding Agency: Energy
Property Number: 41201020006
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. 480A
Brookland Nat'l Lab
Upton NY 11973
Landholding Agency: Energy
Property Number: 41201020009
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material Extensive deterioration

Bldg. 13
USCG Staten Island
Suffolk NY 10305
Landholding Agency: Coast Guard
Property Number: 88200910002
Status: Excess
Reasons: Extensive deterioration, Secured Area

Boat House
USCG Station Eaton's Neck
Northport NY 11768
Landholding Agency: Coast Guard
Property Number: 88200920005
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

North Carolina

Preston Clark USARC
1301 N. Memorial Dr.
Greenville Co: Pitt NC 27834
Landholding Agency: COE
Property Number: 31200620032
Status: Unutilized
Reasons: Extensive deterioration

Bldg. MC–A01
Morehead City NC
Landholding Agency: COE
Property Number: 31200740014
Status: Excess
Reasons: Extensive deterioration

5 Bldgs.
Natural Park
Wilkesboro NC 28697
Landholding Agency: COE
Property Number: 31200930012
Status: Unutilized
Directions: WC–A01, WC–AC01, WC–AW01, WC–FR01, WC–FC01
Reasons: Extensive deterioration

3 Bldgs.
Natural Park
Wilkesboro NC 28697
Landholding Agency: COE
Property Number: 31200930013
Status: Unutilized
Directions: BM–W01, BR–R02, RM–M06
Reasons: Extensive deterioration

RPFN 0S1
Group Cape Hatteras
Buxton Co: Dare NC 27902
Landholding Agency: Coast Guard
Property Number: 88200540001
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

RPFN 053
Sector N.C.
Atlantic Beach Co: Carteret NC 28512
Landholding Agency: Coast Guard
Property Number: 88200540002
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Equip. Bldg.
Coast Guard Station
11101 Station St.
Emerald Isle NC
Landholding Agency: Coast Guard
Property Number: 88200630001
Status: Unutilized
Reasons: Secured Area

Sewage Treatment Facility
USCG Cape Hatteras
Buxton NC 27902
Landholding Agency: Coast Guard
Property Number: 88200920006
Status: Unutilized
Reasons: Secured Area

Bldgs. GH1, FA1
U.S. Coast Guard Station
Hatteras NC 27943
Landholding Agency: Coast Guard
Property Number: 88200940003
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. OK1, OK2
USCG Station
Hobucken NC 28537
Landholding Agency: Coast Guard
Property Number: 88201010001
Status: Excess
Reasons: Secured Area, Extensive deterioration

10 Bldgs.
U.S. Coast Guard
Cape Hatteras NC
Landholding Agency: Coast Guard
Property Number: 88201010002
Status: Excess
Directions: OB2, OB4, OD1, OD2, OE1, OG1, OI1, 001, 0S1, OU1
Reasons: Secured Area, Floodway

7 Bldgs.
U.S. Coast Guard
Cape Hatteras NC
Landholding Agency: Coast Guard
Property Number: 88201010003
Status: Excess
Directions: OR1, OR2, OR4, OR5, OR6, OR7, OR8
Reasons: Floodway, Secured Area

10 Bldgs.
U.S. Coast Guard
Cape Hatteras NC
Landholding Agency: Coast Guard
Property Number: 88201010004

Status: Excess
Directions: OV1, OV4, OV5, OV6, OV7, OV8, OV9, OV10, OV11, OV12
Reasons: Secured Area, Floodway

5 Bldgs.
U.S. Coast Guard
Cape Hatteras NC
Landholding Agency: Coast Guard
Property Number: 88201010005
Status: Excess
Directions: NB1, NR1, NR2, NS1, NS2
Reasons: Floodway, Secured Area

Bldg. 9
VA Medical Center
1100 Tunnel Road
Asheville Co: Buncombe NC 28805
Landholding Agency: VA
Property Number: 97199010008
Status: Unutilized
Reasons: Extensive deterioration

North Dakota

Bldg. ASH 10367
Baldhill Dam
Barnes ND
Landholding Agency: COE
Property Number: 31201020004
Status: Unutilized
Reasons: Extensive deterioration

Ohio

Installation 39875
Hayes Reserve Center
Fremont OH 43420
Landholding Agency: COE
Property Number: 31200740016
Status: Excess
Reasons: Extensive deterioration

Naval Reserve Center
Cleveland OH 44114
Landholding Agency: Coast Guard
Property Number: 88200740002
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Within airport runway clear zone, Secured Area

Bldg. 105
VA Medical Center
Dayton Co: Montgomery OH 45428
Landholding Agency: VA
Property Number: 97199920005
Status: Unutilized
Reasons: Extensive deterioration

Oklahoma

Comfort Station
LeFlore Landing PUA
Sallisaw Co: LeFlore OK 74955–9445
Landholding Agency: COE
Property Number: 31200240008
Status: Excess
Reasons: Extensive deterioration

Comfort Station
Braden Bend PUA
Sallisaw Co: LeFlore OK 74955–9445
Landholding Agency: COE
Property Number: 31200240009
Status: Excess
Reasons: Extensive deterioration

Water Treatment Plant
Salt Creek Cove
Sawyer Co: Choctaw OK 74756–0099
Landholding Agency: COE
Property Number: 31200240010
Status: Excess
Reasons: Extensive deterioration

Water Treatment Plant
Wilson Point
Sawyer Co: Choctaw OK 74756–0099
Landholding Agency: COE
Property Number: 31200240011
Status: Excess
Reasons: Extensive deterioration

2 Comfort Stations
Landing PUA/Juniper Point PUA
Stigler Co: McIntosh OK 74462–9440
Landholding Agency: COE
Property Number: 31200240012
Status: Excess
Reasons: Extensive deterioration

Filter Plant/Pumphouse
South PUA
Stigler Co: McIntosh OK 74462–9440
Landholding Agency: COE
Property Number: 31200240013
Status: Excess
Reasons: Extensive deterioration

Filter Plant/Pumphouse
North PUA
Stigler Co: McIntosh OK 74462–9440
Landholding Agency: COE
Property Number: 31200240014
Status: Excess
Reasons: Extensive deterioration

Filter Plant/Pumphouse
Juniper Point PUA
Stigler Co: McIntosh OK 74462–9440
Landholding Agency: COE
Property Number: 31200240015
Status: Excess
Reasons: Extensive deterioration

Comfort Station
Juniper Point PUA
Stigler Co: McIntosh OK 74462–9440
Landholding Agency: COE
Property Number: 31200240016
Status: Excess
Reasons: Extensive deterioration

Comfort Station
Brooken Cove PUA
Stigler Co: McIntosh OK 74462–9440
Landholding Agency: COE
Property Number: 31200240017
Status: Excess
Reasons: Extensive deterioration

2 Bldgs.
Outlet Channel/Walker Creek
Waurika OK 73573–0029
Landholding Agency: COE
Property Number: 31200340013
Status: Excess
Reasons: Extensive deterioration

2 Bldgs.
Damsite South
Stigler OK 74462–9440
Landholding Agency: COE
Property Number: 31200340014
Status: Excess
Reasons: Extensive deterioration

19 Bldgs.
Kaw Lake
Ponca City OK 74601–9962
Landholding Agency: COE
Property Number: 31200340015
Status: Excess
Reasons: Extensive deterioration

30 Bldgs.
Keystone Lake
Sand Springs OK 74063–9338
Landholding Agency: COE
Property Number: 31200340016
Status: Excess
Reasons: Extensive deterioration

13 Bldgs.
Oologah Lake
Oologah OK 74053–0700
Landholding Agency: COE
Property Number: 31200340017
Status: Excess
Reasons: Extensive deterioration

14 Bldgs.
Pine Creek Lake
Valliant OK 74764–9801
Landholding Agency: COE
Property Number: 31200340018
Status: Excess
Reasons: Extensive deterioration

6 Bldgs.
Sardis Lake
Clayton OK 74536–9729
Landholding Agency: COE
Property Number: 31200340019
Status: Excess
Reasons: Extensive deterioration

22 Bldgs.
Skiatook Lake
Skiatook OK 74070–9803
Landholding Agency: COE
Property Number: 31200340020
Status: Excess
Reasons: Extensive deterioration

40 Bldgs.
Eufaula Lake
Stigler OK 74462–5135
Landholding Agency: COE
Property Number: 31200340021
Status: Excess
Reasons: Extensive deterioration

2 Bldgs.
Holiday Cove
Stigler OK 74462–5135
Landholding Agency: COE
Property Number: 31200340022
Status: Excess
Reasons: Extensive deterioration

18 Bldgs.
Fort Gibson
Ft. Gibson Co: Wagoner OK 74434–0370
Landholding Agency: COE
Property Number: 31200340023
Status: Excess
Reasons: Extensive deterioration

2 Bldgs.
Fort Supply
Ft. Supply Co: Woodward OK 73841–0248
Landholding Agency: COE
Property Number: 31200340024
Status: Excess
Reasons: Extensive deterioration

Game Bird House
Fort Supply Lake
Ft. Supply Co: Woodward OK 73841–0248
Landholding Agency: COE
Property Number: 31200340025
Status: Excess
Reasons: Extensive deterioration

11 Bldgs.
Hugo Lake
Sawyer OK 74756–0099
Landholding Agency: COE
Property Number: 31200340026
Status: Excess
Reasons: Extensive deterioration

5 Bldgs.

Birch Cove/Twin Cove
Skiatook OK 74070–9803
Landholding Agency: COE
Property Number: 31200340027
Status: Excess
Reasons: Extensive deterioration

2 Bldgs.
Fairview Group Camp
Canton OK 73724–0069
Landholding Agency: COE
Property Number: 31200340028
Status: Excess
Reasons: Extensive deterioration

2 Bldgs.
Chouteau Bluff
Gore Co: Wagoner OK 74935–9404
Landholding Agency: COE
Property Number: 31200340029
Status: Excess
Reasons: Extensive deterioration

2 Bldgs.
Newt Graham L
Gore OK 74935–9404
Landholding Agency: COE
Property Number: 31200340030
Status: Excess
Reasons: Extensive deterioration

2 Bldgs.
Damsite/Fisherman's Landing
Sallisaw OK 74955–9445
Landholding Agency: COE
Property Number: 31200340031
Status: Excess
Reasons: Extensive deterioration

10 Bldgs.
Webbers Falls Lake
Gore OK 74435–5541
Landholding Agency: COE
Property Number: 31200340032
Status: Excess
Reasons: Extensive deterioration

Bldg.
Lower Storage Yard
Skiatook Co: Osage OK 74070
Landholding Agency: COE
Property Number: 31200530007
Status: Excess
Reasons: Extensive deterioration

3 Bldgs.
Birch Cove PUA
Skiatook Co: Osage OK 74070
Landholding Agency: COE
Property Number: 31200530008
Status: Excess
Reasons: Extensive deterioration

Bldg.
Canadian Public Use Area
Canton Co: Blaine OK 73724
Landholding Agency: COE
Property Number: 31200530009
Status: Excess
Reasons: Extensive deterioration

3 Bldgs.
Porum Landing PUA
Stigler Co: McIntosh OK 74462
Landholding Agency: COE
Property Number: 31200530010
Status: Excess
Reasons: Extensive deterioration

2 Bldgs.
Bluff/Afton Landing
Ft. Gibson Co: Wagoner OK 74434
Landholding Agency: COE
Property Number: 31200530012
Status: Excess
Reasons: Extensive deterioration

Bldg.
Lake Office
Ft. Supply Co: Woodward OK 73841
Landholding Agency: COE
Property Number: 31200530013
Status: Excess
Reasons: Extensive deterioration

4 Bldgs.
Overlook PUA
Ft. Supply Co: Texas OK 73841
Landholding Agency: COE
Property Number: 31200530014
Status: Excess
Reasons: Extensive deterioration

Bldg.
Hugo Lake
Sawyer Co: Chocktaw OK 74756
Landholding Agency: COE
Property Number: 31200530015
Status: Excess
Reasons: Extensive deterioration

2 Bldgs.
Sarge Creek PUA
Ponca City Co: Kay OK 74601
Landholding Agency: COE
Property Number: 31200530016
Status: Excess
Reasons: Extensive deterioration

5 Bldgs.
Hawthorne Bluff
Oologah Co: Rogers OK 74053
Landholding Agency: COE
Property Number: 31200530017
Status: Excess
Reasons: Extensive deterioration

12 Bldgs.
Trout Stream PUAs
Gore Co: Sequoyah OK 74435
Landholding Agency: COE
Property Number: 31200530018
Status: Excess
Reasons: Extensive deterioration

14 Bldgs.
Chicken Creek PUAs
Gore Co: Cherokee OK 74435
Landholding Agency: COE
Property Number: 31200530019
Status: Excess
Reasons: Extensive deterioration

4 Bldgs.
Snake Creek Area
Gore Co: Sequoyah OK 74435
Landholding Agency: COE
Property Number: 31200530020
Status: Excess
Reasons: Extensive deterioration

3 Bldgs.
Brewer's Bend
Gore Co: Muskogee OK 74435
Landholding Agency: COE
Property Number: 31200530021
Status: Excess
Reasons: Extensive deterioration

Facility
Hulah Lake
Copan Co: Osage OK 74022
Landholding Agency: COE
Property Number: 31200620025
Status: Excess
Reasons: Extensive deterioration

Bldg.
Webbers Falls
Muskogee OK 74435
Landholding Agency: COE
Property Number: 31200620026
Status: Excess
Reasons: Extensive deterioration

24 Bldgs.
Hulah Lake
Copan OK
Landholding Agency: COE
Property Number: 31200630011
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 44760, 44707
Canton Lake
Canton OK 73724
Landholding Agency: COE
Property Number: 31200630012
Status: Unutilized
Reasons: Extensive deterioration

Bldg.
Skiatook Lake
Skiatook OK 74070
Landholding Agency: COE
Property Number: 31200630013
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 43263, 42364
Oologah Lake
Oologah OK 74053
Landholding Agency: COE
Property Number: 31200630015
Status: Unutilized
Reasons: Extensive deterioration

Bldg.
Webbers Falls Lake
Webbers Falls OK
Landholding Agency: COE
Property Number: 31200630016
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 43523, 43820
Hugo Lake
Sawyer OK 74756
Landholding Agency: COE
Property Number: 31200630017
Status: Unutilized
Reasons: Extensive deterioration

Bldg.
Newt Graham Lock 18
Inola OK
Landholding Agency: COE
Property Number: 31200640014
Status: Unutilized
Reasons: Extensive deterioration

4 Bldgs.
Gore OK 74435
Landholding Agency: COE
Property Number: 31200640016
Status: Unutilized
Directions: Afton Landing or Bluff Landing
Reasons: Extensive deterioration

Pinecr-58321
Pine Creek Lake
Valiant OK
Landholding Agency: COE
Property Number: 31200710015
Status: Unutilized
Reasons: Extensive deterioration

KAW—58649
Garrett's Landing
Kaw City OK
Landholding Agency: COE
Property Number: 31200710016
Status: Unutilized

Reasons: Extensive deterioration

Bldg.
Sizemore Landing
Gore OK 74435
Landholding Agency: COE
Property Number: 31200720007
Status: Unutilized
Reasons: Extensive deterioration

Bldg.
Taylor Ferry
Fort Gibson OK 74434
Landholding Agency: COE
Property Number: 31200720008
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 42670, 42634
Tenkiller Lake
Gore OK 74435
Landholding Agency: COE
Property Number: 31200730014
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 41946
Webbers Falls Lake
Webbers Lake OK
Landholding Agency: COE
Property Number: 31200730015
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 44760, 44707
Canton Lake
Canton OK
Landholding Agency: COE
Property Number: 31200730016
Status: Unutilized
Reasons: Extensive deterioration

6 Bldgs.
Hugo Lake
Sawyer OK
Landholding Agency: COE
Property Number: 31200730017
Status: Unutilized
Directions: 43803, 43802, 43827, 43760, 43764, 43763
Reasons: Extensive deterioration

Gatehouse
Porum Landing
Stigler OK 75562
Landholding Agency: COE
Property Number: 31200740017
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 42008, 55088
Webbers Falls Lake
Webbers Falls OK
Landholding Agency: COE
Property Number: 31200740019
Status: Unutilized
Reasons: Extensive deterioration

4 Bldgs.
Optima Lake
Texas OK
Landholding Agency: COE
Property Number: 31200820010
Status: Unutilized
Directions: 43119, 43192, 43193, 43262
Reasons: Extensive deterioration

Bldg. FTGIBS–57431
Fort Gibson
Fort Gibson OK
Landholding Agency: COE
Property Number: 31200840011
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 43446, Keystone
Washington Irving Rec Area
Sand Springs OK 74063
Landholding Agency: COE
Property Number: 31200920010
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 43611, 43612, 43545
Kaw Lake
Coon Creek
Ponca City OK 74604
Landholding Agency: COE
Property Number: 31200920011
Status: Unutilized
Reasons: Extensive deterioration

9 Bldgs.
Eufaula Lake
Stigler OK 74462
Landholding Agency: COE
Property Number: 31200920012
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 44065
Fort Gibson
Taylor Ferry South
Ft. Gibson OK 74434
Landholding Agency: COE
Property Number: 31200920013
Status: Unutilized
Reasons: Extensive deterioration

10 Bldgs.
Flat Rock Creek
Fort Gibson OK 74434
Landholding Agency: COE
Property Number: 31200920014
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 44763
Canton Lake
Canton OK 73724
Landholding Agency: COE
Property Number: 31200920015
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 43302, 43303
Newt Graham Lock & Dam
Inola OK 74036
Landholding Agency: COE
Property Number: 31200920016
Status: Unutilized
Reasons: Extensive deterioration

5 Bldgs.
Eufaula Lake
Stigler OK 74462
Landholding Agency: COE
Property Number: 31200920050
Status: Unutilized
Directions: EUFUAL–44237, 44147, 56608, 56609, 56570
Reasons: Extensive deterioration

61 Structures
Newt Graham Lock & Dam
Inola OK 74036
Landholding Agency: COE
Property Number: 31200920051
Status: Unutilized
Reasons: Extensive deterioration

19 Structures
Tenkiller Lake
Webber Falls
Gore OK 74435
Landholding Agency: COE
Property Number: 31200920052
Status: Unutilized
Reasons: Extensive deterioration

40 Structures
Tenkiller Lake
Gore OK 74435
Landholding Agency: COE
Property Number: 31200920053
Status: Unutilized
Reasons: Extensive deterioration

Bldg. RSKERR–42811
Kerr Lock & Dam
Sallisaw OK 74955
Landholding Agency: COE
Property Number: 31200930009
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 43992
Fort Gibson Lake
Fort Gibson OK 74434
Landholding Agency: COE
Property Number: 31200940010
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 43847, 43783
Hugo Lake
Sawyer OK 74756
Landholding Agency: COE
Property Number: 31200940011
Status: Unutilized
Reasons: Extensive deterioration

32 Bldgs.
Optima Lake
Texas OK
Landholding Agency: COE
Property Number: 31200940012
Status: Unutilized
Reasons: Extensive deterioration

CANTON 44700, 44701, 44762
Big Bend Park
Canton OK 73724
Landholding Agency: COE
Property Number: 31201010005
Status: Unutilized
Reasons: Extensive deterioration

Compound
Canton Lake
Canton OK
Landholding Agency: COE
Property Number: 31201020005
Status: Unutilized
Reasons: Extensive deterioration

31 Bldgs.
Eufaula Lake
Stigler OK 74462
Landholding Agency: COE
Property Number: 31201020012
Status: Unutilized
Reasons: Extensive deterioration

Flat Rock Creek Public
Use Area
Fort Gibson OK 74434
Landholding Agency: COE
Property Number: 31201030004
Status: Unutilized
Reasons: Extensive deterioration

Oregon

2 Floating Docks
Rogue River
Gold Beach Co: Curry OR 97444
Landholding Agency: COE
Property Number: 31200430015
Status: Excess
Reasons: Floodway

2 Trailers

John Day Project
#1 West Marine Drive
Boardman Co: Morrow OR 97818
Landholding Agency: COE
Property Number: 31200510012
Status: Unutilized
Reasons: Extensive deterioration

Restroom—V0035
McNary Lock & Dam
Umatilla OR
Landholding Agency: COE
Property Number: 31200940013
Status: Unutilized
Reasons: Extensive deterioration

Lowell Admin. Compound
60 South Pioneer St.
Lowell OR 97452
Landholding Agency: GSA
Property Number: 54201020011
Status: Excess
GSA Number: 9–D–OR–077
Reasons: Floodway

Pennsylvania

Bldgs. TIO 12328, 12333
Tionesta PA 16353
Landholding Agency: COE
Property Number: 31200820011
Status: Unutilized
Reasons: Extensive deterioration

Z–Bldg.
Bettis Atomic Power Lab
West Mifflin Co: Allegheny PA 15122–0109
Landholding Agency: Energy
Property Number: 41199720002
Status: Excess
Reasons: Extensive deterioration

South Carolina

36 Bldgs.
J. Strom Thurmond Lake
Clarks Hill SC 29821
Landholding Agency: COE
Property Number: 31200920017
Status: Unutilized
Reasons: Extensive deterioration

Bldg. JST 17244
J. Strom Thurmond Lake
Clarks Hill SC 29821
Landholding Agency: COE
Property Number: 31200920018
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 701–6G
Jackson Barricade
Jackson SC
Landholding Agency: Energy
Property Number: 41200420010
Status: Unutilized
Reasons: Secured Area

Bldg. 211–000F
Nuclear Materials Processing Facility
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200420011
Status: Excess
Reasons: Secured Area

Bldg. 221–001F
Nuclear Materials Processing Facility
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200420015
Status: Excess
Reasons: Secured Area

Bldg. 190–K
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200420030
Status: Unutilized
Reasons: Secured Area

Bldg. 710–015N
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430002
Status: Excess
Reasons: Secured Area

Bldg. 713–000N
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430003
Status: Excess
Reasons: Secured Area

Bldgs. 80–9G, 10G
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430006
Status: Excess
Reasons: Secured Area

Bldgs. 105–P, 105–R
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430007
Status: Excess
Reasons: Secured Area

Bldg. 183–003L
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430009
Status: Excess
Reasons: Secured Area

Bldg. 221–016F
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430014
Status: Excess
Reasons: Secured Area

Bldgs. 221–053F, 054F
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430016
Status: Excess
Reasons: Secured Area

Bldgs. 252–003F, 005F
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430017
Status: Excess
Reasons: Secured Area

Bldg. 315–M
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430030
Status: Excess
Reasons: Secured Area

Bldg. 716–002A
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430040
Status: Excess
Reasons: Secured Area

Bldgs. 221–21F, 22F
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430042
Status: Excess
Reasons: Secured Area

Bldg. 221–033F
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430043
Status: Excess
Reasons: Secured Area

Bldg. 254–007F
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430044
Status: Excess
Reasons: Secured Area

Bldg. 281–001F
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430045
Status: Excess
Reasons: Secured Area

Bldg. 281–004F
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430046
Status: Excess
Reasons: Secured Area

Bldg. 281–006F
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430047
Status: Excess
Reasons: Secured Area

Bldg. 703–045A
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430050
Status: Excess
Reasons: Secured Area

Bldg. 703–071A
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430051
Status: Excess
Reasons: Secured Area

Bldg. 754–008A
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430058
Status: Excess
Reasons: Secured Area

Bldg. 186–R
Savannah River Site
Aiken SC
Landholding Agency: Energy
Property Number: 41200430063
Status: Unutilized
Reasons: Secured Area

4 Bldgs.
Savannah River Site

#281–2F, 281–5F, 285–F, 285–5F
Aiken SC
Landholding Agency: Energy
Property Number: 41200430066
Status: Unutilized
Reasons: Secured Area

Bldg. 701–000M
Savannah River Site
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430084
Status: Unutilized
Reasons: Secured Area

Bldg. 690–000N
Savannah River Site
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200440032
Status: Underutilized
Reasons: Secured Area

Facility 701–5G
Savannah River Site
New Ellenton SC
Landholding Agency: Energy
Property Number: 41200530003
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 714–000A
Savannah River Site
Aiken SC
Landholding Agency: Energy
Property Number: 41200620014
Status: Underutilized
Reasons: Secured Area

Bldg. 777–018A
Savannah River Site
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200620022
Status: Excess
Reasons: Secured Area

Bldgs. 108–1P, 108–2P
Savannah River Site
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200630007
Status: Unutilized
Reasons: Secured Area

Bldg. 701–001P
Savannah River Site
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200640002
Status: Unutilized
Reasons: Secured Area

Bldgs. 151–1P, 151–2P
Savannah River Site
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200640004
Status: Unutilized
Reasons: Secured Area

Bldg. 191–P
Savannah River Site
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200640005
Status: Unutilized
Reasons: Secured Area

Bldg. 710–P
Savannah River Site
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200640006
Status: Unutilized
Reasons: Secured Area

Bldg. 614–63G
Savannah River Site
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200710006
Status: Unutilized
Reasons: Secured Area

Bldgs. 701–2G, –905–117G
Savannah River Site
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200710007
Status: Unutilized
Reasons: Secured Area

Bldgs. 108–1R, 108–2R
Savannah River Site
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200710010
Status: Unutilized
Reasons: Secured Area

Bldgs. 717–003S, 717–010S
Savannah River Site
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200710011
Status: Unutilized
Reasons: Secured Area

Facility 151–1R
Savannah River Site
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200810001
Status: Underutilized
Reasons: Secured Area

South Dakota

Mobile Home
Tract L–1295
Oahe Dam
Potter SD 00000
Landholding Agency: COE
Property Number: 31200030001
Status: Excess
Reasons: Extensive deterioration

Tennessee

Bldg. 204
Cordell Hull Lake and Dam Project.
Defeated Creek Recreation Area
Carthage Co: Smith TN 37030
Landholding Agency: COE
Property Number: 31199011499
Status: Unutilized
Directions: U.S. Highway 85
Reasons: Floodway

Tract 2618 (Portion)
Cordell Hull Lake and Dam Project
Roaring River Recreation Area
Gainesboro Co: Jackson TN 38562
Landholding Agency: COE
Property Number: 31199011503
Status: Underutilized
Directions: TN Highway 135
Reasons: Floodway

Water Treatment Plant
Dale Hollow Lake Project
Obey River Park, State Hwy 42
Livingston Co: Clay TN 38351
Landholding Agency: COE
Property Number: 31199140011
Status: Excess
Reasons: Other—water treatment plant

Water Treatment Plant
Dale Hollow Lake Project
Lillydale Recreation Area, State Hwy 53
Livingston Co: Clay TN 38351
Landholding Agency: COE
Property Number: 31199140012
Status: Excess
Reasons: Other—water treatment plant

Water Treatment Plant
Dale Hollow Lake Project
Willow Grove Recreational Area, Hwy No. 53
Livingston Co: Clay TN 38351
Landholding Agency: COE
Property Number: 31199140013
Status: Excess
Reasons: Other—water treatment plant

Comfort Station/Land
Cook Campground
Nashville Co: Davidson TN 37214
Landholding Agency: COE
Property Number: 31200420024
Status: Unutilized
Reasons: Floodway

Tracts 915, 920, 931C–1
Cordell Hull Dam/Reservoir
Cathage Co: Smith TN 37030
Landholding Agency: COE
Property Number: 31200430016
Status: Unutilized
Reasons: Other—landlocked, Floodway

Residence #5
5050 Dale Hollow Dam Rd.
Celina Co: Clay TN 38551
Landholding Agency: COE
Property Number: 31200540010
Status: Unutilized
Reasons: Other—landlocked

Bldg.
Dale Hollow Lake Dam
Celina Co: Clay TN 38551
Landholding Agency: COE
Property Number: 31200610013
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 9418–1
Y–12 Plant
Oak Ridge Co: Anderson TN 37831
Landholding Agency: Energy
Property Number: 41199810026
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 2010
Oak Ridge Natl Laboratory
Oak Ridge TN 37831
Landholding Agency: Energy
Property Number: 41200710009
Status: Excess
Reasons: Extensive deterioration, Secured Area

3 Bldgs.
Y–12 Natl Nuclear Security Complex
Oak Ridge TN 37831
Landholding Agency: Energy
Property Number: 41200720001
Status: Unutilized
Directions: 9104–01, 9104–02, 9104–03
Reasons: Secured Area

Bldgs. 1035, 1058, 1061
E. Tennessee Technology Park
Oak Ridge TN
Landholding Agency: Energy
Property Number: 41200730002
Status: Unutilized

Reasons: Extensive deterioration, Secured Area, Contamination

Bldgs. 1231, 1416
E. Tennessee Technology Park
Oak Ridge TN 37831
Landholding Agency: Energy
Property Number: 41200730003
Status: Unutilized
Reasons: Extensive deterioration, Contamination, Secured Area

Bldgs. 413, 1059
E. TN Tech Park
Oak Ridge TN 37831
Landholding Agency: Energy
Property Number: 41200730006
Status: Excess
Reasons: Contamination, Secured Area

Bldgs. 1000, 1008F, 1028
E. TN Technology Park
Oak Ridge TN 37831
Landholding Agency: Energy
Property Number: 41200810005
Status: Excess
Reasons: Secured Area

Bldgs. 1101, 1201, 1501
E. TN Technology Park
Oak Ridge TN 37831
Landholding Agency: Energy
Property Number: 41200810006
Status: Excess
Reasons: Within airport runway clear zone, Secured Area

4 Bldgs.
East TN Technology Park
Oak Ridge TN 37831
Landholding Agency: Energy
Property Number: 41200810007
Status: Excess
Directions: 1513, 1515, 1515E, 1515H
Reasons: Secured Area

3 Bldgs.
Y–12 National Security Complex
9706–01, 9706–01A, 9711–05
Oak Ridge TN 37831
Landholding Agency: Energy
Property Number: 41200810008
Status: Unutilized
Reasons: Secured Area

3 Bldgs.
Y–12 National Security Complex
9733–01, 9733–02, 9733–03
Oak Ridge TN 37831
Landholding Agency: Energy
Property Number: 41200810009
Status: Unutilized
Reasons: Secured Area

Bldgs. 9734, 9739
Y–12 National Security Complex
Oak Ridge TN 37831
Landholding Agency: Energy
Property Number: 41200810010
Status: Unutilized
Reasons: Secured Area

4 Bldgs.
Y–12 Natl Security Complex
Oak Ridge TN 37831
Landholding Agency: Energy
Property Number: 41200910001
Status: Unutilized
Directions: 9201–05, 9622, 9769, 9983–HP
Reasons: Secured Area

13 Bldgs.
Y–12 Natl Security Complex
Oak Ridge TN 37831
Landholding Agency: Energy
Property Number: 41200920003
Status: Unutilized
Directions: 9404–02, 9404–04, 9409–04, 9409–30, 9416–18, 9416–21, 9709, 9709–19, 9720–19A, 9720–19B, 9724–01, 9766, 9983–FE
Reasons: Secured Area

Texas

Comfort Station
Overlook PUA
Powderly Co: Lamar TX 75473–9801
Landholding Agency: COE
Property Number: 31200240018
Status: Excess
Reasons: Extensive deterioration

148 Bldgs.
Texoma Lake
Denison TX
Landholding Agency: COE
Property Number: 31200740018
Status: Unutilized
Reasons: Extensive deterioration

18 Bldgs.
Texoma Lake
Denison TX
Landholding Agency: COE
Property Number: 31200820012
Status: Unutilized
Reasons: Extensive deterioration

Bldg.
Stilling Basin
Pat Mayes Lake
Powderly TX 75473
Landholding Agency: COE
Property Number: 31200820013
Status: Unutilized
Reasons: Extensive deterioration

4 Bldgs. Burns Run Area
Texoma Lake
57667, 42562, 42486, 42568
Denison TX
Landholding Agency: COE
Property Number: 31200840012
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 42466, 42508
Johnson Creek/Caney Creek
Denison TX
Landholding Agency: COE
Property Number: 31200920019
Status: Unutilized
Reasons: Extensive deterioration

4 Bldgs.
Lake Texoma
42558, 42473, 42543, 42496
Denison TX
Landholding Agency: COE
Property Number: 31200920020
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 42479
Texoma Lake
Denison TX
Landholding Agency: COE
Property Number: 31200930010
Status: Unutilized
Reasons: Extensive deterioration

Boat Dock
Pat Mayse Lake
Powderly TX 75473
Landholding Agency: COE
Property Number: 31200940014
Status: Unutilized
Reasons: Extensive deterioration

Old USMC Training Center
Fort Point
Galveston TX 77550
Landholding Agency: COE
Property Number: 31200940015
Status: Unutilized
Reasons: Extensive deterioration

5 Bldgs.
Pat Mayse Lake
Powderly TX 75473
Landholding Agency: COE
Property Number: 31201010006
Status: Unutilized
Directions: 43018, 43017, 43010, 43011, 43012
Reasons: Extensive deterioration

Zone 12, Bldg. 12–20
Pantex Plant
Amarillo Co: Carson TX 79120
Landholding Agency: Energy
Property Number: 41200220053
Status: Unutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Bldgs. 12–017E, 12–019E
Pantex Plant
Amarillo Co: Carson TX 79120
Landholding Agency: Energy
Property Number: 41200320010
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

4 Bldgs.
NNSA Pantex Plant
Amarillo Co: Carson TX 79120
Landholding Agency: Energy
Property Number: 41200540002
Status: Unutilized
Directions: 12–009, 12–009A, 12–R–009A, 12–R–009B
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Bldg. 12–011A
NNSA Pantex Plant
Amarillo Co: Carson TX 79120
Landholding Agency: Energy
Property Number: 41200540003
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 12–097
NNSA Pantex Plant
Amarillo Co: Carson TX 79120
Landholding Agency: Energy
Property Number: 41200540004
Status: Unutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Bldgs. 11–54, 11–54A
Zone 11
Plantex Plant
Amarillo Co: Carson TX 79120
Landholding Agency: Energy
Property Number: 41200630008
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 12–002B
Zone 12
Pantex Plant
Amarillo Co: Carson TX 79120
Landholding Agency: Energy
Property Number: 41200630009

Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

4 Bldgs.
12–003, 12–R–003, 12–003L
Zone 12, Pantex Plant
Amarillo Co: Carson TX 79120
Landholding Agency: Energy
Property Number: 41200630010
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 12–014
Zone 12
Pantex Plant
Amarillo Co: Carson TX 79120
Landholding Agency: Energy
Property Number: 41200630011
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 12–24E
Zone 12
Pantex Plant
Amarillo Co: Carson TX 79120
Landholding Agency: Energy
Property Number: 41200630012
Status: Unutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Bldg. 11–029, Zone 11
Pantex Plant
Amarillo Co: Carson TX 79120
Landholding Agency: Energy
Property Number: 41200640007
Status: Unutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Bldgs. 11–010, T09–031
Pantex Plant
Amarillo TX 79120
Landholding Agency: Energy
Property Number: 41200810011
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 4–24, 4–27, 4–29
Pantex Plant
Amarillo TX 79120
Landholding Agency: Energy
Property Number: 41200830003
Status: Unutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Bldg. 11–027
Pantex Plant
Amarillo TX 79120
Landholding Agency: Energy
Property Number: 41200830004
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

3 Bldgs.
Pantex Plant
12–0245, 12–041SS, 12–075A
Amarillo TX 79120
Landholding Agency: Energy
Property Number: 41200830005
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 04–024, 04–027, 04–029
Pantex Plant
Amarillo TX
Landholding Agency: Energy
Property Number: 41200840003
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldgs. 09–013, 09–125
Pantex Plant
Amarillo TX
Landholding Agency: Energy
Property Number: 41200840004
Status: Unutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

5 Bldgs.
Pantex Plant
Amarillo TX
Landholding Agency: Energy
Property Number: 41200840005
Status: Unutilized
Directions: 09–095, 09–126, 09–132, 09–132A, 09–134
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 11–027
Pantex Plant
Amarillo TX
Landholding Agency: Energy
Property Number: 41200840006
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

4 Bldgs.
Pantex Plant
Amarillo TX
Landholding Agency: Energy
Property Number: 41200840007
Status: Unutilized
Directions: 12–R–009B,12–0245, 12–041SS, 12–075A
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

6 Bldgs.
Pantex Plant
Amarillo TX 79121
Landholding Agency: Energy
Property Number: 41200920004
Status: Unutilized
Directions: 09–056, 11–R–016, 11–030, 12–023, 12–045, 12–047, 12–005G3
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 09–145
Pantex Plant
Amarillo TX 79120
Landholding Agency: Energy
Property Number: 41200940006
Status: Unutilized
Reasons: Secured Area, Extensive deterioration, Within 2000 ft. of flammable or explosive material

Wallisville Road Property
Houston TX 77029
Landholding Agency: GSA
Property Number: 54201020006
Status: Surplus
GSA Number: 7–G–TX–1107
Reasons: Within 2000 ft. of flammable or explosive material

Virginia

Bldgs. JHK–17433, JHK–17446
John H. Kerr Project
Boydton VA
Landholding Agency: COE
Property Number: 31200740020
Status: Unutilized
Reasons: Extensive deterioration

Bldg. JHK–16754
Henderson Point
Mecklenburg VA 23917
Landholding Agency: COE
Property Number: 31200840013
Status: Unutilized
Reasons: Extensive deterioration

4 Bldgs.
Philpott Lake
16232, 16233, 16234, 16235
Bassett VA 24055
Landholding Agency: COE
Property Number: 31200920021
Status: Unutilized
Reasons: Extensive deterioration

6 Bldgs.
John H. Kerr Lake & Dam
Mecklenburg VA 23917
Landholding Agency: COE
Property Number: 31200920022
Status: Unutilized
Directions: ID# JHK 15776, 16754, 16810, 17051, 17845, 18244
Reasons: Extensive deterioration

3 Comfort Stations
John H. Kerr Lake & Dam
Mecklenburg VA 23917
Landholding Agency: COE
Property Number: 31200920054
Status: Unutilized
Directions: JHK–17450, 17451, 17457
Reasons: Extensive deterioration

5 Bldgs.
John H. Kerr Lake & Dam
Mecklenburg VA 23917
Landholding Agency: COE
Property Number: 31200930014
Status: Unutilized
Directions: JHK–15782, 17134, 17453, 17456, 18017
Reasons: Extensive deterioration

Bldgs. 22624, 41438, 41439
John Flannagan Dam
Haysi VA 24256
Landholding Agency: COE
Property Number: 31200940016
Status: Unutilized
Reasons: Extensive deterioration

9 Bldgs.
Philpott Lake & Dam
Bassett VA 24055
Landholding Agency: COE
Property Number: 31200940017
Status: Unutilized
Directions: 15640, 16753, 16775, 16883, 18840, 18854, 18835, 16749, 15636
Reasons: Extensive deterioration

Bldgs. 17454, 17455
John Kerr Lake & Dam
Boydton VA 23917
Landholding Agency: COE
Property Number: 31200940018
Status: Unutilized
Reasons: Extensive deterioration

Bldg. TR–CO1
Tailrace Park
Mecklenberg VA 23917
Landholding Agency: COE
Property Number: 31201020006
Status: Unutilized
Reasons: Extensive deterioration

JHK–18213

John H. Kerr Lake & Dam
Mecklenburg VA 23917
Landholding Agency: COE
Property Number: 31201020013
Status: Unutilized
Reasons: Extensive deterioration

Comfort Station/JHK–17452
John Kerr Lake & Dam
Mecklenburg VA 23917
Landholding Agency: COE
Property Number: 31201030005
Status: Unutilized
Reasons: Extensive deterioration

Training Bldg.
USCG Integrated Support Ctr
Portsmouth Co: Norfolk VA 43703
Landholding Agency: Coast Guard
Property Number: 88200530001
Status: Excess
Reasons: Secured Area

Bldg. 011
Integrated Support Center
Portsmouth Co: Norfolk VA 43703
Landholding Agency: Coast Guard
Property Number: 88200620002
Status: Excess
Reasons: Secured Area

9 Bldgs.
USCG Cape Charles Station
Winters Quarters
Northampton VA 23310
Landholding Agency: Coast Guard
Property Number: 88200740001
Status: Unutilized
Reasons: Extensive deterioration

Navigation Center Trailer
USCG TISCOM
Alexandria VA 22315
Landholding Agency: Coast Guard
Property Number: 88200820003
Status: Excess
Reasons: Secured Area

2 Fiberglass Huts
USCG Training Center
Yorktown VA
Landholding Agency: Coast Guard
Property Number: 88201020001
Status: Excess
Reasons: Secured Area

Washington

Madame Dorion Vault Toilet
McNary Lock & Dam
Walla Walla WA
Landholding Agency: COE
Property Number: 31200920023
Status: Unutilized
Reasons: Extensive deterioration

Chiawana Park Restroom
McNary Lock & Dam
Pasco WA 99301
Landholding Agency: COE
Property Number: 31200920024
Status: Unutilized
Reasons: Extensive deterioration

79 Structures
Hanford Site 100, 300, 400
Richland Co: Benton WA 99352
Landholding Agency: Energy
Property Number: 41200620010
Status: Excess
Directions: Infrastructure Facilities
Reasons: Secured Area

87 Structures
Hanford Site 100, 300, 400
Richland Co: Benton WA 99351
Landholding Agency: Energy
Property Number: 41200620011
Status: Excess
Directions: Mobile Offices
Reasons: Secured Area

139 Structures
Hanford Site 100, 300, 400
Richland Co: Benton WA 99352
Landholding Agency: Energy
Property Number: 41200620012
Status: Excess
Directions: Offices Facilities
Reasons: Secured Area

122 Structures
Hanford Site 100, 300, 400
Richland Co: Benton WA 99352
Landholding Agency: Energy
Property Number: 41200620013
Status: Excess
Directions: Process Facilities
Reasons: Secured Area

West Virginia

Bldg. BLN–01–A–01
Bluestone Lake
Hinton WV 25951
Landholding Agency: COE
Property Number: 31201020007
Status: Unutilized
Reasons: Extensive deterioration

Wisconsin

Bldg. OV1
USCG Station
Bayfield WI 54814
Landholding Agency: Coast Guard
Property Number: 88200620001
Status: Excess
Reasons: Secured Area

*Land*

Arizona

58 acres
VA Medical Center
500 Highway 89 North
Prescott Co: Yavapai AZ 86313
Landholding Agency: VA
Property Number: 97190630001
Status: Unutilized
Reasons: Floodway

20 acres
VA Medical Center
500 Highway 89 North
Prescott Co: Yavapai AZ 86313
Landholding Agency: VA
Property Number: 97190630002
Status: Underutilized
Reasons: Floodway

Florida

Wildlife Sanctuary, VAMC
10,000 Bay Pines Blvd.
Bay Pines Co: Pinellas FL 33504
Landholding Agency: VA
Property Number: 97199230004
Status: Underutilized
Reasons: Other—Inaccessible

Kentucky

Tract 4626
Barkley, Lake, Kentucky and Tennessee
Donaldson Creek Launching Area
Cadiz Co: Trigg KY 42211
Landholding Agency: COE
Property Number: 31199010030
Status: Underutilized
Directions: 14 miles from U.S. Highway 68.
Reasons: Floodway

Tract AA–2747
Wolf Creek Dam and Lake Cumberland
U.S. HWY. 27 to Blue John Road
Burnside Co: Pulaski KY 42519
Landholding Agency: COE
Property Number: 31199010038
Status: Underutilized
Reasons: Floodway

Tract AA–2726
Wolf Creek Dam and Lake Cumberland
KY HWY. 80 to Route 769
Burnside Co: Pulaski KY 42519
Landholding Agency: COE
Property Number: 31199010039
Status: Underutilized
Reasons: Floodway

Tract 1358
Barkley Lake, Kentucky and Tennessee
Eddyville Recreation Area
Eddyville Co: Lyon KY 42038
Landholding Agency: COE
Property Number: 31199010043
Status: Excess
Directions: U.S. Highway 62 to State highway 93
Reasons: Floodway

Barren River Lock No. 1
Richardsville Co: Warren KY 42270
Landholding Agency: COE
Property Number: 31199120008
Status: Unutilized
Reasons: Floodway

Green River Lock No. 3
Rochester Co: Butler KY 42273
Landholding Agency: COE
Property Number: 31199120009
Status: Unutilized
Directions: Off State Hwy. 369, which runs off of Western Ky. Parkway
Reasons: Floodway

Green River Lock No. 4
Woodbury Co: Butler KY 42288
Landholding Agency: COE
Property Number: 31199120014
Status: Underutilized
Directions: Off State Hwy 403, which is off State Hwy 231
Reasons: Floodway

Green River Lock No. 5
Readville Co: Butler KY 42275
Landholding Agency: COE
Property Number: 31199120015
Status: Unutilized
Directions: Off State Highway 185
Reasons: Floodway

Green River Lock No. 6
Brownsville Co: Edmonson KY 42210
Landholding Agency: COE
Property Number: 31199120016
Status: Underutilized
Directions: Off State Highway 259
Reasons: Floodway

Vacant land west of locksite
Greenup Locks and Dam
5121 New Dam Road
Rural Co: Greenup KY 41144
Landholding Agency: COE
Property Number: 31199120017
Status: Unutilized
Reasons: Floodway

Maryland

Tract 131R

Youghiogheny River Lake, Rt. 2, Box 100
Friendsville Co: Garrett MD
Landholding Agency: COE
Property Number: 31199240007
Status: Underutilized
Reasons: Floodway

Minnesota

Portion/Tract Wa–63
Wabasha MN
Landholding Agency: COE
Property Number: 31200940006
Status: Unutilized
Reasons: Other—inaccessible

3.85 acres (Area #2)
VA Medical Center
4801 8th Street
St. Cloud Co: Stearns MN 56303
Landholding Agency: VA
Property Number: 97199740004
Status: Unutilized
Reasons: Other—landlocked

7.48 acres (Area #1)
VA Medical Center
4801 8th Street
St. Cloud Co: Stearns MN 56303
Landholding Agency: VA
Property Number: 97199740005
Status: Underutilized
Reasons: Secured Area

Mississippi

Parcel 1
Grenada Lake
Section 20
Grenada Co: Grenada MS 38901–0903
Landholding Agency: COE
Property Number: 31199011018
Status: Underutilized
Reasons: Within airport runway clear zone

Missouri

Ditch 19, Item 2, Tract No. 230
St. Francis Basin Project
2½ miles west of Malden
null Co: Dunklin MO
Landholding Agency: COE
Property Number: 31199130001
Status: Unutilized
Reasons: Floodway

Montana

Sewage Lagoons/40 acres
VA Center
Ft. Harrison MT 59639
Landholding Agency: VA
Property Number: 97200340007
Status: Excess
Reasons: Floodway

New York

Tract 1
VA Medical Center
Bath Co: Steuben NY 14810
Landholding Agency: VA
Property Number: 97199010011
Status: Unutilized
Directions: Exit 38 off New York State Route 17.
Reasons: Secured Area

Tract 2
VA Medical Center
Bath Co: Steuben NY 14810
Landholding Agency: VA
Property Number: 97199010012
Status: Underutilized
Directions: Exit 38 off New York State Route 17.
Reasons: Secured Area

Tract 3
VA Medical Center
Bath Co: Steuben NY 14810
Landholding Agency: VA
Property Number: 97199010013
Status: Underutilized
Directions: Exit 38 off New York State Route 17.
Reasons: Secured Area

Tract 4
VA Medical Center
Bath Co: Steuben NY 14810
Landholding Agency: VA
Property Number: 97199010014
Status: Unutilized
Directions: Exit 38 off New York State Route 17.
Reasons: Secured Area

Ohio

Mosquito Creek Lake
Everett Hull Road Boat Launch
Cortland Co: Trumbull OH 44410–9321
Landholding Agency: COE
Property Number: 31199440007
Status: Underutilized
Reasons: Floodway

Mosquito Creek Lake
Housel—Craft Rd., Boat Launch
Cortland Co: Trumbull OH 44410–9321
Landholding Agency: COE
Property Number: 31199440008
Status: Underutilized
Reasons: Floodway

36 Site Campground
German Church Campground
Berlin Center Co: Portage OH 44401–9707
Landholding Agency: COE
Property Number: 31199810001
Status: Unutilized
Reasons: Floodway

Pennsylvania

Lock and Dam #7
Monongahela River
Greensboro Co: Greene PA
Landholding Agency: COE
Property Number: 31199011564
Status: Unutilized
Directions: Left hand side of entrance roadway to project
Reasons: Floodway

Mercer Recreation Area
Shenango Lake
Transfer Co: Mercer PA 16154
Landholding Agency: COE
Property Number: 31199810002
Status: Unutilized
Reasons: Floodway

Tract No. B–212C
Upstream from Gen. Jadwin Dam
Honesdale Co: Wayne PA 18431
Landholding Agency: COE
Property Number: 31200020005
Status: Unutilized
Reasons: Floodway

Tennessee

Brooks Bend
Cordell Hull Dam and Reservoir
Highway 85 to Brooks Bend Road
Gainesboro Co: Jackson TN 38562
Landholding Agency: COE
Property Number: 21199040413
Status: Underutilized
Directions: Tracts 800, 802–806, 835–837, 900–902, 1000–1003, 1025
Reasons: Floodway

Cheatham Lock and Dam
Highway 12
Ashland City Co: Cheatham TN 37015
Landholding Agency: COE
Property Number: 21199040415
Status: Underutilized
Directions: Tracts E–513, E–512–1 and E–512–2
Reasons: Floodway

Tract 2321
J. Percy Priest Dam and Reservoir
Murfreesboro Co: Rutherford TN 37130
Landholding Agency: COE
Property Number: 31199010935
Status: Excess
Directions: South of Old Jefferson Pike
Reasons: Other—landlocked

Tract 6737
Blue Creek Recreation Area
Barkley Lake, Kentucky and Tennessee
Dover Co: Stewart TN 37058
Landholding Agency: COE
Property Number: 31199011478
Status: Underutilized
Directions: U.S. Highway 79/TN Highway 761
Reasons: Floodway

Tracts 3102, 3105, and 3106
Brimstone Launching Area
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38562
Landholding Agency: COE
Property Number: 31199011479
Status: Excess
Directions: Big Bottom Road
Reasons: Floodway

Tract 3507
Proctor Site
Cordell Hull Lake and Dam Project
Celina Co: Clay TN 38551
Landholding Agency: COE
Property Number: 31199011480
Status: Unutilized
Directions: TN Highway 52
Reasons: Floodway

Tract 3721
Obey
Cordell Hull Lake and Dam Project
Celina Co: Clay TN 38551
Landholding Agency: COE
Property Number: 31199011481
Status: Unutilized
Directions: TN Highway 53
Reasons: Floodway

Tracts 608, 609, 611 and 612
Sullivan Bend Launching Area
Cordell Hull Lake and Dam Project
Carthage Co: Smith TN 37030
Landholding Agency: COE
Property Number: 31199011482
Status: Underutilized
Directions: Sullivan Bend Road
Reasons: Floodway

Tracts 1710, 1716 and 1703
Flynns Lick Launching Ramp
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38562
Landholding Agency: COE

Property Number: 31199011484
Status: Underutilized
Directions: Whites Bend Road
Reasons: Floodway

Tract 1810
Wartrace Creek Launching Ramp
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38551
Landholding Agency: COE
Property Number: 31199011485
Status: Underutilized
Directions: TN Highway 85
Reasons: Floodway

Tract 2524
Jennings Creek
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38562
Landholding Agency: COE
Property Number: 31199011486
Status: Unutilized
Directions: TN Highway 85
Reasons: Floodway

Tracts 2905 and 2907
Webster
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38551
Landholding Agency: COE
Property Number: 31199011487
Status: Unutilized
Directions: Big Bottom Road
Reasons: Floodway

Tracts 2200 and 2201
Gainesboro Airport
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38562
Landholding Agency: COE
Property Number: 31199011488
Status: Underutilized
Directions: Big Bottom Road
Reasons: Within airport runway clear zone, Floodway

Tracts 710C and 712C
Sullivan Island
Cordell Hull Lake and Dam Project
Carthage Co: Smith TN 37030
Landholding Agency: COE
Property Number: 31199011489
Status: Unutilized
Directions: Sullivan Bend Road
Reasons: Floodway

Tract 2403, Hensley Creek
Cordell Hull Lake and Dam Project
Gainesboro Co: Jackson TN 38562
Landholding Agency: COE
Property Number: 31199011490
Status: Unutilized
Directions: TN Highway 85
Reasons: Floodway

Tracts 2117C, 2118 and 2120
Cordell Hull Lake and Dam Project
Trace Creek
Gainesboro Co: Jackson TN 38562
Landholding Agency: COE
Property Number: 31199011491
Status: Unutilized
Directions: Brooks Ferry Road
Reasons: Floodway

Tracts 424, 425 and 426
Cordell Hull Lake and Dam Project
Stone Bridge
Carthage Co: Smith TN 37030
Landholding Agency: COE
Property Number: 31199011492
Status: Unutilized
Directions: Sullivan Bend Road
Reasons: Floodway

Tract 517
J. Percy Priest Dam and Reservoir
Suggs Creek Embayment
Nashville Co: Davidson TN 37214
Landholding Agency: COE
Property Number: 31199011493
Status: Underutilized
Directions: Interstate 40 to S. Mount Juliet Road.
Reasons: Floodway

Tract 1811
West Fork Launching Area
Smyrna Co: Rutherford TN 37167
Landholding Agency: COE
Property Number: 31199011494
Status: Underutilized
Directions: Florence road near Enon Springs Road
Reasons: Floodway

Tract 1504
J. Perry Priest Dam and Reservoir
Lamon Hill Recreation Area
Smyrna Co: Rutherford TN 37167
Landholding Agency: COE
Property Number: 31199011495
Status: Underutilized
Directions: Lamon Road
Reasons: Floodway

Tract 1500
J. Perry Priest Dam and Reservoir
Pools Knob Recreation
Smyrna Co: Rutherford TN 37167
Landholding Agency: COE
Property Number: 31199011496
Status: Underutilized
Directions: Jones Mill Road
Reasons: Floodway

Tracts 245, 257, and 256
J. Perry Priest Dam and Reservoir
Cook Recreation Area
Nashville Co: Davidson TN 37214
Landholding Agency: COE
Property Number: 31199011497
Status: Underutilized
Directions: 2.2 miles south of Interstate 40 near Saunders Ferry Pike
Reasons: Floodway

Tracts 107, 109 and 110
Cordell Hull Lake and Dam Project
Two Prong
Carthage Co: Smith TN 37030
Landholding Agency: COE
Property Number: 31199011498
Status: Unutilized
Directions: U.S. Highway 85
Reasons: Floodway

Tracts 2919 and 2929
Cordell Hull Lake and Dam Project
Sugar Creek
Gainesboro Co: Jackson TN 38562
Landholding Agency: COE
Property Number: 31199011500
Status: Unutilized
Directions: Sugar Creek Road
Reasons: Floodway

Tracts 1218 and 1204
Cordell Hull Lake and Dam Project
Granville—Alvin Yourk Road
Granville Co: Jackson TN 38564
Landholding Agency: COE
Property Number: 31199011501
Status: Unutilized
Reasons: Floodway

Tract 2100
Cordell Hull Lake and Dam Project
Galbreaths Branch
Gainesboro Co: Jackson TN 38562
Landholding Agency: COE
Property Number: 31199011502
Status: Unutilized
Directions: TN Highway 53
Reasons: Floodway

Tract 104 et al.
Cordell Hull Lake and Dam Project
Horshoe Bend Launching Area
Carthage Co: Smith TN 37030
Landholding Agency: COE
Property Number: 31199011504
Status: Underutilized
Directions: Highway 70 N
Reasons: Floodway

Tracts 510, 511, 513 and 514
J. Percy Priest Dam and Reservoir Project
Lebanon Co: Wilson TN 37087
Landholding Agency: COE
Property Number: 31199120007
Status: Underutilized
Directions: Vivrett Creek Launching Area, Alvin Sperry Road
Reasons: Floodway

Tract A–142, Old Hickory Beach
Old Hickory Blvd.
Old Hickory Co: Davidson TN 37138
Landholding Agency: COE
Property Number: 31199130008
Status: Underutilized
Reasons: Floodway

Tract D, 7 acres
Cheatham Lock
Nashville Co: Davidson TN 37207
Landholding Agency: COE
Property Number: 31200020006
Status: Underutilized
Reasons: Floodway

Tract F–608
Cheatham Lock
Ashland Co: Cheatham TN 37015
Landholding Agency: COE
Property Number: 31200420021
Status: Unutilized
Reasons: Floodway

Tracts G702–G706
Cheatham Lock
Ashland Co: Cheatham TN 37015
Landholding Agency: COE
Property Number: 31200420022
Status: Unutilized
Reasons: Floodway

6 Tracts
Shutes Branch Campground
Lakewood Co: Wilson TN
Landholding Agency: COE
Property Number: 31200420023
Status: Unutilized
Reasons: Floodway

Texas

Tracts 104, 105–1, 105–2
Joe Pool Lake
null Co: Dallas TX
Landholding Agency: COE
Property Number: 31199010397
Status: Underutilized
Reasons: Floodway

Part of Tract 201–3
Joe Pool Lake
null Co: Dallas TX

Landholding Agency: COE
Property Number: 31199010398
Status: Underutilized
Reasons: Floodway

Part of Tract 323
Joe Pool Lake
null Co: Dallas TX
Landholding Agency: COE
Property Number: 31199010399
Status: Underutilized
Reasons: Floodway

Tract 702–3
Granger Lake
Route 1, Box 172
Granger Co: Williamson TX 76530–9801
Landholding Agency: COE
Property Number: 31199010401
Status: Unutilized
Reasons: Floodway

Tract 706
Granger Lake
Route 1, Box 172
Granger Co: Williamson TX 76530–9801
Landholding Agency: COE
Property Number: 31199010402
Status: Unutilized
Reasons: Floodway

West Virginia

Morgantown Lock and Dam
Box 3 RD #2
Morgantown Co: Monongahelia WV 26505
Landholding Agency: COE
Property Number: 31199011530
Status: Unutilized
Reasons: Floodway

London Lock and Dam
Route 60 East
Rural Co: Kanawha WV 25126
Landholding Agency: COE
Property Number: 31199011690
Status: Unutilized
Directions: 20 miles east of Charleston, W. Virginia.
Reasons: Other—.03 acres; very narrow strip of land

Portion of Tract #101
Buckeye Creek
Sutton Co: Braxton WV 26601
Landholding Agency: COE
Property Number: 31199810006
Status: Excess
Reasons: Other—inaccessible

[FR Doc. 2010–21062 Filed 8–26–10; 8:45 am]

BILLING CODE 4210–67–P

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**H.R. 511/P.L. 111–231**
To authorize the Secretary of Agriculture to terminate certain easements held by the Secretary on land owned by the Village of Caseyville, Illinois, and to terminate associated contractual arrangements with the Village. (Aug. 16, 2010; 124 Stat. 2489)

**H.R. 2097/P.L. 111–232**
Star-Spangled Banner Commemorative Coin Act (Aug. 16, 2010; 124 Stat. 2490)

**H.R. 3509/P.L. 111–233**
Agricultural Credit Act of 2010 (Aug. 16, 2010; 124 Stat. 2493)

**H.R. 4275/P.L. 111–234**
To designate the annex building under construction for the Elbert P. Tuttle United States Court of Appeals Building in Atlanta, Georgia, as the ''John C. Godbold Federal Building''. (Aug. 16, 2010; 124 Stat. 2494)

**H.R. 5278/P.L. 111–235**
To designate the facility of the United States Postal Service located at 405 West Second Street in Dixon, Illinois, as the ''President Ronald W. Reagan Post Office Building''. (Aug. 16, 2010; 124 Stat. 2495)

**H.R. 5395/P.L. 111–236**
To designate the facility of the United States Postal Service located at 151 North Maitland Avenue in Maitland, Florida, as the ''Paula Hawkins Post Office Building''. (Aug. 16, 2010; 124 Stat. 2496)

**H.R. 5552/P.L. 111–237**
Firearms Excise Tax Improvement Act of 2010 (Aug. 16, 2010; 124 Stat. 2497)

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