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Federal Register

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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, November 9, 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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To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

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

Federal Register
Vol. 75, No. 210
Monday, November 1, 2010

Presidential Documents

Title 3—

The President

Presidential Determination No. 2011–11 of August 10, 2010

Continuation of U.S. Drug Interdiction Assistance to the Government of Colombia

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

Pursuant to the authority vested in me by section 1012 of the National Defense Authorization Act for Fiscal Year 1995, as amended (22 U.S.C. 2291–4), I hereby certify, with respect to Colombia, that (1) interdiction of aircraft reasonably suspected to be primarily engaged in illicit drug trafficking in that country's airspace is necessary, because of the extraordinary threat posed by illicit drug trafficking to the national security of that country; and (2) that country has appropriate procedures in place to protect against innocent loss of life in the air and on the ground in connection with such interdiction, which shall at a minimum include effective means to identify and warn an aircraft before the use of force is directed against the aircraft.

The Secretary of State is authorized and directed to publish this determination in the *Federal Register* and to notify the Congress of this determination.

THE WHITE HOUSE,
WASHINGTON, August 10, 2010

[FR Doc. 2010–27668
Filed 10–29–10; 8:45 am]
Billing code 4710–10–P

Presidential Documents

Presidential Determination No. 2011–12 of August 26, 2010

Unexpected Urgent Refugee and Migration Needs Resulting from Violence in Kyrgyzstan

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States, including section 2(c)(1) of the Migration and Refugee Assistance Act of 1962 (the "Act"), as amended (22 U.S.C. 2601(c)(1)), I hereby determine, pursuant to section 2(c)(1) of the Act, that it is important to the national interest to furnish assistance under the Act in an amount not to exceed $9.5 million from the United States Emergency Refugee and Migration Assistance Fund for the purpose of meeting unexpected and urgent refugee and migration needs, including by contributions to international, governmental, and nongovernmental organizations and payment of administrative expenses of the Bureau of Population, Refugees, and Migration of the Department of State, related to humanitarian needs resulting from recent violence in Kyrgyzstan.

You are authorized and directed to publish this memorandum in the *Federal Register*.

THE WHITE HOUSE,
WASHINGTON, August 26, 2010

[FR Doc. 2010–27672
Filed 10–29–10; 8:45 am]
Billing code 4710–10–P

Presidential Documents

Presidential Determination No. 2011–14 of September 3, 2010

Unexpected Urgent Refugee And Migration Needs Resulting From Flooding InPakistan

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States, including section 2(c)(1) of the Migration and Refugee Assistance Act of 1962 (the "Act"), as amended (22 U.S.C. 2601(c)(1)), I hereby determine, pursuant to section 2(c)(1) of the Act, that it is important to the national interest to furnish assistance under the Act in an amount not to exceed $33 million from the United States Emergency Refugee and Migration Assistance Fund for the purpose of meeting unexpected and urgent refugee and migration needs, including by contributions to international, governmental, and nongovernmental organizations and payment of administrative expenses of the Bureau of Population, Refugees, and Migration of the Department of State, related to humanitarian needs resulting from recent devastating flooding in Pakistan.

You are authorized and directed to publish this memorandum in the *Federal Register*.

THE WHITE HOUSE,
WASHINGTON, September 3, 2010

[FR Doc. 2010–27673
Filed 10–29–10; 8:45 am]
Billing code 4710–10–P

Presidential Documents

Presidential Determination No. 2011–15 of September 10, 2010

Presidential Determination with Respect to Foreign Governments' Efforts Regarding Trafficking in Persons

Memorandum for the Secretary of State

Consistent with section 110 of the Trafficking Victims Protection Act of 2000 (Division A of Public Law 106–386), as amended (the "Act"), I hereby:

Make the determination provided in section 110(d)(1)(A)(i) of the Act, with respect to Burma and Zimbabwe, not to provide certain assistance for those countries' governments for Fiscal Year 2011, until such governments comply with the minimum standards or make significant efforts to bring themselves into compliance, as may be determined by the Secretary of State in a report to the Congress pursuant to section 110(b) of the Act;

Make the determination provided in section 110(d)(1)(A)(ii) of the Act, with respect to Cuba, the Democratic People's Republic of North Korea (DPRK), Eritrea, and Iran, not to provide certain assistance for those countries' governments for Fiscal Year 2011, until such governments comply with the minimum standards or make significant efforts to bring themselves into compliance, as may be determined by the Secretary of State in a report to the Congress pursuant to section 110(b) of the Act;

Determine, consistent with section 110(d)(4) of the Act, with respect to the Democratic Republic of the Congo, the Dominican Republic, Kuwait, Mauritania, Papua New Guinea, Saudi Arabia, and Sudan, that provision to these countries' governments of all programs, projects, or activities of assistance described in sections 110(d)(1)(A)(i) and 110(d)(1)(B) of the Act would promote the purposes of the Act or is otherwise in the national interest of the United States;

Determine, consistent with section 110(d)(4) of the Act, with respect to Burma, that a partial waiver to allow funding for programs described in section 110(d)(1)(A)(i) of the Act to support government labs and offices that work to combat infectious disease would promote the purposes of the Act or is otherwise in the national interest of the United States;

Determine, consistent with section 110(d)(4) of the Act, with respect to Cuba and Iran, that a partial waiver to allow funding for educational and cultural exchange programs described in section 110(d)(1)(A)(ii) of the Act would promote the purposes of the Act or is otherwise in the national interest of the United States;

Determine, consistent with section 110(d)(4) of the Act, with respect to Zimbabwe, that a partial waiver to allow funding for programs described in section 110(d)(1)(A)(i) of the Act for assistance for victims of trafficking in persons or to combat such trafficking, and for programs to support the promotion of health, good governance, education, agriculture and food security, poverty reduction, livelihoods, family planning, and macroeconomic growth including anti-corruption, and programs that would have a significant adverse effect on vulnerable populations if suspended, would promote the purposes of the Act or is otherwise in the national interest of the United States;

And determine, consistent with section 110(d)(4) of the Act, with respect to Zimbabwe, that assistance described in section 110(d)(1)(B) of the Act, which:

(1) is a regional program, project, or activity under which the total benefit to Zimbabwe does not exceed 10 percent of the total value of such program, project, or activity; or

(2) has as its primary objective the addressing of basic human needs, as defined by the Department of the Treasury with respect to other, existing legislative mandates concerning U.S. participation in the multilateral development banks; or

(3) is complementary to or has similar policy objectives to programs being implemented bilaterally by the United States Government; or

(4) has as its primary objective the improvement of Zimbabwe's legal system, including in areas that impact Zimbabwe's ability to investigate and prosecute trafficking cases or otherwise improve implementation of its anti-trafficking policy, regulations, or legislation; or

(5) is engaging a government, international organization, or civil society organization, and seeks as its primary objective(s) to: (a) increase efforts to investigate and prosecute trafficking in persons crimes; (b) increase protection for victims of trafficking through better screening, identification, rescue/removal, aftercare (shelter, counseling) training, and reintegration; or (c) expand prevention efforts through education and awareness campaigns highlighting the dangers of trafficking or training and economic empowerment of populations clearly at risk of falling victim to trafficking, would promote the purposes of the Act or is otherwise in the national interest of the United States.

The certification required by section 110(e) of the Act is provided herewith.

You are hereby authorized and directed to submit this determination to the Congress, and to publish it in the *Federal Register*.

THE WHITE HOUSE,
WASHINGTON, September 10, 2010

[FR Doc. 2010–27674
Filed 10–29–10; 8:45 am]
Billing code 4710–10–P

Presidential Documents

Presidential Determination No. 2011–16 of September 15, 2010

Presidential Determination on Major Illicit Drug Transit or Major Illicit Drug Producing Countries for Fiscal Year 2011

Memorandum for the Secretary of State

Pursuant to section 706(1) of the Foreign Relations Authorization Act, Fiscal Year 2003 (Public Law 107–28) (FRAA), I hereby identify the following countries as major drug transit or major illicit drug-producing countries: Afghanistan, The Bahamas, Bolivia, Burma, Colombia, Costa Rica, Dominican Republic, Ecuador, Guatemala, Haiti, Honduras, India, Jamaica, Laos, Mexico, Nicaragua, Pakistan, Panama, Peru, and Venezuela.

A country's presence on the Majors List is not necessarily an adverse reflection of its government's counternarcotics efforts or level of cooperation with the United States. Consistent with the statutory definition of a major drug transit or drug producing country set forth in section 481(e)(2) and (5) of the Foreign Assistance Act of 1961, as amended (FAA), one of the reasons that major drug transit or illicit drug producing countries are placed on the list is the combination of geographic, commercial, and economic factors that allow drugs to transit or be produced despite the concerned government's most assiduous enforcement measures.

Pursuant to section 706(2)(A) of the FRAA, I hereby designate Bolivia, Burma, and Venezuela as countries that have failed demonstrably during the previous 12 months to adhere to their obligations under international counternarcotics agreements and take the measures set forth in section 489(a)(1) of the FAA. Accompanying this report are justifications for the determinations on Bolivia, Burma, and Venezuela, as required by section 706(2)(B).

I have also determined, in accordance with provisions of section 706(3)(A) of the FRAA, that continued support for bilateral programs in Bolivia and limited programs in Venezuela are vital to the national interests of the United States.

Afghanistan continues to be the world's largest producer of opium poppies and a major source of heroin. The United States Government recognized the Government of Afghanistan's ongoing commitment to combat narcotics and the range of initiatives undertaken in this regard under the auspices of the government of President Karzai. A noteworthy achievement is the reduction of opium poppy cultivation from 157,000 hectares in 2008, to 131,000 hectares in 2009, a 17 percent decline.

The connections between opium production, the resulting narcotics trade, corruption, and the insurgency continue to be among the most challenging obstacles to reducing the drug threat in Afghanistan. Poppy cultivation remains largely confined to provinces in the south and west where security problems greatly impede counternarcotics efforts. Nearly all significant poppy cultivation occurs in insecure areas with active insurgent elements, although progress has been made in stabilizing these regions. Nevertheless, the country must demonstrate even greater political will and programmatic effort to combat opium trafficking and production nationwide.

Pakistan is a major transit country for opiates and hashish for markets around the world, especially for narcotics originating in Afghanistan. Pakistan also is a major transit country for precursor chemicals illegally smuggled to Afghanistan where they are used to process heroin.

Pakistan is still challenged by extremist groups who have power over parts of the Federally Administered Tribal Areas, particularly where most of Pakistan's poppy is grown. These extremist groups are also found in settled areas of the Khyber Pakhtoonkhwa Province such as its capital, Peshawar, and the Swat Valley. The Government of Pakistan is forced to divert law enforcement resources and equipment from poppy eradication efforts to address these incursions.

The Government of Pakistan remains concerned about opium poppy cultivation in Pakistan and is working to return to opium poppy-free status soon. A joint U.S.-Pakistan survey in 2009 estimated that 1,779 hectares of opium poppies were under cultivation in Pakistan, approximately 130 hectares less than was under cultivation in the country during the previous year.

The range of U.S.-Pakistan initiatives, which include programs to defeat the insurgency on the Pakistan-Afghanistan border and prevent terrorist safe-havens, have the spin-off effect of helping Pakistan to fortify its land borders and seacoast against drug trafficking and terrorists, support expanded regional cooperation, and encourages Pakistan to return to opium poppy-free status. United States Government support focuses especially on upgrading the institutional capacity of Pakistan's law enforcement agencies.

Although Brazil no longer qualifies as a major drug transit country to the United States, narcotics control in this country which occupies such a large landmass in the hemisphere is of serious concern. Dynamic drug trafficking trends from Brazil are directed primarily at other countries, especially to and through Africa, and onward to Europe. For example, seizures of maritime vessels that departed Brazil in 2009, primarily to European destinations, recorded an unprecedented 2.2 metric tons of cocaine. With its vast terrain and shared borders with so many other countries, Brazil faces unique challenges in terms of patrolling so much illegal land, air, and sea activity. Brazil is seeking to reduce its growing domestic drug use at home, especially the use of cocaine, cocaine base, and crack cocaine, primarily from Bolivia; and marijuana. The United States recognizes Brazil's emergence as a forward-leaning regional leader for cooperation among neighboring states to thwart drug production, trafficking, and use. Like all hemispheric countries, it is important for Brazil to place narcotics and crime control at the top of its national security agenda to thwart these negative influences.

As Mexico and Colombia continue to apply pressure on drug traffickers, the countries of Central America are increasingly targeted for trafficking of cocaine and other drugs primarily destined for the United States. This growing problem resulted in Costa Rica, Honduras, and Nicaragua meeting the threshold for inclusion in the Majors List. Panama and Guatemala, already on the Majors List, are especially vulnerable because of their geographic location. Enhanced and effective counternarcotics measures are needed to thwart smugglers from moving illegal drugs through the seven countries on the isthmus, as well as the waters along the region's long Atlantic and Pacific coastlines between the coca producing Andes to the south and determined and flexible criminal trafficking organizations based in Mexico. United States Government support through the Central American Regional Security Initiative provides Central American countries with the opportunity to boost their rule of law institutions and promote greater regional law enforcement cooperation to counter drug trafficking and transnational organized crime.

United States and international data show a continued strengthening of illegal drug trafficking between Latin America and West Africa, especially via Brazil and Venezuela, with a considerable portion of illegal product destined for Europe. Nigeria, a worldwide drug trafficking focal point, makes counternarcotics a top national security concern for the country, but Nigeria's efforts are often thwarted by lack of resources, institutional capability, and corruption. A number of U.S. projects in Nigeria and other West African

countries are aimed at building limited capacity to investigate and prosecute organized drug traffickers.

Drug traffickers continue to move significant quantities of cocaine through West Africa. For example, Gambian officials recently discovered over two tons of cocaine being stockpiled in the country. The crash of a Boeing 727 in Mali, which was believed to be carrying cocaine, points to new trafficking methods being used in the region. Drug trafficking remains a threat to security, good governance, and increasingly, public health in West Africa. Many countries in the region have weak criminal justice institutions and are vulnerable to corruption. The facilitation of drug trafficking by government officials continues to be a significant challenge, especially in Guinea-Bissau. The United States is encouraged that some countries are actively investigating illegal drug traffickers. Liberia, for example, worked closely with the United States to arrest suspects and deliver them into U.S. custody to stand trial.

The assistance of international donors and organizations to West African governments to improve their counternarcotics capability is increasingly urgent. The United States fully supports all efforts to promote, preserve, and protect the stability and positive growth of countries in West Africa.

The United States continues to maintain a strong and productive law enforcement relationship with Canada. Both countries are making significant efforts to disrupt the two-way flow of drugs, bulk currency, and other contraband. Canadian criminal groups continue to produce large quantities of MDMA (ecstasy) and high-potency marijuana that is trafficked to the United States. The frequent mixing of methamphetamine and other unknown substances into pills marketed as MDMA by Canada-based criminal groups poses an emerging public health risk in the United States, as well as in Canada.

The stealth with which both natural and synthetic drugs including marijuana, MDMA, and methamphetamine are produced in Canada and trafficked to the United States, makes it extremely difficult to measure the overall impact of such transshipments from this shared border country, although U.S. law enforcement agencies record considerable seizures of these substances from Canada.

At the same time, the Drug Enforcement Administration reports that of the amount of MDMA seized in the United States, about half was traced to Canada as its country of origin in 2009.

You are hereby authorized and directed to submit this determination under section 706 of the FRAA, transmit it to the Congress, and publish it in the *Federal Register*.

THE WHITE HOUSE,
WASHINGTON, September 15, 2010

[FR Doc. 2010–27676
Filed 10–29–10; 8:45 am]
Billing code 4710–10–P

Presidential Documents

Memorandum of September 20, 2010

Delegation of Waiver Authority Pursuant to Section 107(a) of Public Law 110–457

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby delegate to you the functions conferred upon the President by section 107(a) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (Public Law 110–457).

You are hereby authorized and directed to publish this memorandum in the *Federal Register*.

THE WHITE HOUSE,
WASHINGTON, September 20, 2010

[FR Doc. 2010–27677
Filed 10–29–10; 8:45 am]
Billing code 4710–10–P

Presidential Documents

Memorandum of September 23, 2010

Delegation of Certain Functions and Authorities Under the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010

Memorandum for the Secretary of State[,] the Secretary of the Treasury[,] the Attorney General[,] the Secretary of Commerce[,] United States Trade Representative[,] Chairman of the Board of Governors of the Federal Reserve System[, and] President of the Export-Import Bank of the United States

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby order as follows:

I hereby delegate to the Secretary of State the functions vested in the President by sections 4(c), 5(a), 5(b), 5(c), 5(f), 6(a)(1), 6(a)(2), 6(b)(5), and 9(c) of the Iran Sanctions Act of 1996, as amended (Public Law 104–172, 50 U.S.C. 1701 note, as amended most recently by the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (CISADA) (Public Law 111–195)) (the "Iran Sanctions Act"), such functions to be exercised in consultation with the Secretaries of the Treasury and Commerce and the United States Trade Representative, and with the President of the Export-Import Bank and the Chairman of the Board of the Federal Reserve System and other agencies as appropriate.

I hereby delegate to the Secretary of State the functions vested in the President by sections 4(a), 4(b), 4(e), 5(d), 5(e), 9(a), 9(b), and 10 of the Iran Sanctions Act.

I hereby delegate to the Secretary of the Treasury, in consultation with the Secretary of State, the functions vested in the President by sections 6(a)(6), 6(a)(7), and 6(a)(8) of the Iran Sanctions Act, if the sanctions that those provisions authorize have been selected pursuant to section 5(a) of the Iran Sanctions Act in accordance with the terms of this memorandum.

The Presidential Memorandum of November 21, 1996 (Delegation of Responsibilities Under the Iran and Libya Sanctions Act of 1996), shall remain in effect with regard to implementation under section 102(h)(2) of CISADA of the provisions of the Iran Sanctions Act in effect on the day before the date of enactment of CISADA.

I hereby delegate functions vested in the President by CISADA, as follows:

- section 102(h)(5) to the Secretary of State;
- section 103(b)(3) to the Secretary of State and the Secretary of the Treasury, consistent with Executive Orders 13224 and 13382, as amended, and any other relevant Executive Orders;
- section 103(d)(1) to the Secretary of the Treasury, in consultation with the Secretary of State and, as appropriate, other agencies;
- section 103(d)(2)(A) to the Secretary of the Treasury, in consultation with the Secretary of State;

- section 103(d)(2)(B) to the Secretary of State, in consultation with the Secretary of the Treasury and the Secretary of Commerce;

- section 106 to the Secretary of State, in consultation with the Secretary of Commerce;

- section 110 to the Secretary of State;

- section 111(a) to the Secretary of State, in consultation with the Secretary of the Treasury and the President of the Export-Import Bank;

- section 111(b) to the President of the Export Import Bank, in consultation with the Secretary of State and the Secretary of the Treasury;

- section 115 to the Secretary of State, in consultation with the Attorney General and the Secretary of the Treasury;

- sections 303(a) and 303(b) to the Secretary of State, in consultation with the Secretary of Commerce;

- section 303(c) to the Secretary of Commerce with regard to exports governed by the Export Administration Regulations, and to the Secretary of State with regard to exports governed by the International Traffic in Arms Regulations;

- section 303(d) to the Secretary of State, in consultation with the Secretary of Commerce;

- section 303(e) to the Secretary of State, in consultation with the Secretary of Commerce;

- section 304 to the Secretary of State, in consultation with the Secretary of Commerce;

- section 401(b) to the Secretary of State, in consultation with the Secretary of the Treasury and, as appropriate, other agencies, with respect to the waiver of sanctions under section 103(b); to the Secretary of State, in consultation with the Secretary of Commerce, with respect to the waiver of the application of the prohibition under section 106(a); and to the Secretary of State, in consultation with the Secretary of Commerce, with respect to the waiver of the imposition of the licensing requirement under section 303(c).

Any reference in this memorandum to provisions of any Act related to the subject of this memorandum shall be deemed to include references to any hereafter-enacted provision of law that is the same or substantially the same as such provisions.

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

THE WHITE HOUSE,
WASHINGTON, September 23, 2010

[FR Doc. 2010–27679
Filed 10–29–10; 8:45 am]
Billing code 4710–10–P

Rules and Regulations

Federal Register
Vol. 75, No. 210
Monday, November 1, 2010

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 748

[Docket No. 101006492–0494–02]

RIN 0694–AF02

Amendment to Existing Validated End-User Authorization in the People's Republic of China: Semiconductor Manufacturing International Corporation

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: In this action, the Bureau of Industry and Security (BIS) amends the Export Administration Regulations (EAR) to remove one facility from the list of Semiconductor Manufacturing International Corporation (SMIC) facilities that are authorized to receive certain items in the People's Republic of China (PRC) under SMIC's validated end-user (VEU) authorization. Specifically, BIS removes Cension Semiconductor Manufacturing Corporation (Cension) from SMIC's list of approved VEU facilities in the PRC due to a material change at SMIC. This amendment is not the result of prohibited activities by Cension or by SMIC, nor does it establish any new license requirements or more restrictive licensing policies for exports, reexports or transfers (in-country) of items to the facility identified in this rule; license requirements set forth in the EAR continue to apply to this facility.

DATES: This rule is effective November 1, 2010. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

ADDRESSES: You may submit comments, identified by RIN 0694–AF02 by any of the following methods:

E-mail: publiccomments@bis.doc.gov. Include "RIN 0694–AF02" in the subject line of the message.

Fax: (202) 482–3355. Please alert the Regulatory Policy Division, by calling (202) 482–2440, if you are faxing comments.

Mail or Hand Delivery/Courier: Sheila Quarterman, U.S. Department of Commerce, Bureau of Industry and Security, Regulatory Policy Division, 14th Street & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230, Attn: RIN 0694–AF02.

Send comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, to Jasmeet Seehra, Office of Management and Budget (OMB), by e-mail to *Jasmeet_K._Seehra@omb.eop.gov* or by fax to (202) 395–7285. Comments on this collection of information should be submitted separately from comments on the final rule (*i.e.,* RIN 0694–AF02)—all comments on the latter should be submitted by one of the three methods outlined above.

FOR FURTHER INFORMATION CONTACT: Karen Nies-Vogel, Chairman, End-User Review Committee, Bureau of Industry and Security, U.S. Department of Commerce, 14th Street & Pennsylvania Avenue, NW., Washington, DC 20230; by telephone (202) 482–3811, or by e-mail to *kniesv@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Authorization Validated End-User

Consistent with U.S. Government policy to facilitate trade for civilian end-users in the PRC, on June 19, 2007 BIS amended the EAR in a final rule (72 FR 33646) to create a new authorization to allow "validated end-users" (VEUs) located in eligible destinations to receive certain items through export, reexport or transfer (in-country) under a general authorization rather than requiring a license. 15 CFR 748.15. Companies listed as VEUs may obtain eligible items that are on the Commerce Control List, set forth in Supplement No. 1 to part 774 of the EAR, without having to wait for their suppliers to obtain export licenses from BIS. Eligible items may include commodities, software and technology, except for those items that are controlled for missile technology or crime control reasons.

Authorization VEU is a mechanism to facilitate increased high-technology exports to companies in eligible destinations that have a verifiable record of civilian uses for such items. The validated end-users listed in Supplement No. 7 to Part 748 of the EAR were reviewed and approved by the U.S. Government in accordance with the provisions of Section 748.15 and Supplement Nos. 8 and 9 to Part 748 of the EAR. In addition to U.S. exporters, Authorization VEU may be used by foreign reexporters and persons transferring in-country, and does not have an expiration date. Currently, VEUs are located in the PRC and India.

Removal of Cension Semiconductor Manufacturing Corporation (Cension) From the List of Validated End-User Semiconductor Manufacturing International Corporation's (SMIC's) Approved Facilities in the PRC

In a rule published in the **Federal Register** on October 19, 2007 (72 FR 59231), BIS designated SMIC as a VEU, thus authorizing certain specific exports, reexports and transfers (in-country) to the five listed facilities of the company, including Cension. Due to a material change at the Cension facility of SMIC, and consistent with section 748.15 of the EAR, BIS now amends Supplement No. 7 to Part 748 of the EAR to remove the Cension facility from that list of SMIC's approved VEU facilities. This change leaves four SMIC facilities that are approved to receive eligible items under SMIC's VEU authorization. Cension's address (*i.e.,* 3/F, 8–1 Kexin Road, Export Processing Zone (West Area), Chengdu, China 611731) will also be removed from the list of SMIC's authorized VEU facilities. As a result of this rule, the Cension facility will no longer be authorized to receive items through Authorization VEU. Thus, parties seeking to export, reexport or transfer (in-country) items under the EAR to the Cension facility may now have to obtain a license to do so, depending on the item at issue.

This amendment is not the result of prohibited activities by Cension or SMIC. SMIC remains a qualified participant in the VEU program and exports, reexports and transfers (in-country) of the items controlled under the export control classification numbers listed in SMIC's entry in Supplement No. 7 to Part 748 of the

EAR to the SMIC facilities listed in the same part may continue to be made under Authorization VEU. Nor does this action establish any new license requirements, or more restrictive licensing policies, for exports, reexports or transfers (in-country) of items to the Cension facility. Rather, the license requirements set forth in the EAR continue to apply to this facility.

Note that this amendment applies only to transactions under Authorization VEU involving SMIC's Cension facility. All conditions and restrictions that applied to transactions that were undertaken pursuant to Authorization VEU prior to the effective date of this amendment, and that involve the Cension facility, continue to apply to those transactions. These restrictions and conditions include any that were imposed on this facility in connection with its eligibility for Authorization VEU, as established by BIS in its communications authorizing the Cension facility's participation in the VEU program.

Saving Clause

Shipments of items removed from eligibility for export, reexport or transfer (in-country) under Authorization VEU (i.e., under the designator VEU) as a result of this regulatory action that were on dock for loading, on lighter, laden aboard an exporting carrier, or en route aboard a carrier to a port of export, on November 1, 2010, pursuant to actual orders for export, reexport or transfer (in-country) to an eligible destination, may proceed to that destination under the previously applicable Authorization so long as they are exported, reexported or transferred (in-country) before November 16, 2010. Any such items not actually exported, reexported or transferred (in-country) before midnight, on November 16, 2010, require an individual license or other applicable authorization under the EAR.

Since August 21, 2001, the Export Administration Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp., p. 783 (2002)), as extended most recently by the Notice of August 12, 2010 (75 FR 50681) (August 16, 2010), has continued the EAR in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222.

Rulemaking Requirements

1. This final rule has been determined to be not significant for the purposes of Executive Order 12866.

2. This rule involves information collections previously approved by OMB under control number 0694–0088, "Multi-Purpose Application" (Form BIS 748). This collection has a burden hour estimate of 58 minutes for the preparation and submission of the form, and an estimated burden of 30 minutes per submission for recordkeeping, reporting and review requirements in connection with the Authorization VEU program. Although this rule may result in a slight increase in license applications, this rule is not expected to impact the information collection request previously approved by OMB under control number 0694–0088.

Notwithstanding any other provisions of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid OMB Control Number.

3. This rule does not contain policies with Federalism implications as that term is defined under Executive Order 13132.

4. There is good cause under 5 U.S.C. 553(b)(B) to waive the provisions of the Administrative Procedure Act (APA) requiring prior notice and the opportunity for public comment because, specific to this rule, they are unnecessary, impracticable and contrary to the public interest.

In determining whether to grant or revoke validated end-user designations, a committee of U.S. Government agencies evaluates a variety of information, the nature and terms of which are set forth in 15 CFR part 748, Supplement No. 8. The criteria for evaluation by the committee are set forth in 15 CFR 748.15(a)(2). The information, commitments and criteria for this extensive review were all established through the notice of proposed rulemaking and public comment process (71 FR 38313, July 2, 2006 and 72 FR 33646, June 19, 2007). Thus, authorization of a VEU is similar to granting a license: To receive Authorization VEU, an application must be submitted on behalf of an entity; the entity must be found to meet certain previously identified criteria; and the application must be approved. Because the authorization granted by BIS pursuant to 15 CFR § 748.15 is similar to that granted to exporters for individual licenses, which do not undergo public review when they are approved, denied, revoked, or amended, allowing public review and comments to this rule is unnecessary.

The procedure for revocation of a facility from the Authorized VEU list is similar to the license revocation procedure, and because this rule involves revocation, public comment on it is unnecessary. During the revocation procedure, the U.S. Government analyzes confidential business information according to set criteria to determine whether a given authorized VEU entity remains eligible for VEU status. Revocation may, as in this case, be the result of a material change in circumstance at the authorized facility. Examples of such a material change include changes in the operational status of a VEU facility or changes in the end-use of the products produced at the facility. Such changes may result in a VEU or a VEU facility no longer meeting the eligibility criteria for Authorization VEU, and thus may lead the U.S. Government to modify or revoke VEU authorization. Facilities that undergo material changes that result in their no longer meeting the criteria to be eligible VEUs must, according to the VEU program, have their VEU status revoked. Here, the Cension facility is no longer eligible to be an Authorized VEU, and so, by the terms of the EAR and the VEU program, the facility's VEU status must be revoked; thus public comments on whether to revoke this status are unnecessary.

Additionally, allowing for prior public notice and comment on this rule may be impracticable and contrary to the public interest. The EAR advance U.S. national security, foreign policy, and economic objectives by ensuring an effective export control system. In accordance with the pre-set criteria, the U.S. Government reviews each VEU and its facilities to ensure that exports, reexports and transfers (in-country) of specified items to these entities are consistent with such objectives. Accordingly, VEUs and their facilities may receive through export, reexport or transfer (in-country) items that would otherwise require a license and transaction-specific review, in part due to national security concerns. However, the listed facility here is no longer eligible to be an Authorized VEU facility, and in order to protect national security, the restrictions of the EAR must be in place as soon as possible. Allowing public comments to this rule would hinder the ability of BIS to enforce the EAR's restrictions on exports without a license to the listed facility, and therefore public comment on this rule is both impracticable, because allowing such comment would prevent BIS from undertaking its

statutory duties, and contrary to the public's national security interests.

In addition, BIS finds good cause to waive the requirement of 5 U.S.C. 553(d)(3) to delay the effectiveness of this regulation, because such a delay is contrary to the public's interest. When the U.S. Government has been notified of or has identified a material change in circumstances that warrants revocation or modification of VEU status for an end-user or a facility of an end-user, there is a need to quickly alert the public that the facility is no longer authorized as a recipient of items under Authorization VEU. Delaying this action's effectiveness could result in items that otherwise require licenses being exported, reexported or transferred (in-country), license-free, to an ineligible facility. Accordingly, it would be contrary to the public interest to delay this rule's effectiveness.

No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable and no regulatory flexibility analysis has been prepared.

List of Subjects in 15 CFR Part 748

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

■ Accordingly, part 748 of the Export Administration Regulations (15 CFR parts 730–774) is amended as follows:

PART 748—[AMENDED]

■ 1. The authority citation for part 748 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 12, 2010 (75 FR 50681) (August 16, 2010).

■ 2. Supplement No. 7 to part 748 is amended by removing "Cension Semiconductor Manufacturing Corporation" and its address "(3/F, 8–1 Kexin Road, Export Processing Zone (West Area), Chengdu, China 611731)" from the list of "Eligible Destinations" for "Validated End-User" "Semiconductor Manufacturing International Corporation" in "China (People's Republic of)".

Dated: October 26, 2010.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

[FR Doc. 2010–27517 Filed 10–29–10; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

[Docket No. FDA–2010–N–0002]

Oral Dosage Form New Animal Drugs; Domperidone

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the original approval of a new animal drug application (NADA) filed by Dechra, Ltd. The NADA provides for the veterinary prescription use of domperidone oral gel for prevention of fescue toxicosis in periparturient mares.

DATES: This rule is effective November 1, 2010.

FOR FURTHER INFORMATION CONTACT: Amy L. Omer, Center for Veterinary Medicine (HFV–114), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8336, e-mail: *amy.omer@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Dechra, Ltd., Dechra House, Jamage Industrial Estate, Talke Pits, Stoke-on-Trent, Staffordshire, ST7 1XW, United Kingdom, filed NADA 141–314 that provides for veterinary prescription use of EQUIDONE (domperidone) Gel for prevention of fescue toxicosis in periparturient mares. The NADA is approved as of September 9, 2010, and the regulations in 21 CFR part 520 are amended by adding § 520.766 to reflect the approval.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

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

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

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

List of Subjects in 21 CFR Part 520

Animal drugs.

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

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

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

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

■ 2. Add § 520.766 to read as follows:

§ 520.766 Domperidone.

(a) *Specifications.* Each milliliter of gel contains 110 milligrams (mg) domperidone.

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

(c) *Conditions of use in horses*—(1) *Amount.* Administer 0.5 mg per pound (mg/lb) (1.1 mg/kilogram (kg)) by mouth once daily starting 10 to 15 days prior to the expected foaling date. Treatment may be continued for up to 5 days after foaling if mares are not producing adequate milk.

(2) *Indications for use.* For prevention of fescue toxicosis in periparturient mares.

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

Dated: October 27, 2010.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. 2010–27524 Filed 10–29–10; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2010–0021]

RIN 1625–AA87

Security Zone; U.S. Coast Guard BSU Seattle, Pier 36, Seattle, WA; Correction

AGENCY: Coast Guard, DHS.

ACTION: Final rule; technical correction.

SUMMARY: The Coast Guard published a final rule in the **Federal Register** on August 31, 2010 which created a security zone around the U.S. Coast Guard Base Support Unit Seattle, Pier 36, on Elliot Bay in Seattle, WA. This correction document provides more precise coordinates to match the geographic description of the zone provided in the final rule to better depict the boundaries of the security zone for charting purposes. This document makes that change to the subject final rule security zone which, as described in the preamble of the final rule, extends from the north western tip of Pier 36 across the inlet to the south western tip of Pier 36, effectively closing off the access point such that unauthorized vessels are prohibited from entering the pier.

DATES: This amendment is effective on November 1, 2010 and is applicable beginning September 30, 2010.

FOR FURTHER INFORMATION CONTACT: If you have questions on this correction, call or e-mail LTJG Ashley M. Wanzer, Waterways Management Division, Coast Guard Sector Puget Sound; telephone 206–217–6175, e-mail *SectorSeattleWWM@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard published a document in the **Federal Register** of August 31, 2010, (75 FR 53195), which added 33 CFR 165.1334. The coordinates used in that section and in the preamble did not describe the security zone precisely enough for charting purposes. This document corrects that error.

The rule published on August 31, 2010, (75 FR 53195) contained inaccurate coordinates in § 165.1334(a). This correction document revises paragraph (a) to contain the correct coordinates.

List of Subjects in 33 CFR Part 165

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

■ Accordingly, the Coast Guard amends 33 CFR part 165 by making the following technical correction:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. In § 165.1334, revise paragraph (a) to read as follows:

§ 165.1334 Security Zone; U.S. Coast Guard BSU Seattle, Pier 36, Elliot Bay, Seattle, WA.

(a) *Location.* The following area is a security zone: All waters in Elliot Bay east of a line from 47°35′26.67″ N 122°20′34.84″ W to 47°35′23.69″ N 122°20′34.77″ W at Pier 36, Elliot Bay, Seattle, WA.

* * * * *

Dated: September 29, 2010.

S.J. Ferguson,

Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.

[FR Doc. 2010–27480 Filed 10–29–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 100212086–0354–04]

RIN 0648–AY68

Fisheries Off West Coast States; Pacific Coast Groundfish Fishery Management Plan; Amendments 20 and 21; Trawl Rationalization Program; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; correction.

SUMMARY: This final rule corrects trip limits for commercial groundfish fisheries through the end of 2010 to reflect recent changes that were implemented on October 4, 2010. This final rule is necessary to ensure that the correct trip limit tables remain effective after November 1, 2010.

DATES: This rule is effective November 1, 2010.

SUPPLEMENTARY INFORMATION:

Background

On October 1, 2010, NMFS published a final rule (75 FR 32994, 100212086–0354–04) that implemented certain key components necessary for issuance of permits and endorsements in time for use in the 2011 fishery and in order to have the 2011 specifications reflect the new allocation scheme (the "Initial Issuance Final Rule"). In addition, that rule restructured the entire Pacific Coast groundfish regulations to more closely track the organization of the proposed management measures and to make the total groundfish regulations more clear.

On October 4, 2010, NMFS published inseason adjustments, effective October 1, 2010, to commercial trip limits that were recommended by the Pacific Fishery Management Council (Council) at its September 10–16, 2010 meeting in Boise, ID. These changes in the trip limit tables included increases for the remainder of the year to bimonthly cumulative limits in the limited entry trawl commercial fisheries off Washington, Oregon, and California, and reductions to daily trip limits (DTL) for sablefish in the limited entry fixed gear and open access commercial fisheries south of 36° N. lat.

The trip limit tables that published in the October 1, 2010, initial issuance final rule did not include the October 4, 2010, inseason changes to commercial trip limits. Without action to correct the trip limit tables in the initial issuance final rule, the inseason adjustments in the October 4, 2010, inseason final rule will be undone on November 1, 2010, when the initial issuance final rule becomes final.

Accordingly, this final rule corrects the trip limit tables in the trawl fishery for sablefish, shortspine and longspine thornyheads, Dover sole, arrowtooth flounder and other flatfish (Table 1 North and Table 1 South to Part 660, Subpart D) consistent with the October 4, 2010, inseason changes. This final rule also corrects the trip limit tables in the limited entry fishery south of 36° N. lat. (Table 2 South to Part 660, Subpart E) and open access fisheries (Table 3 South to Part 660, Subpart F) south of 36° N. lat. for sablefish consistent with October 4, 2010 inseason changes.

Classification

For the following reasons, NMFS finds good cause to waive prior notice and comment and the 30-day delay in effectiveness pursuant to 5 U.S.C. 553 so that this correction is effective on November 1, 2010, concurrent with the October 1, 2010, initial issuance final rule (75 FR 32994).

The correction to the trip limit tables in the limited entry trawl fishery must

be implemented in a timely manner to allow fishermen an opportunity to achieve the 2010 OYs specified for sablefish, longspine and shortspine thornyheads, Dover sole, arrowtooth flounder, other flatfish, and slope rockfish. Increases are necessary to relieve a restriction by allowing fishermen increased opportunities to harvest available healthy stocks while staying within the OYs for all species. These corrections must be implemented in a timely manner, as quickly as possible, so that fishermen are allowed consistent, increased opportunities to harvest available healthy stocks and meet the objective of the Pacific Coast Groundfish FMP to allow fisheries to approach, but not exceed, OYs.

Corrections to restrict cumulative limits in the limited entry fixed gear and open access sablefish DTL fishery are needed to prevent the 2010 sablefish OY in the area South of 36° N. lat. from being exceeded and prevent premature closure of fisheries that take sablefish. This correction must be implemented in a timely manner by November 1, 2010. Failure to correct the October 4, 2010, trip limit restrictions by November 1, 2010, would risk premature closure of fisheries that are important to coastal communities, which would fail to meet the objectives of the Pacific Coast Groundfish FMP to allow for year round fishing opportunities to provide community stability.

These corrections are needed to keep the harvest of groundfish species within the harvest levels projected for 2010, while allowing fishermen access to healthy stocks. Without these measures in place, the fisheries could risk exceeding harvest levels, causing early and unanticipated fishery closures and economic harm to fishing communities. Delaying this correction would put management measures in place that are not based on the best available data and that could lead to early closures of the fishery if harvest of groundfish exceeds levels projected for 2010. Such delay would impair achievement of one of the Pacific Coast Groundfish FMP objectives of providing for year-round harvest opportunities or extending fishing opportunities as long as practicable during the fishing year.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, and Indian fisheries.

Dated: October 27, 2010.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR Chapter VI is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.* and 16 U.S.C. 7001 *et seq.*

■ 2. Table 1 (North) and Table 1 (South) to part 660, subpart D are revised to read as follows:

BILLING CODE 4160–01–P

Table 1 (North) to Part 660, Subpart D -- 2010 Trip Limits for Limited Entry Trawl Gear North of 40°10' N. Lat.
Other Limits and Requirements Apply -- Read § 660.10 - § 660.160 before using this table 11012010

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[6/]:						
1	North of 48°10' N. lat.	shore - modified[7/] 200 fm line[6/]	shore - 200 fm line[6/]	shore - 150 fm line[6/]		shore - 200 fm line[6/]	shore - modified[7/] 200 fm line[6/]
2	48°10' N. lat. - 45°46' N. lat.	75 fm line[6/] - modified[7/] 200 fm line[6/]	75 fm line[6/] - 200 fm line[6/]	75 fm line[6/] - 150 fm line[6/]	100 fm line[6/] - 150 fm line[6/]	75 fm line[6/] - 200 fm line[6/]	75 fm line[6/] - modified[7/] 200 fm line[6/]
3	45°46' N. lat. - 40°10' N. lat.			75 fm line[6/] - 200 fm line[6/]	100 fm line[6/] - 200 fm line[6/]		
	Selective flatfish trawl gear is required shoreward of the RCA; all trawl gear (large footrope, selective flatfish trawl, and small footrope trawl gear) is permitted seaward of the RCA. Large footrope and small footrope trawl gears (except for selective flatfish trawl gear) are prohibited shoreward of the RCA. Midwater trawl gear is permitted only for vessels participating in the primary whiting season.						
	See § 660.60 and § 660.130 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.70-660.74 and §§ 660.76-660.79 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).						
	State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California.						
4	**Minor slope rockfish[2/] & Darkblotched rockfish**	6,000 lb/ 2 months		2,000 lb/ 2 months		4,000 lb/ 2 months	
5	**Pacific ocean perch**	1,500 lb/ 2 months					
6	**DTS complex**						
7	Sablefish						
8	large & small footrope gear	20,000 lb/ 2 months		24,000 lb/ 2 months	21,000 lb/ 2 months	24,000 lb/ 2 months	
9	selective flatfish trawl gear	9,000 lb/ 2 months				10,000 lb/ 2 months	
10	multiple bottom trawl gear [8/]	9,000 lb/ 2 months				10,000 lb/ 2 months	
11	Longspine thornyhead						
12	large & small footrope gear	24,000 lb/ 2 months				26,000 lb/ 2 months	
13	selective flatfish trawl gear	5,000 lb/ 2 months				5,500 lb/ 2 months	
14	multiple bottom trawl gear [8/]	5,000 lb/ 2 months				5,500 lb/ 2 months	
15	Shortspine thornyhead						
16	large & small footrope gear	18,000 lb/ 2 months				20,000 lb/ 2 months	
17	selective flatfish trawl gear	5,000 lb/ 2 months				5,500 lb/ 2 months	
18	multiple bottom trawl gear [8/]	5,000 lb/ 2 months				5,500 lb/ 2 months	
19	Dover sole						
20	large & small footrope gear	110,000 lb/ 2 months			100,000 lb/ 2 months	110,000 lb/ 2 months	
21	selective flatfish trawl gear	65,000 lb/ 2 months				70,000 lb/ 2 months	
22	multiple bottom trawl gear [8/]	65,000 lb/ 2 months				70,000 lb/ 2 months	

TABLE 1 (North)

Table 1 (North). Continued

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
23	**Whiting**						
24	midwater trawl	Before the primary whiting season: CLOSED. -- During the primary season: mid-water trawl permitted in the RCA. See §660.131 for season and trip limit details. -- After the primary whiting season: CLOSED.					
25	large & small footrope gear	Before the primary whiting season: 20,000 lb/trip. -- During the primary season: 10,000 lb/trip. -- After the primary whiting season: 10,000 lb/trip.					
26	**Flatfish** (except Dover sole)						
27	Arrowtooth flounder						
28	large & small footrope gear	150,000 lb/ 2 months				180,000 lb/ 2 months	
29	selective flatfish trawl gear	90,000 lb/ 2 months				100,000 lb/ 2 months	
30	multiple bottom trawl gear [8/]	90,000 lb/ 2 months				100,000 lb/ 2 months	
31	Other flatfish [3/], English sole, starry flounder, & Petrale sole						
32	large & small footrope gear for Other flatfish [3/], English sole, & starry flounder	110,000 lb/ 2 months	110,000 lb/ 2 months, no more than 9,500 lb/ 2 months of which may be petrale sole.		100,000 lb/ 2 months, no more than 6,300 lb/ 2 months of which may be petrale sole.	110,000 lb/ 2 months, no more than 6,300 lb/ 2 months of which may be petrale sole.	110,000 lb/ 2 months
33	large & small footrope gear for Petrale sole	9,500 lb/ 2 months					6,300 lb/ 2 months
34	selective flatfish trawl gear for Other flatfish [3/], English sole, & starry flounder	90,000 lb/ 2 months, no more than 9,500 lb/ 2 months of which may be petrale sole.	60,000 lb/ 2 months, no more than 9,500 lb/ 2 months of which may be petrale sole.		60,000 lb/ 2 months, no more than 6,300 lb/ 2 months of which may be petrale sole.	70,000 lb/ 2 months, no more than 6,300 lb/ 2 months of which may be petrale sole.	
35	selective flatfish trawl gear for Petrale sole						
36	multiple bottom trawl gear [8/]	90,000 lb/ 2 months, no more than 9,500 lb/ 2 months of which may be petrale sole.	60,000 lb/ 2 months, no more than 9,500 lb/ 2 months of which may be petrale sole.		60,000 lb/ 2 months, no more than 6,300 lb/ 2 months of which may be petrale sole.	70,000 lb/ 2 months, no more than 6,300 lb/ 2 months of which may be petrale sole.	
37	**Minor shelf rockfish [1/], Shortbelly, Widow & Yelloweye rockfish**						
38	midwater trawl for Widow rockfish	Before the primary whiting season: CLOSED. -- During primary whiting season: In trips of at least 10,000 lb of whiting, combined widow and yellowtail limit of 500 lb/ trip, cumulative widow limit of 1,500 lb/ month. Mid-water trawl permitted in the RCA. See §660.131 for primary whiting season and trip limit details. -- After the primary whiting season: CLOSED.					
39	large & small footrope gear	300 lb/ 2 months					
40	selective flatfish trawl gear	300 lb/ month		1,000 lb/ month, no more than 200 lb/ month of which may be yelloweye rockfish			300 lb/ month
41	multiple bottom trawl gear [8/]	300 lb/ month		300 lb/ 2 months, no more than 200 lb/ month of which may be yelloweye rockfish			300 lb/ month

TABLE 1 (North) con't

Table 1 (North). Continued

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
42	**Canary rockfish**						
43	large & small footrope gear	CLOSED					
44	selective flatfish trawl gear	100 lb/ month		300 lb/ month		100 lb/ month	
45	multiple bottom trawl gear [8/]	CLOSED					
46	**Yellowtail**						
47	midwater trawl	Before the primary whiting season: CLOSED. -- During primary whiting season: In trips of at least 10,000 lb of whiting: combined widow and yellowtail limit of 500 lb/ trip, cumulative yellowtail limit of 2,000 lb/ month. Mid-water trawl permitted in the RCA. See §660.131 for primary whiting season and trip limit details. -- After the primary whiting season: CLOSED.					
48	large & small footrope gear	300 lb/ 2 months					
49	selective flatfish trawl gear	2,000 lb/ 2 months					
50	multiple bottom trawl gear [8/]	300 lb/ 2 months					
51	**Minor nearshore rockfish & Black rockfish**						
52	large & small footrope gear	CLOSED					
53	selective flatfish trawl gear	300 lb/ month					
54	multiple bottom trawl gear [8/]	CLOSED					
55	**Lingcod** [4/]						
56	large & small footrope gear	1,200 lb/ 2 months		4,000 lb/ 2 months			
57	selective flatfish trawl gear			1,200 lb/2 months			
58	multiple bottom trawl gear [8/]						
59	**Pacific cod**	30,000 lb/ 2 months		70,000 lb/ 2 months			30,000 lb/ 2 months
60	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
61	**Other Fish** [5/]	Not limited					

TABLE 1 (North) con't

1/ Bocaccio, chilipepper and cowcod are included in the trip limits for minor shelf rockfish.
2/ Splitnose rockfish is included in the trip limits for minor slope rockfish.
3/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.
4/ The minimum size limit for lingcod is 22 inches (56 cm) total length North of 42° N. lat. and 24 inches (61 cm) total length South of 42° N. lat.
5/ "Other fish" are defined at § 660.11 and include sharks, skates (including longnose skate), ratfish, morids, grenadiers, and kelp greenling. Cabezon is included in the trip limits for "other fish."
6/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours, and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to the RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.
7/ The "modified" fathom lines are modified to exclude certain petrale sole areas from the RCA.
8/ If a vessel has both selective flatfish gear and large or small footrope gear on board during a cumulative limit period (either simultaneously or successively), the most restrictive cumulative limit for any gear on board during the cumulative limit period applies for the entire cumulative limit period.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

Table 1 (South) to Part 660, Subpart D -- 2010 Trip Limits for Limited Entry Trawl Gear South of 40°10' N. Lat.

Other Limits and Requirements Apply -- Read § 660.10 - § 660.160 before using this table

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		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[6/]:						
1	South of 40°10' N. lat.	100 fm line[6/] - 150 fm line[6/ 7/]					
	All trawl gear (large footrope, selective flatfish trawl, midwater trawl, and small footrope trawl gear) is permitted seaward of the RCA. Large footrope trawl gear and midwater trawl gear are prohibited shoreward of the RCA.						
	See § 660.60 and § 660.130 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.70-660.74 and §§ 660.76-660.79 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).						
	State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California.						
2	**Minor slope rockfish[2/] & Darkblotched rockfish**						
3	40°10' - 38° N. lat.	15,000 lb/ 2 months					
4	South of 38° N. lat.	55,000 lb/ 2 months					
5	**Splitnose**						
6	40°10' - 38° N. lat.	15,000 lb/ 2 months					
7	South of 38° N. lat.	55,000 lb/ 2 months					
8	**DTS complex**						
9	Sablefish	22,000 lb/ 2 months			21,000 lb/ 2 months	24,000 lb/ 2 months	
10	Longspine thornyhead	24,000 lb/ 2 months				26,000 lb/ 2 months	
11	Shortspine thornyhead	18,000 lb/ 2 months				20,000 lb/ 2 months	
12	Dover sole	110,000 lb/ 2 months			100,000 lb/ 2 months	110,000 lb/ 2 months	
13	**Flatfish** (except Dover sole)						
14	Other flatfish[3/], English sole, & starry flounder	110,000 lb/ 2 months	110,000 lb/ 2 months, no more than 9,500 lb/ 2 months of which may be petrale sole.		100,000 lb/ 2 months, no more than 6,300 lb/ 2 months of which may be petrale sole.	110,000 lb/ 2 months, no more than 6,300 lb/ 2 months of which may be petrale sole.	110,000 lb/ 2 months
15	Petrale sole	9,500 lb/ 2 months					6,300 lb/ 2 months
16	Arrowtooth flounder	10,000 lb/ 2 months				12,000 lb/ 2 months	
17	**Whiting**						
18	midwater trawl	Before the primary whiting season: CLOSED. -- During the primary season: mid-water trawl permitted in the RCA. See §660.131 for season and trip limit details. -- After the primary whiting season: CLOSED.					
19	large & small footrope gear	Before the primary whiting season: 20,000 lb/trip. -- During the primary season: 10,000 lb/trip. -- After the primary whiting season: 10,000 lb/trip.					

TABLE 1 (South)

Table 1 (South). Continued

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
20	**Minor shelf rockfish[1/], Chilipepper, Shortbelly, Widow, & Yelloweye rockfish**						
21	large footrope or midwater trawl for Minor shelf rockfish & Shortbelly	300 lb/ month					
22	large footrope or midwater trawl for Chilipepper	12,000 lb/ 2 months			17,000 lb/ 2 months		
23	large footrope or midwater trawl for Widow & Yelloweye	CLOSED					
24	small footrope trawl for Minor Shelf, Shortbelly, Widow & Yelloweye	300 lb/ month					
25	small footrope trawl for Chilipepper	12,000 lb/ 2 months			17,000 lb/ 2 months		
26	**Bocaccio**						
27	large footrope or midwater trawl	300 lb/ 2 months					
28	small footrope trawl	CLOSED					
29	**Canary rockfish**						
30	large footrope or midwater trawl	CLOSED					
31	small footrope trawl	100 lb/ month		300 lb/ month		100 lb/ month	
32	**Cowcod**	CLOSED					
33	**Bronzespotted rockfish**	CLOSED					
34	**Minor nearshore rockfish & Black rockfish**						
35	large footrope or midwater trawl	CLOSED					
36	small footrope trawl	300 lb/ month					
37	**Lingcod[4/]**						
38	large footrope or midwater trawl	1,200 lb/ 2 months		4,000 lb/ 2 months			
39	small footrope trawl			1,200 lb/ 2 months			
40	**Pacific cod**	30,000 lb/ 2 months		70,000 lb/ 2 months			30,000 lb/ 2 months
41	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
42	**Other Fish[5/] & Cabezon**	Not limited					

TABLE 1 (South) con't

1/ Yellowtail is included in the trip limits for minor shelf rockfish. Bronzespotted rockfish have a species specific trip limit.
2/ POP is included in the trip limits for minor slope rockfish
3/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.
4/ The minimum size limit for lingcod is 24 inches (61 cm) total length South of 42° N. lat.
5/ Other fish are defined at § 660.11 and include sharks, skates (including longnose skate), ratfish, morids, grenadiers, and kelp greenling.
6/ The Rockfish Conservation Area is an area closed to fishing by particulary gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours, and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to the RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.
7/ South of 34°27' N. lat., the RCA is 100 fm line - 150 fm line along the mainland coast; shoreline - 150 fm line around islands.
To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

■ 3. Table 2 (South) to part 660, subpart E is revised to read as follows:

Table 2 (South) to Part 660, Subpart E -- 2010 Trip Limits for Limited Entry Fixed Gear South of 40°10' N. Lat.

Other Limits and Requirements Apply -- Read §§ 660.10 - 660.65 and §§ 660.210 - 660.232 before using this table 11012010

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[5/]:						
1	40°10' - 34°27' N. lat.	30 fm line[5/] - 150 fm line[5/]					
2	South of 34°27' N. lat.	60 fm line[5/] - 150 fm line[5/] (also applies around islands)					
	See § 660.60 and § 660.230 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.70-660.74 and §§ 660.76-660.79 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).						
	State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California.						
3	**Minor slope rockfish[2/] & Darkblotched rockfish**	40,000 lb/ 2 months					
4	**Splitnose**	40,000 lb/ 2 months					
5	**Sablefish**						
6	40°10' - 36° N. lat.	1,750 lb per week, not to exceed 7,000 lb/ 2 months			1,750 lb per week, not to exceed 8,500 lb/ 2 months		1,750 lb per week, not to exceed 8,000 lb/ 2 months
7	South of 36° N. lat.	400 lb/ day, or 1 landing per week of up to 1,500 lb				3,000 lb/ week	2,800 lb per week
8	**Longspine thornyhead**	10,000 lb / 2 months					
9	**Shortspine thornyhead**						
10	40°10' - 34°27' N. lat.	2,000 lb/ 2 months					
11	South of 34°27' N. lat.	3,000 lb/ 2 months					
12	**Dover sole**	5,000 lb/ month South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 11 mm (0.44 inches) point to shank, and up to two 1 lb (0.45 kg) weights per line are not subject to the RCAs.					
13	**Arrowtooth flounder**						
14	**Petrale sole**						
15	**English sole**						
16	**Starry flounder**						
17	**Other flatfish[1/]**						
18	**Whiting**	10,000 lb/ trip					
19	**Minor shelf rockfish[2/], Shortbelly, Widow rockfish, and Bocaccio (including Chilipepper between 40°10' - 34°27' N. lat.)**						
20	40°10' - 34°27' N. lat.	Minor shelf rockfish, shortbelly, widow rockfish, bocaccio & chilipepper: 2,500 lb/ 2 months, of which no more than 500 lb/ 2 months may be any species other than chilipepper.					
21	South of 34°27' N. lat.	3,000 lb/ 2 months	CLOSED	3,000 lb/ 2 months			
22	**Chilipepper rockfish**						
23	40°10' - 34°27' N. lat.	Chilipepper included under minor shelf rockfish, shortbelly, widow and bocaccio limits - - See above					
24	South of 34°27' N. lat.	2,000 lb/ 2 months, this opportunity only available seaward of the nontrawl RCA					
25	**Canary rockfish**	CLOSED					
26	**Yelloweye rockfish**	CLOSED					
27	**Cowcod**	CLOSED					
28	**Bronzespotted rockfish**	CLOSED					
29	**Bocaccio**						
30	40°10' - 34°27' N. lat.	Bocaccio included under Minor shelf rockfish, shortbelly, widow & chilipepper limits -- See above					
31	South of 34°27' N. lat.	300 lb/ 2 months	CLOSED	300 lb/ 2 months			

TABLE 2 (South)

Table 2 (South). Continued

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC	
32	**Minor nearshore rockfish & Black rockfish**							TABLE 2 (South)
33	Shallow nearshore	600 lb/ 2 months	CLOSED	800 lb/ 2 months	900 lb/ 2 months	800 lb/ 2 months	600 lb/ 2 months	
34	Deeper nearshore							
35	40°10' - 34°27' N. lat.	700 lb/ 2 months	CLOSED	700 lb/ 2 months		800 lb/ 2 months		
36	South of 34°27' N. lat.	500 lb/ 2 months		600 lb/ 2 months				
37	California scorpionfish	600 lb/ 2 months	CLOSED	600 lb/ 2 months	1,200 lb/ 2 months			
38	**Lingcod**[3/]	CLOSED		800 lb/ 2 months			400 lb/ month	CLOSED
39	**Pacific cod**	1,000 lb/ 2 months						
40	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months			
41	**Other fish**[4/] **& Cabezon**	Not limited						

1/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

2/ POP is included in the trip limits for minor slope rockfish. Yellowtail is included in the trip limits for minor shelf rockfish. Bronzespotted rockfish have a species specific trip limit.

3/ The minimum size limit for lingcod is 24 inches (61 cm) total length South of 42° N. lat.

4/ "Other fish" are defined at § 660.11 and include sharks, skates (including longnose skates), ratfish, morids, grenadiers, and kelp greenling.

5/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.

To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

■ 4. Table 3 (South) to part 660, subpart F is revised to read as follows:

Table 3 (South) to Part 660, Subpart F -- 2010 Trip Limits for Open Access Gears South of 40°10' N. Lat.

Other Limits and Requirements Apply -- Read §§ 660.10 - 660.65 and §§ 660.310 - 660.333 before using this table 11012010

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
	Rockfish Conservation Area (RCA)[5/]:						
1	40°10' - 34°27' N. lat.	30 fm line[5/] - 150 fm line[5/]					
2	South of 34°27' N. lat.	60 fm line[5/] - 150 fm line[5/] (also applies around islands)					
	See § 660.60, § 660.330, and § 660.333 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.70-660.74 and §§ 660.76-660.79 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).						
	State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California.						
3	**Minor slope rockfish[1/] & Darkblotched rockfish**						
4	40°10' - 38° N. lat.	Per trip, no more than 25% of weight of the sablefish landed					
5	South of 38° N. lat.	10,000 lb/ 2 months					
6	**Splitnose**	200 lb/ month					
7	**Sablefish**						
8	40°10' - 36° N. lat.	300 lb/ day, or 1 landing per week of up to 800 lb, not to exceed 2,400 lb/ 2 months			300 lb/ day, or 1 landing per week of up to 950 lb, not to exceed 2,750 lb/ 2 months		
9	South of 36° N. lat.	400 lb/ day, or 1 landing per week of up to 1,500 lb, not to exceed 8,000 lb/ 2 months				400 lb/ day, or 1 landing per week of up to 2,500 lb	800 lb/ week, not to exceed 1,600 lb/ month
10	**Thornyheads**						
11	40°10' - 34°27' N. lat.	CLOSED					
12	South of 34°27' N. lat.	50 lb/ day, no more than 1,000 lb/ 2 months					
13	**Dover sole**	3,000 lb/month, no more than 300 lb of which may be species other than Pacific sanddabs. South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 11 mm (0.44 inches) point to shank, and up to two 1 lb (0.45 kg) weights per line are not subject to the RCAs.					
14	**Arrowtooth flounder**						
15	**Petrale sole**						
16	**English sole**						
17	**Starry flounder**						
18	**Other flatfish[2/]**						
19	**Whiting**	300 lb/ month					
20	**Minor shelf rockfish[1/], Shortbelly, Widow & Chilipepper rockfish**						
21	40°10' - 34°27' N. lat.	300 lb/ 2 months	CLOSED		200 lb/ 2 months		300 lb/ 2 months
22	South of 34°27' N. lat.	750 lb/ 2 months			750 lb/ 2 months		
23	**Canary rockfish**	CLOSED					
24	**Yelloweye rockfish**	CLOSED					
25	**Cowcod**	CLOSED					
26	**Bronzespotted rockfish**	CLOSED					
27	**Bocaccio**						
28	40°10' - 34°27' N. lat.	200 lb/ 2 months	CLOSED		100 lb/ 2 months		200 lb/ 2 months
29	South of 34°27' N. lat.	100 lb/ 2 months			100 lb/ 2 months		

TABLE 3 (South)

Table 3 (South). Continued

TABLE 3 (South) con't

		JAN-FEB	MAR-APR	MAY-JUN	JUL-AUG	SEP-OCT	NOV-DEC
30	**Minor nearshore rockfish & Black rockfish**						
31	Shallow nearshore	600 lb/ 2 months	CLOSED	800 lb/ 2 months	900 lb/ 2 months	800 lb/ 2 months	600 lb/ 2 months
32	Deeper nearshore						
33	40°10' - 34°27' N. lat.	700 lb/ 2 months	CLOSED	700 lb/ 2 months		800 lb/ 2 months	
34	South of 34°27' N. lat.	500 lb/ 2 months		600 lb/ 2 months			
35	California scorpionfish	600 lb/ 2 months	CLOSED	600 lb/ 2 months	1,200 lb/ 2 months		
36	**Lingcod**[3/]	CLOSED		400 lb/ month			CLOSED
37	**Pacific cod**	1,000 lb/ 2 months					
38	**Spiny dogfish**	200,000 lb/ 2 months		150,000 lb/ 2 months	100,000 lb/ 2 months		
39	**Other Fish**[4/] **& Cabezon**	Not limited					
40	**RIDGEBACK PRAWN AND, SOUTH OF 38°57.50' N. LAT., CA HALIBUT AND SEA CUCUMBER NON-GROUNDFISH TRAWL**						
41	**NON-GROUNDFISH TRAWL Rockfish Conservation Area (RCA) for CA Halibut, Sea Cucumber & Ridgeback Prawn:**						
42	40°10' - 38° N. lat.	100 fm - modified 200 fm 6/	100 fm - 150 fm				100 fm - modified 200 fm 6/
43	38° - 34°27' N. lat.	100 fm - 150 fm					
44	South of 34°27' N. lat.	100 fm - 150 fm along the mainland coast; shoreline - 150 fm around islands					
45		Groundfish: 300 lb/trip. Trip limits in this table also apply and are counted toward the 300 lb groundfish per trip limit. The amount of groundfish landed may not exceed the amount of the target species landed, except that the amount of spiny dogfish landed may exceed the amount of target species landed. Spiny dogfish are limited by the 300 lb/trip overall groundfish limit. The daily trip limits for sablefish coastwide and thornyheads south of Pt. Conception and the overall groundfish "per trip" limit may not be multiplied by the number of days of the trip. Vessels participating in the California halibut fishery south of 38°57.50' N. lat. are allowed to (1) land up to 100 lb/day of groundfish without the ratio requirement, provided that at least one California halibut is landed and (2) land up to 3,000 lb/month of flatfish, no more than 300 lb of which may be species other than Pacific sanddabs, sand sole, starry flounder, rock sole, curlfin sole, or California scorpionfish (California scorpionfish is also subject to the trip limits and closures in line 31).					
46	**PINK SHRIMP NON-GROUNDFISH TRAWL GEAR** *(not subject to RCAs)*						
47	South	**Effective April 1 - October 31:** Groundfish: 500 lb/day, multiplied by the number of days of the trip, not to exceed 1,500 lb/trip. The following sublimits also apply and are counted toward the overall 500 lb/day and 1,500 lb/trip groundfish limits: lingcod 300 lb/ month (minimum 24 inch size limit); sablefish 2,000 lb/ month; canary, thornyheads and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lb/day and 1,500 lb/trip groundfish limits. Landings of these species count toward the per day and per trip groundfish limits and do not have species-specific limits. The amount of groundfish landed may not exceed the amount of pink shrimp landed.					

1/ Yellowtail rockfish is included in the trip limits for minor shelf rockfish. POP is included in the trip limits for minor slope rockfish. Bronzespotted rockfish have a species specific trip limit.
2/ "Other flatfish" are defined at § 660.11 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.
3/ The size limit for lingcod is 24 inches (61 cm) total length South of 42° N. lat.
4/ "Other fish" are defined at § 660.11 and include sharks, skates (including longnose skates), ratfish, morids, grenadiers, and kelp greenling.
5/ The Rockfish Conservation Area is an area closed to fishing by particular gear types, bounded by lines specifically defined by latitude and longitude coordinates set out at §§ 660.71-660.74. This RCA is not defined by depth contours (with the exception of the 20-fm depth contour boundary south of 42° N. lat.), and the boundary lines that define the RCA may close areas that are deeper or shallower than the depth contour. Vessels that are subject to RCA restrictions may not fish in the RCA, or operate in the RCA for any purpose other than transiting.
6/ The "modified 200 fm" line is modified to exclude certain petrale sole areas from the RCA.
To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.

[FR Doc. 2010–27536 Filed 10–29–10; 8:45 am]
BILLING CODE 3510–22–C

Proposed Rules

Federal Register
Vol. 75, No. 210
Monday, November 1, 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.

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. CPSC–2010–0104]

16 CFR Part 1512

RIN 3041–AC95

Requirements for Bicycles

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Consumer Product Safety Commission ("CPSC," "Commission," or "we") is proposing to amend its bicycle regulations. The proposed amendments would make minor changes to certain requirements to reflect the development of new technologies, designs, and features in bicycles and clarify that certain provisions or testing requirements do not apply to specific bicycles or bicycle parts. The proposal also would delete an outdated reference and correct typographical errors in the bicycle reflector performance test.

DATES: Comments on this proposed rule should be submitted by January 18, 2011.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2010–0104, 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, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this proposed rule. 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: Vincent J. Amodeo, Mechanical Engineer, Directorate for Engineering Sciences, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; e-mail *vamodeo@cpsc.gov;* phone 301–504–7570.

SUPPLEMENTARY INFORMATION:

I. Background

CPSC regulations, at 16 CFR part 1512, establish requirements for bicycles pursuant to the Federal Hazardous Substances Act. The regulations were first promulgated in 1978 (43 FR 60034 (Dec. 22, 1978)), with minor amendments in 1980 (45 FR 82627 (Dec. 16, 1980)), 1981 (46 FR 3204 (Jan. 14, 1981)), 1995 (60 FR 62990 (Dec. 8, 1995)), and 2003 (68 FR 7073 (Feb. 12, 2003)); 68 FR 52691 (Sept. 5, 2003)).

In recent years, there have been technological changes in bicycle design and in the materials used to manufacture bicycles that have caused some bicycle manufacturers to question the applicability of a particular CPSC regulation or to seek changes to the regulations. Additionally, the enactment of the Consumer Product Safety Improvement Act of 2008 (CPSIA), Public Law 110–314, 122 Stat. 3016, has resulted in new testing and certification requirements for children's products and new limits on lead in children's products and on phthalates in children's toys.

The proposed rule would amend 16 CFR part 1512, which will clarify certain safety requirements for bicycles. The proposal would clarify that certain provisions or testing requirements do not apply to specific bicycles or bicycle parts, delete an outdated reference, and correct typographical errors in the bicycle reflector performance test.

The proposal also would facilitate the testing and certification required by section 14 of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2063, as amended by section 102 of the CPSIA. Section 14 of the CPSA requires manufacturers and private labelers of a product subject to a CPSC rule, ban, standard, or regulation to certify compliance of the product with such rule, ban, standard, or regulation. Section 14(a)(1) of the CPSA requires that certifications for nonchildren's products be based on a test of each product or upon a reasonable testing program. Section 14(a)(2) of the CPSA requires that certifications for children's products be based on tests conducted by a CPSC-accepted third party conformity assessment body (also commonly referred to as a third party laboratory or simply as a laboratory). Under section 14(a)(3) of the CPSA, the requirement to third-party test children's products applies to products manufactured more than 90 days after the CPSC has established and published notice of the requirements for accreditation of third party conformity assessment bodies to assess conformity with a particular rule. In the **Federal Register** of September 2, 2009 (74 FR 45428), the CPSC published a notice of the requirements for accreditation of third party conformity assessment bodies to assess conformity with 16 CFR part 1512.

However, in the **Federal Register** of February 9, 2009 (74 FR 6396), the Commission published a notice announcing that it had stayed, for one year, the testing and certification requirements of section 14 of the CPSA as applied to 16 CFR part 1512, and most other CPSC regulations. The stay was intended to give the CPSC time to address many issues raised by the CPSIA's testing and certification requirements (*Id.* at 6397). Later, in the **Federal Register** of December 28, 2009 (74 FR 68588), the Commission published a notice that revised the terms of the stay. The Commission maintained the stay on the testing and certification requirements for the bicycle regulations until May 17, 2010, because there was insufficient laboratory capacity for third party testing of bicycles at that time (*Id.* at

68590). The Commission invited bicycle manufacturers and laboratories to petition the Commission for additional relief if the extension of the stay proved insufficient.

On April 1, 2010, the Bicycle Products Suppliers Association (BPSA), which describes itself as an association of suppliers of bicycles, parts, accessories, and services who serve the specialty bicycle retailer, petitioned the Commission for an additional extension of the stay. (The April 1, 2010, BPSA petition, along with all other correspondence discussed in this preamble, may be viewed at *http://www.regulations.gov* in the docket for this rulemaking.) The BPSA contended that there still was insufficient laboratory capacity to handle testing of children's bicycles. It also asserted that 16 CFR part 1512 is out of date in many respects, stated its understanding that the CPSC may commence rulemaking to revise part 1512 in the near future, and urged the Commission to begin such rulemaking. The BPSA suggested that the Commission maintain the stay on testing and certification of bicycles until such a rulemaking concludes, or for an additional year.

On May 3, 2010, CPSC staff met with representatives of the BPSA to discuss the petition. (A summary of the meeting may be found at *http://www.cpsc.gov/library/foia/meetings/mtg10/bpsa102.pdf.*) On June 17, 2010, the Commission published a notice in the **Federal Register** extending the stay on testing and certification requirements for bicycles until August 14, 2010, with two exceptions (75 FR 34360). First, because laboratory capacity, at that time, was still insufficient to assess compliance with the reflector requirements at 16 CFR 1512.16, the Commission extended the stay as it related to bicycle reflectors, until November 14, 2010 (*Id.*). The Commission allowed the additional three-month period for the development of CPSC-accepted laboratory capacity for bicycle reflector testing. Second, the Commission excluded bicycles with nonquill-type stems from the requirement to certify compliance with the handlebar stem insertion mark requirement at 16 CFR 1512.6(a); bicycles with nonquill-type stems may not be able to comply with the insertion mark requirement.

(A stem is the part of a bicycle that connects the handlebars to the "steerer" or upper part of the bicycle fork [the part of the bicycle that holds the front wheel and can turn to steer the bicycle]. A quill-type stem is a stem that is inserted into the steerer. Most older bicycles use a quill-type stem, but newer bicycles may use other means to connect the stem to the fork. For example, a "threadless" stem clamps onto the outside of the steerer [rather than having the stem go inside the steerer], and so we will refer to such other types of stems as "nonquill-type stems.")

In its letter responding to the BPSA's petition, the Commission communicated its decision to extend the stay until August 14, 2010, with the two exceptions for reflector testing and stems. We stated that we are aware that 16 CFR part 1512 does not adequately address some new technologies, designs, or materials, and we asked that manufacturers who believe that they are unable to certify current designs to 16 CFR part 1512 provide the Commission with specific information regarding which provisions of the current regulation are problematic, which models or classes of bicycles are affected, and an explanation of the issue.

In response, on June 4, 2010, the BPSA sent a chart to the CPSC identifying areas in the bicycle regulations that the BPSA considered problematic for certification. This chart differed slightly from a chart that the BPSA had provided informally to CPSC staff earlier in 2010. We have considered both charts in the process of developing this proposed rule. (Both charts may be viewed at *http://www.regulations.gov,* in the docket for this rulemaking.)

We acknowledge that bicycle technologies, designs, and features have changed dramatically since 16 CFR part 1512 was originally promulgated. A comprehensive review of the bicycle regulations, however, cannot be accomplished in the timeframe that is necessary for implementing the testing and certification requirements of section 14 of the CPSA. Accordingly, this proposed rule would make only limited amendments to 16 CFR part 1512 to facilitate testing and certification of bicycles in accordance with section 14 of the CPSA. We will consider the remainder of the issues identified by the BPSA when we undertake a more extensive review of the bicycle regulations.

II. Description of the Proposed Rule

The proposed rule would amend six sections in 16 CFR part 1512.

A. Definitions (§ 1512.2)

1. Sidewalk Bicycles (§ 1512.2(b))

The existing regulation, at § 1512.2(b), defines a "sidewalk bicycle" as "a bicycle with a seat height of no more than 635 mm (25.0 in); the seat height is measured with the seat adjusted to its highest position." The proposed rule would amend the definition of sidewalk bicycle by adding a sentence stating that recumbent bicycles are not considered sidewalk bicycles. Although some recumbent bicycles may have seats below the 635 millimeter height, recumbent bicycles do not share other features, or the intended riders, of sidewalk bicycles. Thus, the proposal would have the effect of clarifying which requirements are applicable to recumbent bicycles.

2. Track Bicycles (§ 1512.2(d))

The existing regulation, at § 1512.2(d), defines a "track bicycle" as "a bicycle designed and intended for sale as a competitive machine having tubular tires, single crank-to-wheel ratio, and no free-wheeling feature between the rear wheel and the crank." Track bicycles are not subject to the requirements of 16 CFR part 1512, yet the proposed rule would amend the definition of track bicycle to clarify further which bicycles are not subject to the regulations. The proposed rule would add the word "velodrome" between "competitive" and "machine," to clarify that a track bicycle is one intended for competitive velodrome racing. (A "velodrome" is an arena that has a banked track for bicycle racing.)

The proposed rule also would delete the term "tubular tires." Improvements in clincher tires in recent years permit their use on track bicycles; therefore, a definition restricted to bicycles with tubular tires is no longer accurate. (In very general terms, clincher tires are the type of tires associated with most bicycles and feature an inner tube and an outer tire that makes contact with the rims of a bicycle wheel at each edge [called a "bead"]. Tubular tires, in contrast, do not have edges that contact the rim; instead, tubular tires are attached to the rims using glue or tape.)

3. Recumbent Bicycle (Proposed § 1512.2(g))

The proposed rule would create a new definition for recumbent bicycle at § 1512.2(g). The proposal would define a recumbent bicycle as "a bicycle in which the rider sits in a reclined position with the feet extended forward to the pedals." We believe that a definition for recumbent bicycles is necessary because other provisions in this proposed rule would mention recumbent bicycles.[1]

[1] While the staff briefing memoranda refer to recumbent bicycles as "adult bicycles" the proposed definition is not intended to distinguish between

B. Mechanical Requirements (§ 1512.4)

Section 1512.4 establishes various mechanical requirements for bicycles. Section 1512.4(b) prohibits "unfinished sheared metal edges or other sharp parts on bicycles that are, or may be, exposed to hands or legs." The proposed rule would add the word, "assembled" before "bicycles," to clarify that the prohibition on sharp edges does not apply to a bicycle still needing assembly when it is delivered to the consumer or retail store.

We also propose to correct a typographical error in paragraph (b) of section 1512.4. The wording should be, "burrs or spurs," rather than, "burrs of spurs," so that the final phrase reads, "so as to remove any feathering of edges, or any burrs or spurs caused during the shearing process."

Section 1512.4(i) requires that the ends of all control cables have protective caps or otherwise be treated to prevent unraveling. The proposed rule would add the word "accessible" between the words "all" and "control cables," to clarify that only accessible control cable ends are subject to the requirement regarding protective caps or prevention of unraveling. In other words, control cable ends housed within the bicycle frame or component would not need to be covered with protective caps or otherwise treated to prevent unraveling.

C. Requirements for Steering System (§ 1512.6)

Section 1512.6(a) requires that the bicycle handlebar stem have a permanent ring or mark to indicate the minimum insertion depth of the handlebar stem into the fork. It also requires that the insertion mark not affect the structural integrity of the stem, not be less than 2½ times the stem diameter from the lowest point of the stem, and that the stem strength be maintained for at least a length of one shaft diameter below the mark.

The proposed rule would change the opening words of paragraph (a) from "[t]he handlebar stem shall" to "[q]uill-type handlebar stems shall," to clarify that this requirement only applies to bicycles having quill-type stems. Because nonquill-type stems do not get inserted into the stem, there is no need for them to have an insertion depth mark. This aspect of the proposal would codify the CPSC policy, announced in the June 17, 2010, stay notice, that nonquill-type stems would be excluded from the requirement to certify compliance with § 1512.6(a).

Section 1512.6(c) specifies that handlebars must allow comfortable and safe control of the bicycle and that handlebar ends be symmetrically located with respect to the longitudinal axis of the bicycle and "no more than 406 mm (16 in) above the seat surface when the seat is in its lowest position and the handlebar ends are in their highest position." The proposed rule would create an exception for recumbent bicycles because the handlebars of recumbent bicycles may exceed this regulatory maximum, depending upon their design configuration.

D. Requirements for Wheel Hubs (§ 1512.12(b))

Section 1512.12(b) currently states that, with respect to quick-release devices, the quick-release clamp action "shall emboss the frame or fork when locked." The proposed rule would create an exception for carbon fiber material. The requirement for a quick-release clamp action to emboss a frame or fork when locked is appropriate when bicycle frames are made using steel or aluminum. Modern technology, however, makes it possible to create bicycle frames using carbon fiber material. Carbon fiber is stronger than aluminum and steel, but embossing (or indenting) a carbon fiber frame or fork can weaken the material. To avoid such an illogical result (*i.e.,* of intentionally weakening a carbon fiber frame or fork), the proposal would, instead, create an exception for carbon fiber material.

E. Requirements for Seat (§ 1512.15)

Section 1512.15 establishes various requirements for bicycle seats. Section 1512.15(a) imposes a limitation on seat height, stating that "[n]o part of the seat, seat supports, or accessories attached to the seat shall be more than 125 mm (5.0 in) above the top of the seat surface at the point where the seat surface is intersected by the seat post axis."

Section 1512.15(b) requires seat posts to contain a "permanent mark or ring that clearly indicates the minimum insertion depth (maximum seat-height adjustment)" and that the mark not affect the structural integrity of the seat post. (A seat post is a post on which the bicycle seat or saddle rests; a traditional seat post is inserted into the bicycle frame and can be moved up or down to accommodate the rider's size.) Section 1512.15(b) also requires the mark to be "located no less than two seat-post diameters from the lowest point on the post shaft, and the post strength shall be maintained for at least a length of one shaft diameter below the mark."

The proposed rule would create an exception for recumbent bicycles from the seat height limitation in § 1512.15(a). Recumbent bicycles are designed for reclined riding, so the seats on recumbent bicycles tend to have substantial seat backs. This exception would enable recumbent bicycles to retain their high seat-back design without being in violation of § 1512.15(a).

The proposed rule also would create an exception for bicycles with integrated seat masts from the requirement that seat posts contain a permanent mark or ring to indicate the minimum insertion depth. Integrated seat masts are part of the bicycle frame itself; thus, they do not get inserted in a seat post, and so no insertion depth mark is possible.

F. Tests and Test Procedures (§ 1512.18)

The CPSC, on its own initiative, is proposing two amendments to the test and test procedures section. First, the proposed rule would amend § 1512.18(k)(1)(i), which describes the procedure for conducting the fork test. The test procedure requires, in relevant part, that the load on the fork "be increased until a deflection of 64 mm (2½ in) is reached." The test criteria, which are specified at § 1512.18(k)(1)(ii), explain that "[e]nergy of at least 39.5 J (350 in-lb) shall be absorbed with a deflection in the direction of the force of no more than 64 mm (2½ in.)." Thus, the fork test involves applying a load to the fork, and the fork must absorb the required energy while not deflecting more than 64 millimeters, or 2.5 inches.

The proposed rule would delete the last sentence of § 1512.18(k)(1)(i), regarding a deflection of 64 millimeters (2.5 inches), because § 1512.18(k)(1)(i) may be interpreted (incorrectly) as conflicting with § 1512.18(k)(1)(ii). In other words, a reader might construe the regulations as requiring force to be applied until the fork is deflected to 64 millimeters or 2.5 inches. Accordingly, to avoid any confusion, and because the fork test criteria accurately and adequately provides the substantive test requirements, the proposed rule would delete the last sentence of the description of the fork test procedure.

The proposed rule also would amend the reflector performance test description at § 1512.18(n)(2)(vii). The reflector performance test description discusses a coordinate system used for the reflector performance test and states that "[i]n the coordinate system and when illuminated by the source defined in table 4 of this part 1512, a reflector will be considered to be red if its color

adult recumbent bicycles and children's recumbent bicycles.

falls within the region bounded by the red spectrum locus and the lines y0.980 - - x and y0.335; a reflector will be considered to be amber if its color falls within the region bounded by the yellow spectrum locus and the lines y0.382, y0.790 - - 0.667x, and y x - - 0.120." The y and x coordinates, as described in the rule, omitted important mathematical symbols or duplicated other mathematical symbols. The proposal would amend § 1512.18(n)(2)(vii) to read "[i]n the coordinate system and when illuminated by the source defined in table 4 of this part 1512, a reflector will be considered to be red if its color falls within the region bounded by the red spectrum locus and the lines y = 0.980 − x and y = 0.335; a reflector will be considered to be amber if its color falls within the region bounded by the yellow spectrum locus and the lines y = 0.382, y = 0.790 − 0.667x, and y = x − 0.120."

Section 1512.18(n)(2)(vii) also refers to the "*IES Lighting Handbook,* fifth edition, 1972," and a footnote to the rule explains that the *IES Lighting Handbook* may be obtained from the Illuminating Engineering Society (IES) and gives an address for IES. The reference to the *IES Lighting Handbook* is outdated, as is the address for the IES. More importantly, the recommended coordinate system for definition of color discussed in § 1512.18(n)(2)(vii), the "Internationale de l'Eclairage (CIE) 1931" system, is readily accessible for little or no cost from various sources in addition to the IES, including the Internet. Because the CIE 1931 color coordinate system is publicly available, the reference to the *IES Lighting Handbook* is not necessary, and therefore, the proposed rule would delete the reference to the *IES Lighting Handbook* and its accompanying footnote.

III. FHSA Regulatory Requirement: Preliminary Regulatory Analysis

Section 3(h) of the FHSA describes the procedural requirements for a proposed rule promulgated under section 2(q)(1) and section 3(e) of the FHSA, which are among the legal authorities for the CPSC's *Requirements for Bicycles,* 16 CFR part 1512. Section 3(h) requires a proposed FHSA rule to include a preliminary regulatory analysis. The preliminary regulatory analysis must include a preliminary description of the potential benefits and potential costs of the proposed regulation, including any benefits or costs that cannot be quantified in monetary terms, and an identification of those likely to receive the benefits and bear the costs. The preliminary regulatory analysis must include a discussion of the reasons why alternative or voluntary standards are not part of the proposed regulation. The preliminary regulatory analysis must also include a discussion of any reasonable alternatives to the proposed regulation.

This proposed rule does not propose new safety criteria or redefine the standard's acceptance criteria. Accordingly, an analysis of alternative or voluntary standards is not applicable. Due to the limited scope of these proposed amendments, the agency does not consider that there are any reasonable alternatives other than the technical amendments and exceptions being proposed.

The CPSC has analyzed the potential costs and benefits of the proposed rule; we expect there to be essentially no costs and modest benefits in the form of needed clarifications that will facilitate the testing and certification of bicycles. The proposed amendments would create exceptions to certain testing requirements, modify existing definitions to reflect current technology or changes in technology, clarify certain requirements, introduce a definition for recumbent bicycles, correct typographical errors, and delete an unnecessary and outdated reference. These changes are not expected to result in product modifications in order to comply, and do not require any additional testing or recordkeeping burdens. The clarifications and exceptions resulting from the proposed amendments could, in fact, result in modest cost savings to manufacturers in the form of more focused testing or the elimination of unnecessary testing.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. chapter 6, requires the agency to evaluate the economic impact of this proposed rule on small entities. The RFA defines small entities to include small businesses, small organizations, and small governmental jurisdictions. The small entities relevant to this proposed rule are small businesses. The agency must determine whether the proposed rule would impose a significant economic impact on a substantial number of small businesses.

The proposed rule will not have a significant economic impact. The proposed amendments would create exceptions to certain testing requirements, modify existing definitions to reflect current technology or changes in technology, clarify certain requirements, introduce a definition for recumbent bicycles, correct typographical errors, and delete an unnecessary and outdated reference. These changes are not expected to result in product modifications in order to comply and do not require any additional testing or recordkeeping burdens. The clarifications and exceptions resulting from the proposed amendments could result in modest cost savings to small businesses in the form of more focused testing or the elimination of unnecessary testing.

Accordingly, the Commission determines that the proposed rule will not have a significant economic effect on a substantial number of small entities.

V. Paperwork Reduction Act

The purposes of the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.,* include minimizing 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.

This proposed rule does not implicate the PRA, because there are no collection of information obligations associated with the proposed amendments to part 1512.

VI. Environmental Considerations

The proposed rule falls within the scope of the Commission's environmental review regulations at 16 CFR 1021.5(c)(1), which provide a categorical exclusion from any requirement for the agency to prepare an environmental assessment or environmental impact statement for amendments of rules or safety standards that provide design or performance requirements for products.

VII. Effective Date

The Commission proposes that any final rule based on this proposal become effective 30 days after its date of publication in the **Federal Register**.

List of Subjects in 16 CFR Part 1512

Bicycles, Consumer protection, Labeling.

For the reasons discussed in the preamble, the Consumer Product Safety Commission proposes to amend 16 CFR part 1512 as follows:

PART 1512—REQUIREMENTS FOR BICYCLES

1. The authority citation for part 1512 continues to read as follows:

Authority: Secs. 2(f)(1)(D), (q)(1)(A), (s), 3(e)(1), 74 Stat. 372, 374, 375, as amended,

80 Stat. 1304–05, 83 Stat. 187–89 (15 U.S.C. 1261, 1262); Pub. L. 107–319, 116 Stat. 2776.

2. Amend § 1512.2 by revising paragraphs (b) and (d) and adding paragraph (g) to read as follows:

§ 1512.2 Definitions.

* * * * *

(b) *Sidewalk bicycle* means a bicycle with a seat height of no more than 635 mm (25.0 in); the seat height is measured with the seat adjusted to its highest position. Recumbent bicycles are not included in this definition.

* * * * *

(d) *Track bicycle* means a bicycle designed and intended for sale as a competitive velodrome machine having single crank-to-wheel ratio, and no free-wheeling feature between the rear wheel and the crank.

* * * * *

(g) *Recumbent bicycle* means a bicycle in which the rider sits in a reclined position with the feet extended forward to the pedals.

3. Amend § 1512.4 by revising paragraphs (b) and (i) to read as follows:

§ 1512.4 Mechanical requirements.

* * * * *

(b) *Sharp edges.* There shall be no unfinished sheared metal edges or other sharp parts on assembled bicycles that are, or may be, exposed to hands or legs; sheared metal edges that are not rolled shall be finished so as to remove any feathering of edges, or any burrs or spurs caused during the shearing process.

* * * * *

(i) *Control cable ends.* Ends of all accessible control cables shall be provided with protective caps or otherwise treated to prevent unraveling. Protective caps shall be tested in accordance with the protective cap and end-mounted devices test, § 1512.18(c), and shall withstand a pull of 8.9 N (2.0 lbf).

* * * * *

4. Amend § 1512.6 by revising paragraphs (a) and (c) to read as follows:

§ 1512.6 Requirements for steering system.

(a) *Handlebar stem insertion mark.* Quill-type handlebar stems shall contain a permanent ring or mark which clearly indicates the minimum insertion depth of the handlebar stem into the fork assembly. The insertion mark shall not affect the structural integrity of the stem and shall not be less than 2½ times the stem diameter from the lowest point of the stem. The stem strength shall be maintained for at least a length of one shaft diameter below the mark.

* * * * *

(c) *Handlebar.* Handlebars shall allow comfortable and safe control of the bicycle. Handlebar ends shall be symmetrically located with respect to the longitudinal axis of the bicycle and no more than 406 mm (16 in) above the seat surface when the seat is in its lowest position and the handlebar ends are in their highest position. This requirement does not apply to recumbent bicycles.

* * * * *

5. Amend § 1512.12 by revising paragraph (b) to read as follows:

§ 1512.12 Requirements for wheel hubs.

* * * * *

(b) *Quick-release devices.* Lever-operated, quick-release devices shall be adjustable to allow setting the lever position for tightness. Quick-release levers shall be clearly visible to the rider and shall indicate whether the levers are in a locked or unlocked position. Quick-release clamp action shall emboss the frame or fork when locked, except on carbon fiber material.

* * * * *

6. Amend § 1512.15 by revising paragraphs (a) and (b) to read as follows:

§ 1512.15 Requirements for seat.

(a) *Seat limitations.* No part of the seat, seat supports, or accessories attached to the seat shall be more than 125 mm (5.0 in) above the top of the seat surface at the point where the seat surface is intersected by the seat post axis. This requirement does not apply to recumbent bicycles.

(b) *Seat post.* The seat post shall contain a permanent mark or ring that clearly indicates the minimum insertion depth (maximum seat-height adjustment); the mark shall not affect the structural integrity of the seat post. This mark shall be located no less than two seat-post diameters from the lowest point on the post shaft, and the post strength shall be maintained for at least a length of one shaft diameter below the mark. This requirement does not apply to bicycles with integrated seat masts.

* * * * *

7. Amend § 1512.18 by revising paragraphs (k)(1)(i) and (n)(2)(vii) as follows:

§ 1512.18 Tests and test procedures.

* * * * *

(k) * * *

(1) * * *

(i) *Procedure.* With the fork stem supported in a 76 mm (3.0 in) vee block and secured by the method illustrated in figure 1 of this part 1512, a load shall be applied at the axle attachment in a direction perpendicular to the centerline of the stem and against the direction of the rake. Load and deflection readings shall be recorded and plotted at the point of loading.

* * * * *

(n) * * *

(2) * * *

(vii) A recommended coordinate system for definition of color is the "Internationale de l'Eclairage (CIE 1931)" system. In the coordinate system and when illuminated by the source defined in table 4 of this part 1512, a reflector will be considered to be red if its color falls within the region bounded by the red spectrum locus and the lines $y = 0.980 - x$ and $y = 0.335$; a reflector will be considered to be amber if its color falls within the region bounded by the yellow spectrum locus and the lines $y = 0.382$, $y = 0.790 - 0.667x$, and $y = x - 0.120$.

* * * * *

Dated: October 26, 2010.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2010–27503 Filed 10–29–10; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1632

[CPSC Docket No. CPSC–2010–0105]

Standard for the Flammability of Mattresses and Mattress Pads

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Consumer Product Safety Commission ("CPSC" or "Commission") is proposing to amend its standard for the flammability of mattresses and mattress pads. The ignition source cigarette specified in the standard for use in the mattress standard's performance tests is no longer being produced. The Commission is proposing to amend the mattress standard to require a standard reference material cigarette, which was developed by the National Institute of Standards and Technology, as the ignition source for testing to the mattress standard.

DATES: Comments on the proposal should be submitted no later than January 18, 2011.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2010–0105, 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, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to *http://www.regulations.gov.* Do not submit confidential business information, trade secret information, or other sensitive or protected information electronically. 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: Patricia K. Adair, Directorate for Engineering Sciences, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814–4408; telephone (301) 504–7536; *padair@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

1. The Current Standard and the Need for Amendment

The Standard for the Flammability of Mattresses and Mattress Pads ("the Standard"), 16 CFR part 1632, was initially issued by the U.S. Department of Commerce in 1972 under the authority of the Flammable Fabrics Act ("FFA"), 15 U.S.C. 1191 *et seq.* When the Consumer Product Safety Act ("CPSA") created the Consumer Product Safety Commission, it transferred to the Commission the authority to issue flammability standards under the FFA.

The Standard sets forth a test to determine the ignition resistance of a mattress or mattress pad when exposed to a lighted cigarette. Lighted cigarettes are placed at specified locations on the surface of a mattress (or mattress pad). The Standard establishes pass/fail criteria for the tests. The Standard currently specifies the ignition source for these tests by its physical properties. These properties were originally selected to represent an unfiltered Pall Mall cigarette, which was identified as the most severe smoldering ignition source.

In January 2008, CPSC staff learned that the R.J. Reynolds Tobacco Company planned to stop producing unfiltered Pall Mall cigarettes (although it would continue to make a reduced ignition propensity or "RIP" version). The CPSC staff, mattress manufacturers, and testing organizations were concerned about testing to the Standard if the specified ignition source cigarettes were unavailable. Under an Interagency Agreement ("IAG") with the CPSC, the National Institute of Standards and Technology ("NIST") developed a standard reference material ("SRM") cigarette that could be used as the ignition source in the Standard.

2. Incident Data

Recent fire loss estimates for mattresses and bedding indicate that smoking material ignitions of mattresses or bedding lead to a large number of fire deaths and injuries. The most recently available estimates are from 2005 through 2007. For that time period, there was an estimated annual average of 2,100 fires in which smoking materials ignited mattresses or bedding. These led to an estimated annual average of 150 deaths, 350 injuries, and $57 million in property loss.

B. Statutory Provisions

The FFA sets forth the process by which the Commission can issue or amend a flammability standard. In accordance with those provisions, the Commission is proposing to amend the Standard to specify the SRM cigarette developed by NIST as the ignition source to be used for testing under the Standard. As required by the FFA, the proposed rule contains the text of the amendment, alternatives that the Commission has considered, and a preliminary regulatory analysis. 15 U.S.C. 1193(i). Before issuing a final rule, the Commission must prepare a final regulatory analysis and make certain findings concerning any relevant voluntary standard, the relationship of costs and benefits of the rule, and the burden imposed by the regulation. *Id.* 1193(j). In addition, the Commission must find that the standard: (1) Is needed to adequately protect the public against the risk of the occurrence of fire leading to death, injury, or significant property damage; (2) is reasonable, technologically practicable, and appropriate; (3) is limited to fabrics, related materials, or products which present unreasonable risks; and (4) is stated in objective terms. *Id.* 1193(b).

The Commission also must provide an opportunity for interested persons to make an oral presentation concerning the rulemaking before the Commission may issue a final rule. *Id.* 1193(d). The Commission requests that anyone who would like to make an oral presentation concerning this rulemaking please contact the Commission's Office of the Secretary (*see* the **ADDRESSES** section of this notice) within 45 days of publication of this notice. If the Commission receives requests to make oral comments, a date will be set for a public meeting for that purpose, and notice of the meeting will be provided in the **Federal Register.**

C. Description of the Proposed Amendment

1. NIST's Research

Currently, the Standard requires that the ignition source for testing mattresses "shall be cigarettes without filter tips made from natural tobacco, 85 ± 2 mm long with a tobacco packing density of 0.270 ± 0.02 g/cm^3 and a total weight of 1.1 ± 0.1 g." 16 CFR 1632.4(a)(2). This specification was intended to describe a conventional unfiltered Pall Mall cigarette that was available when the Standard was developed. This specification was chosen in order to replicate the most severe smoldering ignition source for testing mattresses and mattress pads.

When the CPSC learned in January 2008 that R.J. Reynolds would be stopping production of the unfiltered Pall Mall cigarettes, the CPSC sought to find an alternate ignition source that would have the same burning characteristics as the ignition source specified in the Standard so that mattresses could be tested in accordance with the Standard and so that the safety level of the Standard would not be changed. In August 2008, the CPSC entered into an IAG with NIST to develop a new cigarette ignition source SRM that would have the ignition strength of the test cigarette required in the Standard.

There are no cigarette ignition test data to characterize the ignition propensity of cigarettes from 1972, when the Standard was promulgated. In the absence of such data, NIST sought to identify the highest ignition strength cigarette, consistent with the intent of the original Standard. NIST evaluated Pall Mall cigarettes of different vintages (1992 through 2008) to determine the ignition strengths of the cigarettes that had been used to test soft furnishings,

such as mattresses. Although SRM cigarettes are now becoming available, sufficient quantities of previous (1992 through 2003) cigarettes no longer exist to perform any comparative studies of ignition propensity. The NIST research strongly indicated, however, that the SRM is equivalent in ignition strength to the previous highest known strength unfiltered Pall Mall cigarette. After developing a standard procedure for determining the ignition strength of cigarettes and assessing different vintage cigarettes, NIST recommended to CPSC staff that the new SRM cigarette meet the following specification:

- Nominal length: 83 mm ± 2 mm
- Tobacco packing density: 0.270 g/cm3 ± 0.020g/cm3
- Mass: 1.1 g ± 0.1 g
- Ignition Strength: 70 Percent Full Length Burn (PFLB) to 95 PFLB using ASTM E 2187, as modified in Section 4.2 of NIST Technical Note 1627
- Non "Fire Safe Cigarette" (FSC)

The first three descriptors restate the physical requirements listed in the Standard for the ignition source. The recommended ignition strength range reflects the three oldest vintages of the Pall Mall cigarette tested by NIST and represents a worst-case ignition source.

In June 2009, NIST provided CPSC staff with a report on its research, "*NIST Technical Note 1627: Modification of ASTM E 2187 for Measuring the Ignition Propensity of Conventional Cigarettes*" (Ref. 1). The CPSC used NIST's research described in this report as the basis to establish specific parameters for a new ignition source specified in the Standard. Therefore, the proposed rule would amend 16 CFR 1632.4(a)(2) to specify the use of an SRM cigarette, developed in 2010 based on NIST's research. The new SRM cigarette would be designated SRM 1196, and the proposed amendment also would state that SRM 1196 is available for purchase from the National Institute of Standards and Technology, 100 Bureau Drive, Gaithersburg, MD, 20899

2. Issues Raised by Comments on NIST's Report

The Commission posted *NIST Technical Note 1627* on its Web site in July 2009. The Commission received three comments, all from industry trade associations. The principal issues raised by the comments that are relevant to this rulemaking and the Commission's responses are discussed below.

Comment: Some comments stated that the cigarette specified in the Standard does not reflect real-world conditions and argued that the CPSC should not try to replicate it in establishing a new ignition source.

Response: The intent of the Standard was not to represent the typical cigarette of that time, but to specify a cigarette with the highest potential to ignite soft furnishings in order to provide a high level of safety. The Commission intends to specify an ignition source that is close to the original specification, to maintain the level of safety established by the Standard.

Comment: Some comments noted that many States are requiring RIP cigarettes, and, because these will be widely in use, the ignition source in the Standard should be a RIP cigarette.

Response: The CPSC has no data indicating a correlation between the use of RIP cigarettes and reduction in fire losses where soft furnishings, such as mattresses, are the first item to ignite. The National Fire Protection Association's ("NFPA's") model State legislation calls for testing RIP cigarettes in accordance with ASTM standard E 2187–04, "*Standard Test Method for Measuring the Ignition Strength of Cigarettes*." This model legislation requires that no more than 25 percent of cigarettes tested in a trial test burn their full length. This means that even with full compliance, some RIP cigarettes may be expected to burn like non-RIP cigarettes. Moreover, only 8 of the 50 States that have enacted (or soon will enact) legislation mandating RIP cigarettes require auditing to confirm compliance with ASTM E 2187–04. Thus, the extent of fire safety gains due to RIP cigarettes is uncertain. Under these circumstances, specifying a RIP cigarette as the ignition source in the Standard could reduce the level of fire safety provided by the Standard.

Comment: One comment expressed concern about the cost of SRM cigarettes for small manufacturers, such as upholstery fabric manufacturers.

Response: As discussed in greater detail in the preliminary regulatory analysis summarized in section D of this preamble, the Commission does not anticipate that the cost of SRM cigarettes will add significantly to testing costs for mattresses. The CPSC estimates that using SRM cigarettes at up to $245 per carton would increase total annual testing costs for mattresses by about $70,000 or approximately 10 percent. The CPSC notes that, for mattresses, individual ticking fabrics generally are not tested; instead, testing of the assembled mattress is usually performed by a third party laboratory. Also, existing qualified designs and constructions of mattresses would not have to be retested.

As for the impact on upholstered furniture fabric makers, the cost of SRM cigarettes would be one aspect of testing costs that the Commission would consider in evaluating the costs and benefits of an upholstered furniture flammability standard in the context of that rulemaking. (In the **Federal Register** of March 4, 2008, the Commission published a proposed rule that would establish flammability standards for residential upholstered furniture under the FFA (73 FR 11702), and CPSC staff is in the process of testing and evaluation to support a possible final upholstered furniture flammability rule.)

Comment: One comment stated that a surrogate equivalent to the discontinued non-RIP cigarette is needed quickly, given that those materials are no longer being produced. The commenter opined that to specify a nonequivalent SRM as NIST recommends would require the CPSC to conduct a lengthy rulemaking procedure to amend 16 CFR part 1632.

Response: The new SRM cigarette is designed to be equivalent to the original test cigarette. In its report, NIST recommended a replacement cigarette that is as close as possible to the original test cigarette specified in the Standard. The purpose of developing the SRM cigarette is to enhance repeatability of test results without changing the level of fire safety provided by the Standard.

D. Preliminary Regulatory Analysis

Section 4(i) of the FFA requires that the Commission prepare a preliminary regulatory analysis when it proposes to issue or amend a flammability standard under the FFA and that the analysis be published with the proposed rule. 15 U.S.C. 1193(i). The following discussion extracted from the staff's memorandum entitled "Preliminary Regulatory Analysis: Smoldering Ignition Source Proposed Technical Amendment to the Flammability Standard for Mattresses and Mattress Pads (16 CFR Part 1632)" (Ref. 2) addresses this requirement.

1. Market/Industry Information

Domestic manufacturers of mattresses and related sleep products (for example, mattress pads, box springs, innerspring cushions, and air-flotation sleep systems) are classified under the 2002 North American Industry Classification System (NAICS) in sector code 337910, Mattress Manufacturing. This group includes firms classified under the 1997 Standard Industry Classification (SIC) category 2515. Available U.S. Economic Census data show an estimated total value of shipments for this category of about $5 billion in recent years. Domestic employment is estimated at about 20,000 workers. Industry estimates indicate that the number of mattresses (including unconventional

items such as futons, crib and juvenile mattresses, and sleep sofa inserts) shipped in the United States residential market is roughly 25 million units annually. About 5 to 10 percent of this total is comprised of imported products, including some imports marketed by the domestic manufacturers. The proportion of imports for mattress pads is higher.

An estimated 150 to 200 domestic firms produce new mattresses or mattress pads in manufacturing facilities in the United States. An unknown but potentially similar number of firms in the United States sell renovated mattresses, which may account for 2.5 to 5 million units, or between 10 and 20 percent of mattresses sold. Thus, there may be as many as approximately 400 manufacturing firms subject to 16 CFR part 1632. These firms comprise more than 600 production establishments. Larger manufacturers may offer dozens of models (not counting different size designations, *e.g.,* twin, full, queen, king) at any given time; new models may be introduced once or twice per year. Many smaller firms market only a few models and make few, if any, construction changes in a year.

2. The Mattress Standard

The mattress standard at 16 CFR part 1632 requires premarket, full-scale prototype testing for each new mattress design. Prototype testing also must be performed for each change in materials of an existing design that may affect cigarette ignition resistance. Under the Standard, a minimum of 18 cigarettes (*i.e.,* about one pack) are consumed per mattress surface. Under the CPSC's 2006 interim enforcement policy, two mattress surfaces must be tested (the Standard specifies that six surfaces must be tested; however, current reported practice is to test two surfaces). For two-sided, traditional mattresses, one mattress is consumed per prototype. With the market trend in recent years toward single-sided mattresses (*i.e.,* those designed not to be flipped), it is much more common that two mattresses are consumed per prototype. In either case, at least 36 cigarettes (*i.e.,* about two packs) are consumed per prototype.

No post-prototype, periodic testing is required under 16 CFR part 1632. However, the Standard allows the use of "subordinate" prototypes (*i.e.,* a mattress that differs from the prototype in certain acceptable ways and therefore does not need to be tested) based on a confirmatory test of a complying model, such that multiple producers can market that same complying product in different production facilities or under different brand names. This practice is common in the industry among licensees, and especially among smaller firms that manufacture models based on qualified prototypes developed and tested for certification of compliance with both 16 CFR part 1633 and part 1632 by larger firms or "prototype developers." Further, 16 CFR part 1632 allows substitutions of cover or "ticking" materials, based on a set of small scale classification tests in lieu of new prototypes for each ticking. In this test, 9 to 18 cigarettes (approximately one half to one full pack) are consumed. Equivalency of performance for a majority of new mattress models is demonstrated using this optional ticking substitution test.

Some manufacturers perform tests pursuant to 16 CFR part 1632 in their production facilities. Most, however, use third party testing laboratories since the advent of 16 CFR part 1633 in 2006.

3. Potential Benefits and Costs

The SRM cigarette described in the proposal would have approximately the same ignition strength characteristics as originally intended by the Standard. The use of SRM cigarettes would not alter the stringency of the flammability performance tests in the Standard, so the proposal would not amend the test method itself.

i. Potential Benefits

Because the proposed amendment is "safety-neutral," mattresses that passed or failed under the existing Standard would be expected to generate similar results when the NIST-developed SRM is used. The level of protection provided by the Standard would neither increase nor decrease as a result. Thus, there would be no impact on the level or value of fire safety benefits derived from the 16 CFR part 1632 Standard.

There would, however, be potential benefits associated with the proposed amendment that are not readily quantifiable. Currently, manufacturers and testing laboratories do not have access to continued supplies of test cigarettes other than RIP Pall Mall cigarettes. Existing inventories of conventional Pall Mall cigarettes have been depleted or exhausted. Many industry representatives have requested guidance on the issue of which cigarette to use in testing.

Even if continuing supplies of conventional test cigarettes were available, the variability in cigarette performance described in the NIST research may lead to an unacceptably low level of test outcome reproducibility. This is causing uncertainty among testing firms and manufacturers and importers certifying compliance with the Standard; these firms have expressed concern that tests conducted by the CPSC and by industry may not be comparable. This inconsistency could lead to unnecessary additional testing. The proposed amendment specifying an SRM cigarette would reduce inconsistency and uncertainty for industry, testing laboratories, and the CPSC.

ii. Potential Costs

Currently, manufacturers incur testing costs related to 16 CFR part 1632 whenever new mattress models are introduced that either: (1) Are of new construction, or (2) have new tickings that may influence cigarette ignition resistance. Larger manufacturers may introduce 20 or more new constructions or ticking substitutions each year. Smaller producers and renovators probably introduce fewer items or rely on prototype developers for multiple models. Assuming that qualified prototypes are developed for all new constructions and ticking substitutions to demonstrate compliance, a range of estimates for annual prototypes and ticking substitutions can be used to project potential costs associated with the proposed amendment to incorporate SRM cigarettes into the Standard.

Pre-Amendment Testing Costs. For most mattress models that require some kind of testing, the testing cost per model to manufacturers is comprised chiefly of: (1) The resource costs of producing the mattresses used for destructive testing, including shipping to a test laboratory; and (2) the laboratory's fee for the testing service, which includes photographic and other records prepared by the test laboratory as well as the cigarettes consumed in testing.

The cost of mattresses consumed in prototype testing may amount to approximately $400 for a typical two-mattress test series (although the range can go much higher, to more than $1,000 per mattress for low-volume, specialty items). Prototype test charges reported by third party testing laboratories can vary widely, especially by location. For example, charges for tests performed in China tend to be significantly lower than charges for tests performed in the United States. Overall, these charges, which include the cost of the test cigarettes, may average about $250 per prototype (labor and material costs for manufacturers to perform their own tests may be similar). Thus, the current average total cost per mattress prototype may be roughly $400 + $250 = $650. A ticking substitution test is simpler and much less expensive, requiring only small samples of ticking

material, a reusable small-scale test apparatus, and a smaller number of cigarettes; the average total cost may be around $50.

Testing costs incurred for prototypes and ticking substitutions can be allocated over a production run of mattresses. The cost per unit may vary with production volume, the mix of tests performed, and other factors. The examples below incorporate assumptions based on discussions with industry representatives. These examples illustrate some possible baseline cost differences for larger versus smaller firms:

Typical example for a medium-to-large producer:

- 20 new models: 5 new constructions + 15 new tickings
- 5 prototype tests @ $650 each = $3,250
- 15 ticking substitution classification tests @ $50 each = $750
- Total base year cost = $3,250 + $750 = $4,000
- Baseline testing cost for production run of 50,000 units = $0.08 per unit

Typical example for a smaller producer:

- 5 new models: 2 new constructions + 3 new tickings
- 2 prototype tests @ $650 each = $1,300
- 3 ticking substitution classification tests @ $50 each = $150
- Total base year cost = $1,300 + $150 = $1,450
- Baseline testing cost for production run of 5,000 units = $0.29 per unit

These examples reflect the likely average annual testing costs to industry, assuming reasonably full compliance with 16 CFR part 1632. Thus, approximate baseline testing costs for the largest 50 mattress manufacturers would be about $50 \times \$4,000 = \$200,000$ annually; testing costs for the remaining 350 firms would be about $350 \times \$1,450 = \$507,500$. Thus, total estimated baseline testing costs may be about $200,000 + $507,500 = $707,500 per year.

Costs per Firm Associated With the Proposed Amendment. The only cost increase associated with the proposed amendment is related to the SRM cigarettes. The anticipated price of SRM cigarettes from NIST is about $245 per carton, including estimated typical shipping (a carton contains 200 cigarettes, *i.e.,* 10 packs of 20). Testing laboratories and others can obtain (RIP) Pall Mall cigarettes currently on the market for prices ranging from $60 to $100 per carton, depending on the geographic region. Thus, the cost of cigarettes for parties performing tests may increase from as little as approximately $6 to $10 per pack, to as much as approximately $25 per pack, representing an increase of $15 to $19 per pack.

Under the protocol in 16 CFR part 1632, new packs of cigarettes are opened for each test sequence. A new prototype or confirmatory test consumes about two packs, and a ticking substitution test consumes about one pack. Assuming an increase in price per pack of $19, the average cost of performing the tests could increase by $2 \times 19 = \$38$ per prototype and $19 per ticking substitution. This represents a 6 percent increase ($38/$650) in average total resource costs per prototype, and a 38 percent increase ($19/$50) in average resource costs per ticking substitution.

In the above "typical producer" examples, the larger firm with 20 new models would incur increased prototype costs of $5 \times \$38 = \$190$ plus increased ticking substitution costs of $15 \times \$19 = \$285$, for a total annual increase of $190 + $285 = $475 (about 12 percent of the firm's overall $4,000 annual testing cost). Over a 50,000 unit production run, the cost would be $0.0095 (*i.e.,* less than one cent) per unit. The smaller firm with five new models would incur increased prototype costs of $2 \times \$38 = \$76$ and increased ticking substitution costs of $3 \times 19 = \$57$, for a total annual increase of $76 + $57 = $133 (*i.e.,* about 9 percent of the firm's overall $1,450 annual testing cost). Over a 5,000 unit production run, the increased testing cost would be $0.027 (*i.e.,* less than three cents) per mattress.

In summary, the expected additional cost of testing related to the proposal may range from about $133 to $475 per firm, or about one to three cents per mattress produced. The distribution of this projected cost among manufacturers and testing laboratories is uncertain because some test laboratories may choose to pass their increased costs—in the form of higher test fees—on to manufacturers, while others may not. Even if all such costs were passed on to manufacturers, it is unlikely that there would be a noticeable effect on wholesale or retail mattress prices.

Aggregate Costs Associated With the Proposed Amendment. There may be as many as 200 new product manufacturers and 200 renovators, for a total of about 400 firms. The largest 50 firms are assumed to have 20 new models ($50 \times 20 = 1,000$ models to be tested), and the remaining 350 firms to have five new models ($350 \times 5 = 1,750$ models to be tested), for a total of 1,000 + 1,750 = 2,750 models to be tested. The aggregate annual cost of the proposed amendment will vary with the number of new prototypes and ticking substitutions. A point estimate can be developed using the pre amendment baseline examples above and the best available information on these variables.

Using the baseline assumptions for new prototypes versus ticking substitutions, the 50 largest firms would have an average of five prototypes each (for a total of $5 \times 50 = 250$) and the remaining 350 smaller firms would have two prototypes each (for a total of $2 \times 350 = 700$); thus, the overall number of prototypes to be performed would be 250 + 700 = 950. The number of ticking substitutions would be 15 each for the larger firms (for a total of $15 \times 50 = 750$) and three each for the smaller firms (for a total of $3 \times 350 = 1,050$); the overall number of ticking substitutions would be 750 + 1,050 = 1,800.

At two packs of cigarettes per prototype and one pack per ticking substitution, the estimated quantity consumed in testing would be $2 \times 950 = 1,900$ for prototypes and 1,800 for ticking substitutions, for a total of 1,900 + 1,800 = 3,700 packs. At an increase of $19 per pack, the estimated total resource cost would be $3,700 \times 19 = \$70,300$. This point estimate represents an unweighted average increase of about 10 percent of the estimated $707,500 aggregate annual industry testing costs related to 16 CFR part 1632.

In addition to the projected costs to industry, the CPSC and other government agencies (for example, the California Bureau of Home Furnishings & Thermal Insulation and the Canadian Ministry of Health) would likely purchase small quantities of SRM cigarettes from NIST for compliance testing and related research. Thus, the proposal also would have minor costs to Federal and other government agencies, depending on the numbers of tests these organizations may perform in any given year.

The proposed effective date of the amendment is one year from the date of publication of a final rule in the **Federal Register**. New mattress models are typically introduced once or twice per year. The proposed effective date would allow this product cycle to proceed without potential disruption or additional testing costs. It would also help ensure continuing availability of an adequate supply of SRM cigarettes to testing laboratories and manufacturers from NIST.

In summary, the proposed amendment to specify the SRM cigarette is not expected to have a significant impact on expected benefits or costs of the Standard in 16 CFR part 1632. Resource costs may amount to roughly $70,000 per year. The amendment would, however, reduce test variability

and uncertainty among manufacturers subject to the Standard and among testing organizations. Both the expected benefits and likely economic costs of the amendment are small, and the likely effect on testing costs per new prototype mattress or ticking substitution would be minor, especially when the projected cost is allocated over a production run of complying mattresses.

4. Regulatory Alternatives

The Commission could consider two basic alternatives to the proposed amendment: (1) Base the standard test cigarette on a different SRM, with the approximate lower ignition strength of an RIP cigarette; or (2) take no action on the smoldering ignition source issue.

Neither the proposed amendment nor either of these two alternatives would likely have a substantial economic impact. There would, however, be some relative differences in terms of resource costs and potential effects on the level of benefits the Standard affords. The advantages and disadvantages of these two basic alternatives are discussed immediately below.

a. Alternate SRM

Under this first alternative, the Commission could amend the Standard to specify a different, lower ignition propensity SRM cigarette. Such an SRM would presumably be closer in ignition strength to the "worst-case" RIP cigarettes currently on the market.

There are three possible advantages to specifying an alternative SRM: (1) The problem of test repeatability and reproducibility would be addressed, as it is under the proposed amendment; (2) an alternative SRM would, in theory, better approximate the fire risk associated with cigarettes currently available to consumers in the United States; and (3) currently, there is a low ignition propensity SRM (SRM 1082) developed by NIST for use by state regulators in assessing the compliance of RIP cigarettes. These SRM cigarettes are currently available at a price, including estimated typical shipping, of $195 per carton (compared to the projected price for the proposed SRM 1196 cigarette of $245 per carton). Thus, resource costs to manufacturers and testing laboratories (including the CPSC) to adopt a readily-available alternative SRM could be somewhat lower than under the proposed amendment; although it is likely that any new alternate SRM would be priced at least comparably to the proposed SRM 1196.

There are three possible disadvantages to specifying an alternative SRM. First, in comparison to the proposed SRM, a low ignition propensity SRM would not be considered equivalent or "safety neutral," under the presumption that the use of such cigarettes would result in a less stringent flammability test. While no data are available to describe the extent of this potential difference, it is quite possible that more mattress construction prototypes would pass a test using a lower ignition propensity SRM than do currently with commercially available cigarettes. This may result in an unknown, but potentially adverse, impact on the level of safety benefits provided by the Standard.

The second disadvantage is that the two known technical approaches to developing a lower ignition propensity SRM appear to be incompatible with the test in 16 CFR part 1632. First, under existing state regulations, all known commercial RIP cigarettes incorporate banded paper designed to impede full length burns. The current test measures mattress ignitions resulting from full length cigarette burns and allows up to three relights per cigarette to achieve a full length burn. It is likely that either: (1) Many low ignition propensity cigarettes would be wasted in completing the test; or (2) the test could not be reliably completed using banded-paper, self-extinguishing cigarettes. Second, while the existing SRM 1082 does not use banded-paper technology, it would have the same impracticalities as the banded-paper cigarette under the current Standard. The low ignition propensity design of the existing SRM 1082 is intended to yield a 12 to 15 percent full length burn rate (*i.e.,* the cigarettes are made to self-extinguish 85 to 88 percent of the time). Because this SRM is intended to be used as a calibration tool for cigarette manufacturers subject to state regulations, it is purposely designed to represent a minimal ignition propensity target, rather than a typical or representative RIP ignition propensity. It would clearly not represent a "worst-case" RIP cigarette. Further, SRM 1082 does not meet the specified physical criteria for cigarette length and density; so these cigarettes are physically unlike the current test cigarette or current RIP cigarettes.

The third disadvantage is that the properties of a new SRM that would mimic the ignition behavior of "worst case" RIP cigarettes have not been characterized. The "worst case" RIP cigarette would be one that burns its full length and may, therefore, be similar to its non-RIP counterpart. Insufficient research exists to support a new and different, low ignition propensity SRM; and a variety of as-yet-unknown modifications to the test method in 16 CFR part 1632 would likely be needed to incorporate such an SRM. The time and cost to develop a new SRM is undetermined, but the existing concern about the short-term availability of a consistent ignition source would not be resolved.

Thus, while a lower ignition strength SRM cigarette may be technically feasible, there is no readily available SRM alternative that would address the need for a consistent, "safety-neutral" ignition source.

b. No Action

Under the second alternative, the test cigarette specifications in the Standard would remain unchanged. Manufacturers and testers would remain free to conduct tests with any available cigarettes, including RIP Pall Malls, which meet the existing physical parameters.

The possible advantage of the Commission taking no action is that the projected minor increase in resource costs of testing would not be incurred.

The possible disadvantage of the Commission taking no action would be that the basic issue of test result variability due to differences in cigarettes would not be addressed, and the uncertainty and confusion surrounding the reliability of tests for compliance with 16 CFR part 1632 would not be reduced. Manufacturers and testing firms may continue to conduct tests that are either wasteful (in terms of extra RIP cigarettes required to complete a test) or have irreproducible results.

In summary, there are no readily available and/or, technically feasible alternatives to the proposed amendment that would have lower estimated costs and still address the need for a consistent ignition source that retains the "safety-neutral" approach of the proposed amendment.

E. Regulatory Flexibility Act Certification

Under the Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.,* an agency that engages in rulemaking generally must prepare initial and final regulatory flexibility analyses describing the impact of the rule on small businesses and other small entities. Section 605 of the RFA provides that an agency is not required to prepare a regulatory flexibility analysis if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The proposed rule would retain the current mattress test procedure, but require that entities performing cigarette

ignition tests (including the CPSC, other state agencies, and industry testing organizations) purchase and use SRM cigarettes at a higher cost than commercial, non-SRM cigarettes. No additional actions would be required of small entities. The costs associated with the proposed rule would essentially be borne by mattress manufacturers and importers that perform (or pay fees for) compliance testing.

The latest available (2002) U.S. Census Bureau Statistics of U.S. Businesses and (2003) Economic Census data on this industry sector reported over 500 firms and more than 600 manufacturing establishments in NAICS sector code 337910, Mattress Manufacturing. More recent industry estimates suggest that the number of firms, including renovators, is closer to 400. The few industry-leading manufacturers are large firms with annual gross revenues of more than $1 billion and 3,000–5,000 employees each. However, the vast majority of producers—including all renovators—are much smaller, with annual gross revenues of under $20 million and fewer than 100 employees each. Many manufacturers serve regional markets and do not have nationwide distribution. The Economic Census reported that all but the largest 12 mattress producing firms—more than 95 percent—had fewer than 500 employees. These would be considered small businesses under the definition used by the Small Business Administration for this industry.

The larger firms are often comprised of multiple small manufacturing establishments. The average gross revenue of the 585 small manufacturing establishments identified in 2002 was about $8.1 million. Excluding small establishments with more than 100 employees from this average provides a reasonable approximation of small firms that are independent of the major producers. This approach reduces the average gross revenue to about $4 million. This $4 million average can be used to illustrate the potential effect of the proposed rule on small firms.

As discussed in the cost analysis section above, added testing and certification costs related to the proposed rule may average about $133 per small firm, or less than three cents per unit. This represents about $133/$4 million = .0033 percent (*i.e.,* less than one percent) of small firms' average gross revenues. Even using the $475 increased cost estimate presented in the analysis for larger firms, the impact on small firms' average gross revenue would be only $475/$4 million = .012 percent.

Based on this information, the proposal would have little or no effect on small producers because the design and construction of existing, compliant mattress products would remain unchanged and because the resource cost increase of using SRM cigarettes would represent a minimal increase in total testing costs. Thus, the Commission preliminarily concludes that the proposed rule would not have a significant impact on a substantial number of small businesses or other small entities.

F. Environmental Considerations

Pursuant to the National Environmental Policy Act, and in accordance with the Council on Environmental Quality regulations and CPSC procedures for environmental review, the Commission has assessed the possible environmental effects associated with the proposed rule.

The Commission's regulations state that amendments to rules providing performance requirements for consumer products normally have little or no potential for affecting the human environment. 16 CFR 1021.5(c)(1). Nothing in this proposed rule alters that expectation. Therefore, because the proposed amendment would have no adverse effect on the environment, neither an environmental assessment nor an environmental impact statement is required.

G. Executive Orders

According to Executive Order 12988 (February 5, 1996), agencies must state in clear language the preemptive effect, if any, of new regulations. The proposed rule, if finalized, would modify a flammability standard issued under the FFA. With certain exceptions that are not applicable in this instance, no state or political subdivision of a state may enact or continue in effect "a flammability standard or other regulation" applicable to the same fabric or product covered by an FFA standard if the state or local flammability standard or other regulations is "designed to protect against the same risk of the occurrence fire" unless the state or local flammability standard or regulation "is identical" to the FFA standard. *See* 15 U.S.C. 1476(a). The proposed rule would not alter the preemptive effect of the existing mattress standard.

Thus, the proposed rule would preempt nonidentical state or local flammability standards for mattresses or mattress pads designed to protect against the same risk of the occurrence of fire.

H. Effective Date

Section 4(b) of the FFA (15 U.S.C. 1193(b)) provides that an amendment of a flammability standard shall become effective one year from the date it is promulgated, unless the Commission finds for good cause than an earlier or later effective date is in the public interest, and the Commission publishes the reason for that finding. Section 4(b) of the FFA also requires that an amendment of a flammability standard shall exempt products "in inventory or with the trade" on the date the amendment becomes effective, unless the Commission limits or withdraws that exemption because those products are so highly flammable that they are dangerous when used by consumers for the purpose for which they are intended. The Commission concludes that a one-year effective date is appropriate to ensure ample time for the product cycle and continuing availability of SRM cigarettes from NIST. Therefore, the Commission proposes that the amendment to the ignition source provision of the standard would become effective one year after publication of a final amendment in the **Federal Register.**

I. Proposed Findings

Section 4(a) and (j)(2) of the FFA require the Commission to make certain findings when it issues or amends a flammability standard. The Commission must find that the standard or amendment: (1) Is needed to adequately protect the public against the risk of the occurrence of fire leading to death, injury, or significant property damage; (2) is reasonable, technologically practicable, and appropriate; (3) is limited to fabrics, related materials, or products which present unreasonable risks; and (4) is stated in objective terms. 15 U.S.C. 1193(b). In addition, the Commission must find that: (1) If an applicable voluntary standard has been adopted and implemented, that compliance with the voluntary standard is not likely to adequately reduce the risk of injury, or compliance with the voluntary standard is not likely to be substantial; (2) that benefits expected from the regulation bear a reasonable relationship to its costs; and (3) that the regulation imposes the least burdensome alternative that would adequately reduce the risk of injury. Because section 4(a) of the FFA refers to proceedings for the determination of an appropriate flammability standard "or other regulation or amendment," and because this proposed rule would be a technical amendment rather than a new flammability standard, for purposes of

this section of the preamble, we will refer to the proposed rule as a "proposed amendment." These findings are discussed below.

The amendment to the Standard is needed to adequately protect the public against unreasonable risk of the occurrence of fire. The current Standard specifies as the ignition source cigarettes that are no longer being produced. In order for the Standard to continue to be effective (and for labs to test mattresses and mattress pads to determine whether they comply with the Standard), it is necessary to change the ignition source specification. The proposed amendment is necessary to ensure that the testing is reliable and that results will not vary from one lab or manufacturer to another. Such variation would be likely if labs or manufacturers were able to use different ignition sources that have similar physical properties but different burning characteristics.

The amendment to the Standard is reasonable, technologically practicable, and appropriate. The proposed amendment is based on technical research conducted by NIST, which established that the SRM cigarette is capable of providing reliable and reproducible results in flammability testing of mattresses and mattress pads. The proposed SRM represents an equivalent, safety-neutral ignition source for use in testing to establish compliance with the Standard.

The amendment to the Standard is limited to fabrics, related materials, and products that present an unreasonable risk. The proposed amendment would continue to apply to the same products as the existing Standard.

Voluntary standards. There is no applicable voluntary standard for mattresses. The proposal would amend an existing Federal mandatory standard.

Relationship of benefits to costs. Amending the Standard to specify SRM cigarettes as the ignition source would allow testing to the Standard to continue without interruption, would maintain the effectiveness of the Standard, and would not significantly increase testing costs to manufacturers and importers of mattresses and mattress pads. Thus, there is a reasonable relationship between benefits and costs of the proposed amendment. Both expected benefits and costs of the proposed amendment are likely to be small. The likely effect on testing costs would be minor.

Least burdensome requirement. No other alternative would allow the Standard's level of safety and effectiveness to continue. Thus, the proposed amendment imposes the least burdensome requirement that would adequately address the risk of injury.

J. Conclusion

For the reasons discussed above, the Commission preliminarily finds that amending the mattress flammability standard (16 CFR part 1632) to specify SRM cigarettes as the ignition source is needed to adequately protect the public against the unreasonable risk of the occurrence of fire leading to death, injury, and significant property damage. The Commission also preliminarily finds that the amendment to the Standard is reasonable, technologically practicable, and appropriate. The Commission further finds that the amendment is limited to the fabrics, related materials, and products that present such unreasonable risks.

K. References

1. Gann, R.G., and Hnetkovsky E.J., *Modification of ASTM E 2187 for Measuring the Ignition Propensity of Conventional Cigarettes,* Technical Note 1627, National Institute of Standards and Technology, Gaithersburg, MD 20899, 2009.

2. Directorate for Economic Analysis Report, *Preliminary Regulatory Analysis: Smoldering Ignition Source Draft Proposed Technical Amendment to the Flammability Standard for Mattresses and Mattress Pads* (16 CFR part 1632).

List of Subjects in 16 CFR Part 1632

Consumer protection, Flammable materials, Labeling, Mattresses and mattress pads, Records, Textiles, Warranties.

For the reasons given above, the Commission proposes to amend 16 CFR part 1632 as follows:

PART 1632—STANDARD FOR THE FLAMMABILITY OF MATTRESSES AND MATTRESS PADS (FF 4–72, AMENDED)

1. The authority citation for part 1632 continues to read as follows:

Authority: 15 U.S.C. 1193, 1194; 15 U.S.C. 2079(b).

2. Section 1632.4 is amended by revising paragraph (a)(2) to read as follows:

§ 1632.4 Mattress test procedure.

(a) * * *

(2) *Ignition source.* The ignition source shall be National Institute of Standards and Technology ("NIST") Standard Reference Material ("SRM") 1196, available for purchase from the National Institute for Standards and Technology, 100 Bureau Drive, Gaithersburg, MD 20899.

* * * * *

Dated: October 26, 2010.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2010–27504 Filed 10–29–10; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–344P]

Listing of Approved Drug Products Containing Dronabinol in Schedule III

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule is issued by the Deputy Administrator of the Drug Enforcement Administration (DEA) to modify the listing of the Marinol® formulation in schedule III so that certain generic drug products are also included in that listing.

Several products are currently the subject of Abbreviated New Drug Applications (ANDAs) under review by the U.S. Food and Drug Administration (FDA). Each product is a generic formulation of Marinol® and contains dronabinol, the (-) isomer of delta-9-(trans)-tetrahydrocannabinol (THC), which is a schedule I controlled substance. Due to variations in formulation, these generic Marinol® products do not meet the specific conditions specified in the current schedule III listing.

This proposed action expands the schedule III listing to include formulations having naturally-derived dronabinol and products encapsulated in hard gelatin capsules. This would have the effect of transferring the FDA-approved versions of such generic Marinol® products from schedule I to schedule III.

DATES: Written comments must be postmarked and electronic comments must be submitted on or before January 3, 2011. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after midnight Eastern Time on the last day of the comment period.

ADDRESSES: To ensure proper handling of comments, please reference "Docket No. DEA–344" on all written and electronic correspondence. Written comments sent via regular or express

mail should be sent to the Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODL, 8701 Morrissette Drive, Springfield, VA 22152. Comments may be sent to DEA by sending an electronic message to *dea.diversion.policy@usdoj.gov*. Comments may also be sent electronically through *http://www.regulations.gov* using the electronic comment form provided on that site. An electronic copy of this document is also available at the *http://www.regulations.gov* Web site. DEA will accept attachments to electronic comments in Microsoft Word, WordPerfect, Adobe PDF, or Excel file formats only. DEA will not accept any file formats other than those specifically listed here.

Please note that DEA is requesting that electronic comments be submitted before midnight Eastern Time on the day the comment period closes because *http://www.regulations.gov* terminates the public's ability to submit comments at midnight Eastern Time on the day the comment period closes. Commenters in time zones other than Eastern Time may want to consider this so that their electronic comments are received. All comments sent via regular or express mail will be considered timely if postmarked on the day the comment period closes.

FOR FURTHER INFORMATION CONTACT: Christine A. Sannerud, PhD, Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, VA 22152, Telephone (202) 307–7183.

SUPPLEMENTARY INFORMATION:

Posting of Public Comments: Please note that all comments received are considered part of the public record and made available for public inspection online at *http://www.regulations.gov* and in the Drug Enforcement Administration's public docket. Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online or made available in the public docket, you must include the phrase "PERSONAL IDENTIFYING INFORMATION" in the first paragraph of your comment. You must also place all the personal identifying information you do not want posted online or made available in the public docket in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want it to be posted online or made available in the public docket, you must include the phrase "CONFIDENTIAL BUSINESS INFORMATION" in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted online or made available in the public docket.

Personal identifying information and confidential business information identified and located as set forth above will be redacted and the comment, in redacted form, will be posted online and placed in the DEA's public docket file. Please note that the Freedom of Information Act applies to all comments received. If you wish to inspect the agency's public docket file in person by appointment, please see the **FOR FURTHER INFORMATION CONTACT** paragraph.

Background

The DEA has received four petitions from companies that have products that are currently the subject of ANDAs under review by the FDA. Each product is a generic formulation of Marinol® and contains dronabinol, the (-) isomer of delta-9-(trans)-tetrahydrocannabinol (THC), which is a schedule I controlled substance. These petitions each requests amendments to Controlled Substances Act (CSA) regulations that would have the effect of transferring the proposed generic Marinol® product from schedule I to schedule III.

At present, the only formulation containing dronabinol that is in a schedule other than schedule I is the following, as set forth in 21 CFR 1308.13(g)(1) as schedule III:

"Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved product."

While the petitioners cite that their generic products are bioequivalent to Marinol®, their products do not meet schedule III current definition provided above. Therefore, these firms have requested that 21 CFR 1308.13(g)(1) be expanded to include: (1) Both naturally-derived or synthetically produced dronabinol; and (2) both hard or soft gelatin capsules.

In response to these petitions, DEA prepared several scheduling review documents based upon petitioner-provided data. On June 22, 2007, and August 15, 2007, these analyses were submitted to the Department of Health and Human Services (DHHS) with requests for scientific and medical evaluation and scheduling recommendations. The submissions to DHHS also requested that they consider (1) whether dronabinol extracted from Cannabis sativa (i.e. naturally-derived), is identical to synthetically-produced dronabinol found in Marinol®; and (2) whether a formulation encapsulated in hard gelatin capsules, instead of soft gelatin capsules, changes a product's abuse potential.

On March 17, 2010, and June 1, 2010, the Assistant Secretary for Health, DHHS, sent the Deputy Administrator of DEA scientific and medical evaluations and letters recommending that FDA-approved drug products containing dronabinol (both naturally-derived or synthetic) in sesame oil in a gelatin capsule (either hard or soft gelatin) be placed into schedule III of the CSA. Enclosed with the March 17, 2010, letter, was a document prepared by the FDA entitled, "Basis for the Recommendation to Control FDA-Approved Drug Products Containing Synthetic Dronabinol in Sesame Oil in a Hard Gelatin Capsule to Schedule III of the Controlled Substances Act." The June 1, 2010, letter included a document entitled, "Basis for the Recommendation to Reschedule FDA-Approved Drug Products Containing Naturally-Derived Dronabinol in Sesame Oil in a Gelatin Capsule to Schedule III of the Controlled Substances Act." These documents contained a review of the factors which the CSA requires the Secretary to consider 21 U.S.C. 811(b).

Therefore, in this rulemaking, DEA is proposing that 21 CFR 1308.13(g)(1) be modified to include generic equivalents of Marinol® which are (1) both synthetic or naturally-derived dronabinol; and/or (2) hard or soft gelatin capsules.

Background Regarding Dronabinol

Dronabinol is a name of a particular isomer of a class of chemicals known as tetrahydrocannabinols (THC). Specifically, dronabinol is the United States Adopted Name (USAN) for the (-)-isomer of [Delta]\9\-(trans)-tetrahydrocannabinol [(-)-[Delta]\9\-(trans)-THC], which is believed to be the major psychoactive component of the cannabis plant (marijuana).

THC, as a general category, is listed in schedule I of the CSA,[1] while

[1] 21 U.S.C. 812(c), Schedule I(c)(17). Schedule I contains those controlled substances with "no currently accepted medical use in treatment in the

Continued

dronabinol contained in the product Marinol® is listed separately in schedule III. Any other formulation containing dronabinol (or any other isomer of THC), that does not meet the definition provided in 21 CFR 1308.13(g)(1), remains a schedule I controlled substance.[2]

The current wording of the Marinol® formulation in schedule III (21 CFR 1308.13(g)(1)) was added to the DEA regulations in 1986, when the substance was transferred from schedule I to schedule II after the FDA approved Marinol® for marketing.[3] The wording of this listing was not specific to Marinol® and thereby could include any generic product meeting that description that might be approved by the FDA in the future. However, at the time the regulation was promulgated, DEA did not anticipate the possibility that a generic formulation could be developed that did not fit precisely the wording of the listing that currently appears in schedule III.

Recently, firms have submitted to FDA ANDAs for their proposed generic versions of Marinol®. As these ANDAs remain pending with the FDA, the precise nature of these formulations is not available for public disclosure. However, these formulations might differ from the Marinol® formulation currently listed in schedule III. Nonetheless, the firms that have submitted the ANDAs assert that their formulations would meet the approval requirements under 21 U.S.C. 355(j), because, among other things, they have the same active ingredient, strength, dosage form, and route of administration as Marinol®, and are bioequivalent to Marinol®.

Products are bioequivalent if there is no significant difference in the rate and extent to which the active ingredient or active moiety becomes available at the site of drug action 21 CFR 320.1. There is no requirement under 21 U.S.C. 355(j), or FDA's implementing regulations, that solid oral dosage forms such as capsules that are proposed for approval in ANDAs contain the same inactive ingredients as the listed drug referenced. The generic drug, therefore, would not fall within the scope of the current regulation. This situation, in which a generic version of a drug would not necessarily fall within the schedule for the referenced listed drug, is unique among the CSA schedules in the following respect. The Marinol® formulation listed in schedule III is the only listing in the schedules that has the effect of excluding potential generic versions of the brand name formulation.[4] As indicated above, this came about because DEA did not anticipate that other drug products could be approved by FDA that did not fit the description that was included in the schedules. Moreover, Congress structured the CSA so that there would be no distinction—for scheduling purposes—between brand name drug products and their generic equivalents. The rule being proposed here would ensure that this aspect of the CSA holds true for generic drug products approved under 21 U.S.C. 355(j) that reference Marinol® as the listed drug.

In addition, 21 U.S.C. 355(j)(2)(C) permits applicants to petition FDA for approval of an ANDA for a drug product that may differ from the listed drug in certain specified ways, if clinical studies are not necessary to establish the safety and effectiveness of the drug product. Among the types of differences permitted is a change in dosage form, or manner in which the active ingredient is produced.

This proposed rule would amend the description in schedule III [21 CFR 1308.13(g)(1)] to include products referencing Marinol® that are either (1) naturally derived or synthetic; or (2) in hard or soft gelatin capsules, as long as the formulations otherwise meet the approval requirements in 21 U.S.C. 355(j).

The CSA Scheduling Structure

To understand the legal justification for the rule being proposed here, the scheduling scheme established by Congress under the CSA must first be considered. One court has succinctly summarized this scheme as follows:

> The [CSA] sets forth initial schedules of drugs and controlled substances in 21 U.S.C. 812(c). However, Congress established procedures for adding or removing substances from the schedules (control or decontrol), or to transfer a drug or substance between schedules (reschedule). 21 U.S.C. 811(a). This responsibility is assigned to the Attorney General in consultation with the Secretary of Health and Human Services ("HHS") Id. Sec. 811(b). The Attorney General has delegated his functions to the Administrator of the DEA 28 CFR 0.100(b). Current schedules are published at 21 CFR 1308.11–1308.15.
>
> There are three methods by which the DEA may initiate rulemaking proceedings to revise the schedules: (1) By the DEA's own motion; (2) at the request of DHHS; (3) on the petition of any interested party. 21 U.S.C. 811(a);
>
> 21 CFR 1308.43(a). Before initiating rulemaking proceedings, the DEA must request a scientific and medical evaluation from DHHS and a scheduling recommendation. The statute requires the DEA and DHHS to consider eight factors with respect to the drug or controlled substance. 21 U.S.C. 811(b), (c).
>
> These factors are:
>
> (1) Its actual or relative potential for abuse.
>
> (2) Scientific evidence of its pharmacological effect, if known.
>
> (3) The state of current scientific knowledge regarding the drug or other substance.
>
> (4) Its history and current pattern of abuse.
>
> (5) The scope, duration, and significance of abuse.
>
> (6) What, if any, risk there is to the public health.
>
> (7) Its psychic or physiological dependence liability.
>
> (8) Whether the substance is an immediate precursor of a substance already controlled under this subchapter.
>
> Although the recommendations of DHHS are binding on the DEA as to scientific and medical considerations involved in the eight-factor test, the ultimate decision as to whether to initiate rulemaking proceedings to reschedule a controlled substance is made by the DEA.[5]
>
> Gettman v. DEA, 290 F.3d 430, 432 (DC Cir. 2002).

The FDA plays an important role within DHHS in the development of the DHHS scientific and medical determinations that bear on eight-factor analyses referred to above (required under section 811(c) for scheduling decisions). Thus, when it comes to newly developed drug products that contain controlled substances, FDA makes scientific and medical determinations for purposes of both the Food Drug and Cosmetic Act (in connection with decisions on whether to approve drugs for marketing) and the CSA (in connection with scheduling decisions). As explained below, the eight-factor analysis can be expected to yield the same conclusions with respect to a brand name drug product and certain generic drugs referencing that product that meet the approval requirements under 21 U.S.C. 355(j).

United States" and "a lack of accepted safety for use * * * under medical supervision." 21 U.S.C. 812(b)(1).

[2] The introductory language to schedule I(c) states that any material, compound, mixture, or preparation that contains any of the substances listed in schedule I(c) (including "tetrahydrocannabinols") is a schedule I controlled substance "[u]nless specifically excepted or unless listed in another schedule." The only material, compound, mixture, or preparation that contains THC but is listed in another schedule is the Marinol® formulation, which is listed in schedule III.

[3] 51 FR 17476 (May 13, 1986). DEA subsequently transferred the FDA-approved Marinol® formulation from schedule II to schedule III. 64 FR 35928 (July 2, 1999).

[4] Generally, substances are listed in the CSA schedules based on their chemical classification, rather than any drug product formulation in which they might appear. Because of this, there have been no other situations in which a slight variation between the brand name drug formulation and the generic drug formulation was consequential for scheduling purposes.

[5] *See id.* Sec. 811(a), (b).

The ANDA Approval Process

The Drug Price Competition and Patent Term Restoration Act of 1984 (known as the "Hatch-Waxman Amendments"), codified at 21 U.S.C. 355, 360cc, and 35 U.S.C. 156, 271, 282, permits the submission of ANDAs for approval of generic versions of approved drug products. 21 U.S.C. 355(j). The ANDA process shortens the time and effort needed for approval by, among other things, allowing the applicant to demonstrate its product's bioequivalence to a drug already approved under a New Drug Application (NDA) (the "listed" drug) rather than having to reproduce the safety and effectiveness data for that drug. If an ANDA applicant establishes that its proposed drug product has the same active ingredient, strength, dosage form, route of administration, labeling, and conditions of use as a listed drug, and that it is bioequivalent to that drug, the applicant can rely on FDA's previous finding that the listed drug is safe and effective [*See id*].[6] Once approved, an ANDA sponsor may manufacture and market the generic drug to provide a safe, effective, and low cost alternative to the American public.

The majority of drugs approved under 21 U.S.C. 355(j) are therapeutically equivalent to the listed drug they reference. This means that the generic drug and the referenced innovator drug contain identical amounts of the active ingredient, and are bioequivalent. Therapeutic equivalents can be expected to have the same clinical effect and safety profile when administered to patients under the conditions specified in the labeling.

The key point, for purposes of the rule being proposed here, is that the generic drug can be substituted for the innovator drug with the full expectation that the generic drug will produce the same clinical effect and safety profile as the innovator drug. Consequently, for CSA scheduling purposes, the eight-factor analysis conducted by the FDA and DEA under 21 U.S.C. 811(c) would necessarily result in the same scheduling determination for an approved generic drug product as for the innovator drug to which the generic drug is a therapeutic equivalent. This is because, in conducting the eight-factor analysis, the FDA and DEA would be examining precisely the same medical, scientific, and abuse data for the generic drug product as would be considered for the innovator drug. The same would be true of the innovator drug and a drug product approved pursuant to a petition under 21 U.S.C. 355(j)(2)(C), where the drug approved in the ANDA differs from the listed drug only because it is a hard gelatin capsule and the listed drug is a soft gelatin capsule; or the active ingredient is naturally-derived, rather than synthetically produced.

As noted earlier, these considerations never previously arose for any other controlled substance because the regulation citing the Marinol® formulation is the only scheduling regulation that is drug product formulation-specific and thereby (inadvertently) excludes certain generic versions.[7] This unintended result is not consistent with the structure and purposes of the CSA, which generally lists categories of substances in the schedules, rather than product formulations. Thus, by ensuring that generic versions of the Marinol® formulation which might be approved by the FDA in the future are in the same schedule as Marinol®, the rule being proposed here would make the DEA regulations more consistent with the structure and purposes of the CSA.

Finally, for additional clarity, the proposed rule would amend 21 CFR 1308.13(g)(1) to change the phrase "U.S. Food and Drug Administration approved product" to "drug product approved for marketing by the U.S. Food and Drug Administration."

On June 22, 2007, and August 15, 2007, DEA submitted scheduling review documents for several dronabinol generic products to the DHHS, and requested that DHHS provide scientific and medical evaluation and scheduling recommendations under the CSA. (These documents are available for review online at *http://www.deadiversion.usdoj.gov*.)

On March 17, 2010, and June 1, 2010, the Assistant Secretary for Health, DHHS, sent the Deputy Administrator of DEA scientific and medical evaluations and letters recommending that FDA-approved drug products containing dronabinol (naturally-derived or synthetic) in sesame oil in a gelatin capsule (hard or soft) be placed into schedule III of the CSA. Enclosed with the March 17, 2010, letter was a document prepared by the FDA entitled, "Basis for the Recommendation to Control FDA-Approved Drug Products Containing Synthetic Dronabinol in Sesame Oil in a Hard Gelatin Capsule to Schedule III of the Controlled Substances Act." The June 1, 2010 letter included a document entitled, "Basis for the Recommendation to Reschedule FDA-Approved Drug Products Containing Naturally-Derived Dronabinol in Sesame Oil in a Gelatin Capsule to Schedule III of the Controlled Substances Act." These documents contained a review of the factors which the CSA requires the Secretary to consider. 21 U.S.C. 811(b).

Note: The DHHS scheduling recommendations of March 17, 2010, and June 1, 2010, are available for review online at *http://www.deadiversion.usdoj.gov*.

The factors considered by the Assistant Secretary of Health and DEA with respect to these products were:

(1) Its actual or relative potential for abuse;

(2) Scientific evidence of its pharmacological effects;

(3) The state of current scientific knowledge regarding the drug;

(4) Its history and current pattern of abuse;

(5) The scope, duration, and significance of abuse;

(6) What, if any, risk there is to the public health;

(7) Its psychic or physiological dependence liability; and

(8) Whether the substance is an immediate precursor of a substance already controlled under this subchapter. 21 U.S.C. 811(c).

The DHHS scheduling recommendation of March 17, 2010, concluded that drug products containing synthetic dronabinol in sesame oil and encapsulated in a hard gelatin capsule, have a similar potential for abuse as Marinol®. "These products contain the same Active Pharmaceutical Ingredient (API), have similar chemistry and pharmacokinetics and have similar formulations in sesame oil." FDA and National Institute on Drug Abuse (NIDA), after reviewing the available information conclude "that drug products approved for marketing by FDA that contain synthetic dronabinol in sesame oil in a hard gelatin capsule be controlled in Schedule III of the CSA."

The DHHS scheduling recommendation of June 1, 2010, concluded that drug products that contain naturally-derived dronabinol in sesame oil and in a gelatin capsule, have a similar potential for abuse as Marinol®. FDA and NIDA, after reviewing the available information, concluded "that drug products approved

[6] *See* also Approved Drug Products with Therapeutic Equivalence Evaluations (commonly known as the "Orange Book"), Intro. at p. vi, (27th ed.).

[7] When Congress enacted the CSA in 1970, it scheduled codeine and certain other opiates in three different schedules depending on their respective concentrations. *See* 21 U.S.C. 812(c), schedule II(a)(1), schedule III(d), and schedule V. However, this differential scheduling for opiates does not specify drug product formulation in a manner that would result in a generic version of an opiate drug product being scheduled separately from the innovator drug.

for marketing by FDA that contain naturally-derived dronabinol in sesame oil in a gelatin capsule should be rescheduled to Schedule III of the CSA."

Based on the recommendations of the Assistant Secretary for Health, received in accordance with section 201(b) of the Act [21 U.S.C. 811(b)], and the independent review of the available data by DEA, the Deputy Administrator of DEA, pursuant to sections 201(a) and 201(b) of the Act [21 U.S.C. 811(a) and 811(b)], finds that FDA-approved generic dronabinol products, both naturally-derived or synthetically produced, in sesame oil and encapsulated in both hard gelatin or soft gelatin capsules meet the criteria for placement in schedule III set in 21 U.S.C. 812(b), as follows:

A. The Drug or Other Substance Has a Potential for Abuse Less Than the Drugs or Other Substances in Schedule II

FDA-approved generic drug products that contain dronabinol (both naturally-derived or synthetically produced) in sesame oil in a gelatin capsule (both hard or soft gelatin) and reference Marinol®, have a similar potential for abuse as Marinol®, a schedule III drug product and have similar chemistry and pharmacokinetics as similar formulations in sesame oil.

B. The Drug or Other Substance Has a Currently Accepted Medical Use in Treatment in the United States

Marinol® was initially approved by FDA in 1985. When drug products that reference Marinol® receive FDA approval, they will have a currently accepted medical use in the United States.

C. Abuse of the Drug or Other Substance May Lead to Moderate or Low Physical Dependence or Psychological Dependence and Such Dependence Would Be Less Than the Drugs or Other Substances in Schedule II

The withdrawal syndrome associated with dronabinol, the API in Marinol®, produces symptoms in humans such as restlessness, irritability, mild agitation, anxiety, anger, insomnia, sleep EEG disturbances, nausea, decreased appetite, and decreased weight. Since a withdrawal syndrome is indicative of physical dependence, it is reasonable to conclude that generic dronabinol products (both naturally-derived or synthetically produced, and in hard or soft gelatin capsules) in sesame oil, will also produce physical dependence similar to those produced by Marinol®.

Therefore, in this rulemaking, DEA is proposing that 21 CFR 1308.13(g)(1) be modified to include generic equivalents of Marinol® which are (1) naturally-derived or synthetically produced dronabinol; and/or (2) hard or soft gelatin capsules. These products, once approved by FDA, shall meet the criteria for inclusion in schedule III of the CSA.

Comments and Requests for Hearing

In accordance with the provisions of the CSA (21 U.S.C. 811(a)), this action is a formal rulemaking "on the record after opportunity for a hearing." Such proceedings are conducted pursuant to the provisions of the Administrative Procedure Act 5 U.S.C. 556 and 557. All persons are invited to submit their comments or objections with regard to this proposal. Requests for a hearing may be submitted by interested persons and must conform to the requirements of 21 CFR 1308.44 and 1316.47. The request should state, with particularity, the issues concerning which the person desires to be heard and the requestor's interest in the proceeding. Only interested persons, defined in the regulations as those "adversely affected or aggrieved by any rule or proposed rule issuable pursuant to section 201 of the Act (21 U.S.C. 811)," may request a hearing 21 CFR 1308.42. Please note that DEA may grant a hearing only "for the purpose of receiving factual evidence and expert opinion regarding the issues involved in the issuance, amendment or repeal of a rule issuable" pursuant to 21 U.S.C. 811(a). All correspondence regarding this matter should be submitted to the DEA using the address information provided above.

Regulatory Certifications

Executive Order 12866

In accordance with the provisions of the CSA [21 U.S.C. 811(a)], this action is a formal rulemaking "on the record after opportunity for a hearing." Such proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and, as such, are exempt from review by the Office of Management and Budget pursuant to Executive Order 12866, section 3(d)(1).

Regulatory Flexibility Act

The Deputy Administrator hereby certifies that this rulemaking has been drafted in accordance with the Regulatory Flexibility Act (5 U.S.C. 601–612), has reviewed this regulation, and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities. DEA is hereby proposing to modify the listing of the Marinol® formulation in schedule III so that certain generic drug products are also included in that listing.

Executive Order 12988

This regulation meets the applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988 Civil Justice Reform.

Executive Order 13132

This rulemaking does not preempt or modify any provision of state law; nor does it impose enforcement responsibilities on any state; nor does it diminish the power of any state to enforce its own laws. Accordingly, this rulemaking does not have federalism implications warranting the application of Executive Order 13132.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $126,000,000 or more (adjusted for inflation) in any one year, and 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.

Congressional Review Act

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act). This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices: or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign based companies in domestic and export markets.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Pursuant to the authority vested in the Attorney General under sections 201, 202, and 501(b) of the CSA (21 U.S.C. 811, 812, and 871(b)), delegated to the Administrator and Deputy Administrator pursuant to section 501(a) (21 U.S.C. 871(a)) and as specified in 28 CFR 0.100 and 0.104, and appendix to subpart R, sec. 12, the Deputy Administrator hereby orders that Title 21 of the Code of Federal Regulations, part 1308, is proposed to be amended as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

1. The authority citation for 21 CFR part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b) unless otherwise noted.

2. Section 1308.13 is amended by revising paragraph (g) to read as follows:

§ 1308.13 Schedule III.

* * * * *

(g) *Hallucinogenic substances.*

(1)(i) Dronabinol in sesame oil and encapsulated in a gelatin capsule in a drug product approved for marketing by the U.S. Food and Drug Administration (FDA)—7369.

(ii) Any drug product in hard or soft gelatin capsule form containing natural dronabinol (derived from the cannabis plant) or synthetic dronabinol (produced from synthetic materials) in sesame oil, for which an abbreviated new drug application (ANDA) has been approved by the FDA under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)) which references as its listed drug the drug product referred to in the preceding paragraph (g)(1)(i) of this section—7369.

Note to paragraph (g)(1): Some other names for dronabinol: (6a R-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6 H-dibenzo [b,d]pyran-1-ol] or (-)-delta-9-(trans)-tetrahydrocannabinol]

(2) [Reserved]

* * * * *

Dated: October 19, 2010.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. 2010–27502 Filed 10–29–10; 8:45 am]

BILLING CODE 4410–09–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 85, 86, 1036, 1037, 1065, 1066, and 1068

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 523, 534, and 535

[EPA–HQ–OAR–2010–0162; NHTSA–2010–0079; FRL–9219–2]

RIN 2060–AP61; RIN 2127–AK74

Public Hearings for Greenhouse Gas Emissions Standards and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles

AGENCIES: Environmental Protection Agency (EPA) and National Highway Traffic Safety Administration (NHTSA).

ACTION: Notice of public hearings.

SUMMARY: EPA and NHTSA are announcing public hearings to be held for the joint proposed rules "Greenhouse Gas Emissions Standards and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles," which will be published in the near future in the **Federal Register**. The agencies will also accept comment on NHTSA's Draft Environmental Impact Statement. Two hearings will be held, on November 15 and 18, 2010.

DATES: NHTSA and EPA will jointly hold a public hearing on Monday, November 15, 2010, beginning at 11 a.m. local time, and a second hearing on Thursday, November 18, 2010, beginning at 10 a.m. local time. EPA and NHTSA will make every effort to accommodate all speakers that arrive and register. Each hearing will continue until 5 p.m. or until everyone has had a chance to speak. If you would like to present oral testimony at one of these public hearings, please contact the person identified under **FOR FURTHER INFORMATION CONTACT**, at least ten days before the hearing.

ADDRESSES: The November 15 hearing will be held at the Millennium Knickerbocker Hotel Chicago, 163 East Walton Place (at N. Michigan Ave.), Chicago, Illinois 60611. The November 18, 2010 hearing will be held at the Hyatt Regency Cambridge, 575 Memorial Drive, Cambridge, Massachusetts 02139–4896. The hearings will be held at sites accessible to individuals with disabilities.

FOR FURTHER INFORMATION CONTACT: If you would like to present oral testimony at a public hearing, please contact Julia MacAllister at EPA by the date specified under **DATES**, at: Office of Transportation and Air Quality, Assessment and Standards Division (ASD), Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: (734) 214–4131; fax number: (734) 214–4050; e-mail address: *macallister.julia@epa.gov* (preferred method for registering), or Assessment and Standards Division Hotline; telephone number; (734) 214–4636; e-mail: *asdinfo@epa.gov.* Please provide the following information: Time you wish to speak (morning, afternoon), name, affiliation, address, e-mail address, and telephone and fax numbers, and whether you require accommodations such as a sign language interpreter.

Questions concerning the proposed rules should be addressed to NHTSA: Rebecca Yoon, Office of Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: (202) 366–2992. EPA: Lauren Steele, Office of Transportation and Air Quality, Assessment and Standards Division (ASD), Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: (734) 214–4788; fax number: (734) 214–4816; e-mail address: *steele.lauren@epa.gov,* or Assessment and Standards Division Hotline; telephone number; (734) 214–4636; e-mail: *asdinfo@epa.gov.* You may learn more about the proposal by visiting NHTSA's or EPA's Web pages at *http://www.nhtsa.gov/fuel-economy* or *http://www.epa.gov/otaq/climate/regulations.htm* or by searching the rulemaking dockets (NHTSA–2010–0079; EPA–HQ–OAR–2010–0162) at *http://www.regulations.gov.*

SUPPLEMENTARY INFORMATION: The purpose of the public hearings is to provide the public an opportunity to present oral comments regarding NHTSA and EPA's proposal for "Greenhouse Gas Emissions Standards and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles." These hearings also offer an opportunity for the public to provide oral comments regarding NHTSA's draft Environmental Impact Statement, accompanying the proposed NHTSA fuel efficiency standards. The proposed rules would establish a comprehensive Heavy-Duty National Program that will reduce greenhouse gas emissions and increase fuel efficiency for on-road heavy-duty vehicles. NHTSA's proposed fuel consumption standards and EPA's proposed carbon dioxide (CO_2) emissions standards would be tailored to each of three regulatory categories: (1) Combination Tractors; (2) Heavy-duty Pickup Trucks and Vans; and (3) Vocational Vehicles, as well as gasoline and diesel heavy-duty engines. EPA's proposed hydrofluorocarbon emissions standards would apply to air conditioning systems in tractors, pickup trucks, and vans, and EPA's proposed nitrous oxide (N_2O) and methane (CH_4) emissions standards would apply to all heavy-duty engines, pickup trucks, and vans. The proposal also includes a request for comment on possible alternative CO_2-equivalent approaches for light-duty vehicles in model years 2012–14.

The proposal for which EPA and NHTSA are holding the public hearings will be published in the near future in the **Federal Register** and is available at the Web pages listed above under **FOR FURTHER INFORMATION CONTACT** and also in the rulemaking dockets. NHTSA's draft Environmental Impact Statement is available on the NHTSA Web page and in NHTSA's rulemaking docket, both

referenced above. Once NHTSA and EPA learn how many people have registered to speak at each public hearing, we will allocate an appropriate amount of time to each participant, allowing time for necessary breaks. In addition, we will reserve a block of time for anyone else in the audience who wants to give testimony. For planning purposes, each speaker should anticipate speaking for approximately ten minutes, although we may need to shorten that time if there is a large turnout. We request that you bring three copies of your statement or other material for the EPA and NHTSA panels. To accommodate as many speakers as possible, we prefer that speakers not use technological aids (*e.g.,* audio-visuals, computer slideshows). However, if you plan to do so, you must notify the contact persons in the **FOR FURTHER INFORMATION CONTACT** section above. You also must make arrangements to provide your presentation or any other aids to NHTSA and EPA in advance of the hearing in order to facilitate set-up.

NHTSA and EPA will conduct the hearings informally, and technical rules of evidence will not apply. We will arrange for a written transcript of each hearing and keep the official record of each hearing open for 30 days to allow speakers to submit supplementary information. Panel members may ask clarifying questions during the oral presentations, but will not respond to the presentations at that time. You may make arrangements for copies of the transcripts directly with the court reporter. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral comments and supporting information presented at the public hearings. Written comments on the proposal must be postmarked by 60 days after the date of publication of the proposal in the **Federal Register**.

Dated: October 26, 2010.

Ronald Medford,

Deputy Administrator, National Highway Traffic Safety Administration.

Dated: October 25, 2010.

Margo T. Oge,

Director, Office of Transportation and Air Quality Environmental Protection Agency.

[FR Doc. 2010–27510 Filed 10–29–10; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[WT Docket No. 10–208; FCC 10–182]

Universal Service Reform Mobility Fund

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the Federal Communication Commission proposes the creation of a new Mobility Fund to make available one-time support to significantly improve coverage of current-generation or better mobile voice and Internet service for consumers in areas where such coverage is currently missing. The Commission seeks comment on creating the Mobility Fund using reserves accumulated in the Universal Service Fund and on the use of a reverse auction to make one-time support available to service providers to cost-effectively extend mobile coverage in specified unserved areas.

DATES: Comments are due on or before December 16, 2010; reply comments are due on or before January 18, 2011.

ADDRESSES: You may submit comments, identified by WT Docket No. 10–208, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Federal Communications Commission's Web site: http://fjallfoss.fcc.gov/ecfs2/. Follow the instructions for submitting comments.

Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW., Room TW–A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: *FCC504@fcc.gov* or telephone: 202–418–0530 or TTY: 202–418–0432.

In addition to filing comments with the Secretary, a copy of any PRA comments on the proposed collection requirements contained herein should be submitted to the Federal Communications Commission via e-mail to *PRA@fcc.gov* and to Nicholas A. Fraser, Office of Management and Budget, via e-mail to *nfraser@omb.eop.gov* or fax at 202–395–5167.

FOR FURTHER INFORMATION CONTACT: *Wireless Telecommunications Bureau, Auctions and Spectrum Access Division:* Scott Mackoul at (202) 418–0660. For additional information concerning the information collection requirements contained in this document, send and e-mail to *PRA@fcc.gov* or contact Judith B. Herman at 202–418–0214.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Mobility Fund Notice of Proposed Rulemaking* in WT Docket No. 10–208, adopted October 14, 2010, and released on October 14, 2010. The complete text of the *Mobility Fund Notice of Proposed Rulemaking* is available for public inspection and copying from 8 a.m. to 4:30 p.m. ET Monday through Thursday or from 8 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The *Mobility Fund Notice of Proposed Rulemaking* may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–488–5300, fax 202–488–5563, or you may contact BCPI at its Web site: *http://www.BCPIWEB.com.* When ordering documents from BCPI, please provide the appropriate FCC document number, for example, FCC 10–182. The *Mobility Fund Notice of Proposed Rulemaking* is also available on the Internet at the Commission's Web site or by using the search function for WT Docket No. 10–208 on the ECFS Web page at *http://www.fcc.gov/cgb/ecfs/.*

Initial Paperwork Reduction Act of 1995 Analysis

This document contains proposed information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget to comment on the information collection requirements contained in the

document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Comments should address: (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 estimates; (c) ways to enhance the quality, utility and clarity of the information collected, and (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. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

I. Notice of Proposed Rulemaking

A. Introduction

1. Millions of Americans live in communities where current-generation mobile service is unavailable, and millions more work in or travel through such areas. To accelerate the Commission's nation's ongoing effort to close this mobility gap in a fiscally responsible manner, the *Mobility Fund Notice of Proposed Rulemaking* seeks comment on using reserves accumulated in the Universal Service Fund (USF) to create a new Mobility Fund. The purpose of the Mobility Fund is to significantly improve coverage of current-generation or better mobile voice and Internet service for consumers in areas where such coverage is currently missing, and to do so by supporting private investment. The Mobility Fund would use market mechanisms—specifically, a reverse auction—to make one-time support available to service providers to cost-effectively extend mobile coverage in specified unserved areas.

2. In the three decades since the Commission issued the first cellular telephone licenses, the wireless industry has continually expanded and upgraded its networks to the point where third generation (called advanced or 3G) mobile wireless services are now widely available. Despite these advances, mobility gaps remain a problem for residents, public safety first responders, businesses, public institutions, and travelers, particularly in rural areas. Such gaps impose significant disadvantages on those who live, work, and travel in these areas. Moreover, without existing modern wireless infrastructure, they are at risk of much-delayed access to the coming generations of high-speed wireless broadband services. For this reason, the *National Broadband Plan* recommended providing universal service support to promote the national build-out of 3G services as part of a comprehensive set of recommendations to reform the universal service program. *See* Federal Communications Commission, Connecting America: The National Broadband Plan, 146–48 (rel. Mar. 16, 2010) (*National Broadband Plan*). The proposals in the *Mobility Fund Notice of Proposed Rulemaking* build on that recommendation. In the *Mobility Fund Notice of Proposed Rulemaking,* the Commission uses "current generation," "3G," and "advanced" interchangeably to refer to mobile wireless services that include voice telecommunications service as well as email and Internet access.

3. The Commission recently undertook steps for fiscally responsible USF reform when, in the *Corr Wireless Order,* the Commission provided instructions for implementing the commitments of both Verizon Wireless and Sprint Nextel to surrender their high-cost universal service support over five years. High-Cost Universal Service Support, Federal-State Joint Board on Universal Service, Request for Review of Decision of Universal Service Administrator by Corr Wireless Communications, LLC, WC Docket No. 05–337, CC Docket No. 96–45, *Order and Notice of Proposed Rulemaking,* FCC 10–155 (rel. Aug. 31, 2010) (*Corr Wireless Order*). The Commission directed that the surrendered support be reserved as a potential down payment on proposed broadband universal service reforms as recommended by the *National Broadband Plan,* including creation of a Mobility Fund to provide wireless broadband service in areas that lack coverage. Thus, the Mobility Fund considered in the *Mobility Fund Notice of Proposed Rulemaking* is one of a set of initiatives to promote deployment of broadband and mobile services in the United States through a financially sensible transformation of USF, using market-based and incentive mechanisms.

B. Background

4. *The National Broadband Plan* recommended a Mobility Fund in connection with broader reforms of the USF. The plan recommended providing targeted, one-time support for deployment of 3G infrastructure in order to bring all states to a minimum level of mobile service availability, without increasing the size of the USF. The *National Broadband Plan* observed that supporting 3G build-out in states with 3G coverage lagging the national average would enable those states to catch up with the rest of the nation and improve the business case for 4G rollout in harder-to-serve areas.

C. Overall Design of the Mobility Fund

5. Drawing on some of the USF support voluntarily relinquished by Verizon Wireless and Sprint Nextel and reserved by the Commission, the Mobility Fund would make available non-recurring support to providers to deploy 3G or better networks where these services are not currently available. In order to maximize the reach of available funds, the Commission proposes to provide Mobility Fund support to at most one provider in any given unserved area. The Commission proposes to utilize a reverse auction mechanism to compare all offers to provide service across the unserved areas eligible for participation in the Mobility Fund program, which should give providers incentives to seek the least support needed and enable identification of the providers that will achieve the greatest additional coverage with the limited funding available. The Commission proposes to specify unserved areas eligible for support on a census block basis, using industry data compiled by American Roamer, and to conduct competitive bidding to offer support in unserved census blocks grouped by census tracts. The Commission noted that, because American Roamer reports *advertised* coverage as reported by many carriers who all use different definitions of coverage, the data from American Roamer may overstate the coverage actually experienced by consumers.

6. The Commission also seeks comment in the *Mobility Fund Notice of Proposed Rulemaking* on a number of alternative methods the Commission could use to distribute Mobility Fund support, including distributing support to any of the identified census tracts nationwide or targeting it to those identified census tracts in any county nationwide or in states where 3G deployment most significantly lags behind the percentage of nationwide population with 3G access. The Commission proposes to support only wireless networks performing as well as or better than 3G networks currently operating in the United States, for example networks using HSPA or EV–DO. The Commission proposes that parties receiving support be required to demonstrate the deployment and offering of service in previously

uncovered areas within a specified period of time. The Commission seeks comment on ways to structure the program so that it directs funding to those places where deployment of advanced mobile wireless service is otherwise not likely to happen.

1. Legal Authority

7. The Commission proposes to distribute Mobility Fund support through the universal service program. Accordingly, the Commission's legal authority to create the Mobility Fund is based upon and delimited by its legal authority to distribute universal service funds. The Commission has authority to use universal service funds to support an evolving level of telecommunications services, taking into account advances in telecommunications and information technologies and services. *See* 47 U.S.C. 254(c). In addition, various statutory and regulatory requirements apply to the use of these funds. *See* 47 U.S.C. 214, 254; 47 CFR 54.101. The Commission requests comment on its authority to implement the proposals contained in the *Mobility Fund Notice of Proposed Rulemaking.* The Commission also seeks comment on whether these proposals require any revisions to its existing regulations or to its existing authority. The Commission further asks that commenters address, to whatever extent necessary, whether any alternative proposals that they suggest are within its current legal authority or require any expansion of that authority.

2. Size of the Mobility Fund

8. The Commission proposes to use $100 million to $300 million in USF high-cost universal service support to fund, on a one-time basis, the expansion of current-generation mobile wireless services through a new Mobility Fund. Prior voluntary agreements by Verizon Wireless and Sprint Nextel to surrender USF high-cost support will likely make several hundred million dollars available annually that can be used for other USF purposes without increasing the overall size of the high-cost fund. The *National Broadband Plan* recommended using these foregone funds to implement its recommendations, including the creation of the Mobility Fund, and subsequently the Commission adopted the *Corr Wireless Order* implementing the voluntary commitments.

9. The ultimate impact of any amount of support would depend upon a variety of factors, including the extent to which non-recurring funding makes it possible to offer service profitably in areas previously uneconomic to serve, what percentage of the support must fund new facilities as opposed to upgrades to pre-existing facilities, the percentage of total capital costs that support must provide, and the extent to which new customers adopt services newly made available. The Commission seeks comment on the level of support to be provided through the Mobility Fund. Specifically, the Commission asks commenters to consider whether there is an optimal size for the Mobility Fund. For instance, is there an amount that would exceed what is needed to target those areas where non-recurring support could be used most effectively to expand coverage within a relatively short timeframe? What amount would be too small to effectively jump-start deployment so as to provide service in the places where it might not otherwise become available?

3. One Provider per Area

10. Given the Commission's objective of using the Mobility Fund to support the provision of expanded advanced mobile wireless services to as much of the currently unserved population in identified areas as possible, the Commission proposes that only one entity in a given geographic area receive Mobility Fund support. The Commission recognizes that mobile wireless providers have expressed competitive concerns, especially given that 3G services may use either CDMA or GSM technology, about the possibility of limiting support to one provider. In light of these concerns, the Commission proposes certain terms and conditions of support to encourage possibilities for competition. The Commission seeks comment on its proposal to make Mobility Fund support available to only one provider per area.

4. Auction To Determine Awards of Support

11. The Commission proposes to use a competitive bidding mechanism to determine the entities that will receive support under the Mobility Fund and the amount of support they will receive—that is, the Commission proposes to award support based on the lowest bid amounts submitted in a reverse auction. Such a mechanism should allow the market to reveal the costs of providing expanded access to advanced mobile services in unserved areas. This should allow the Commission to select the providers that require the least support without requiring onerous cost showings by applicants and without guaranteeing that support payments will cover all, or any specific percentage of, the providers' actual costs.

12. In this reverse auction, which the Commission proposes to conduct using a single round of bidding, applicants formulating their bids would have to evaluate carefully the amount of support they need to provide the required services. In general, bidders would not want to overstate the support they require since they would be competing against other providers for limited support funds and a higher bid would reduce their chances of winning. At the same time, they would not want to understate the support they require, since they might be awarded such support based on a bid amount that does not cover their costs and then be expected to provide services to meet the performance requirements. As a result, the submitted bids should present a good estimate of the actual costs to the bidders of providing advanced mobile services in the areas on which they bid to expand service. The Commission seeks comment generally on the use of a competitive bidding mechanism to determine recipients of Mobility Fund support and support amounts, and particularly, on the use of a single round reverse auction format.

13. More specifically, the Commission proposes to determine winning bidders for Mobility Fund support based on the lowest per-unit bids, using the population of unserved areas (and perhaps other characteristics, such as road miles) as units and taking into account the requirement that there be no more than one Mobility Fund recipient in any particular area. The auction mechanism would compare all per-unit bids across all areas (that is, compare all bids against all other bids, rather than compare all bids for a single area), and order all the submitted bids from lowest per-unit amount to highest. The bidder making the lowest per-unit bid would first be assigned support in an amount equal to the amount needed to cover the population (or units based on other characteristics) deemed unserved in the specific area at the per-unit rate that was bid. For example, if the lowest per-unit bid were $100 per person, the bidder placing that bid would be awarded support in the amount of $100 times the population of the area on which it bid. Support would continue to be assigned to the bidders with the next lowest per-unit bids in turn, as long as support had not already been assigned for that geographic area, until the running sum of support funds requested by the winning bidders was such that no further winning bids could be financed by the money available in the Mobility Fund.

14. By awarding support to those bidders that are able to cover units in

unserved areas at the least cost to the Mobility Fund, the greatest amount of population in the identified unserved areas can be covered with the available funds. The Commission seeks comment on this method of determining recipients of Mobility Fund support. The Commission also seeks comment on determining payment amounts as proposed—by multiplying the winning per-unit bid amounts by the units deemed unserved.

5. Identifying Unserved Areas Eligible for Support

15. The Commission proposes to identify unserved areas on a census block basis and, because individual census blocks are so small, the Commission proposes to conduct bidding to offer Mobility Fund support in unserved census blocks grouped by census tracts. The Commission further seeks comment on alternative ways to distribute support to these unserved areas.

a. Identifying Unserved Areas by Census Block

16. As a first step in identifying those areas for which applicants can bid for Mobility Fund support, the Commission proposes to determine the availability of service at the census block level, using a widely available dataset. Census blocks are the smallest geographic unit for which the Census Bureau collects and tabulates decennial census data, so determining coverage by census block should provide a detailed picture of the availability of 3G mobile services. By the end of the first quarter of 2011, census data from the 2010 decennial census should be available on a census block level. The Commission proposes to use that data when it becomes available and seeks comment on the proposal. Until that data becomes available, the Commission will use in its discussion the projected census block data from Geolytics Block Estimates and Block Estimates Professional databases (2009).

17. Specifically, the Commission proposes to use American Roamer data identifying the geographic coverage of networks using EV–DO, EV–DO Rev A, and UMTS/HSPA as a measure of availability of current-generation mobile wireless services. For each census block, the Commission would observe whether the data indicates that the geometric center of the block—referred to as the centroid—is covered by such mobile wireless services. If the data indicates that the centroid is not covered by such services, the Commission proposes to consider that census block as unserved. Alternatively, the Commission could use the data to obtain the geographic proportion of the block that is uncovered—the proportional method. The Commission could then consider unserved any census block where the data indicates that more than 50 percent of the area is unserved. Or, the Commission could consider unserved that fraction of the census block's population (or other units).

18. The Commission seeks comment on its proposed use of American Roamer data to determine areas unserved by current-generation mobile wireless services. Are there distinctions in the way carriers report coverage to American Roamer that the Commission should consider when using the data? Are there alternative available datasets the Commission can use instead of, or in addition to, American Roamer data that would be more reliable or better suited for identifying unserved areas? The Commission seeks comment also on the proposed centroid method of determining unserved census blocks and on the proportional coverage alternative. Is the centroid method likely to identify areas that are good candidates for support consistent with the objectives of the Mobility Fund? Are there other transparent and workable methods for using the available data to define unserved areas? In addition, the Commission seeks comment on the extent to which the availability in unserved census blocks of other supported services using non-mobile wireless technologies should be a factor in determining whether those census blocks should be eligible for Mobility Fund support.

19. The Commission recognizes that data on mobile services coverage may change over a relatively short timeframe. Therefore, the Commission proposes to delegate to the Wireless Telecommunications Bureau (Wireless Bureau) the authority to identify unserved census blocks prior to announcing a Mobility Fund auction, using the method the Commission adopts and the most recent data available for that purpose.

b. Offering Support by Census Tract

20. While proposing to identify unserved areas at the census block level, the Commission proposes to group unserved census blocks by larger areas—census tracts—as a basis for competitive bidding, since individual census blocks may be too small to serve as a viable basis for providing support. More specifically, the Commission proposes to accept bids for support to expand coverage to all the unserved census blocks within a particular census tract.

21. The Commission seeks comment on whether census tracts are the most appropriate basic geographic unit for providing support to expand coverage. Are there other geographic units by which the Commission might group unserved census blocks that might better balance the need to identify discrete unserved areas for which the Commission proposes to require coverage under the Mobility Fund with business plan requirements of wireless providers?

c. Establishing Unserved Units

22. The Commission proposes at a minimum to establish the number of units in each unserved census block based on population. The Commission also seeks comment on whether it should take into account characteristics such as road miles, traffic density, and/or community anchor institutions in determining the number of units in each unserved census block to be used for assigning support under the Mobility Fund. For example, should the Commission utilize data compiled by the Department of Transportation (such as Traffic Analysis Zones) or data on community anchor institutions to establish the number of units in the census block that will be considered unserved? A traffic analysis zone (TAZ) is a special area delineated by state and/or local transportation officials for tabulating traffic-related data, especially journey-to-work and place-of-work statistics. Using such additional factors in determining the units in each unserved area may better represent the public benefits of providing new access to mobile services. Are there other factors that the Commission should take into account when assessing coverage of unserved areas, such as work or recreation sites; anchor institutions such as schools, libraries, and hospitals; or accessibility to a road system? The Commission asks that commenters address how it should measure the factors on which it seeks comment as well as any other factors they advocate, and how coverage for one type of unit, such as a work site, should compare with coverage for other units, such as resident population, or whether such comparisons would be appropriate.

d. Distributing Mobility Fund Support Among Unserved Areas

23. The *National Broadband Plan* recommended creation of a Mobility Fund as a means of bringing all states to a minimum level of 3G (or better) mobile service availability. Here, the Commission seeks comment on various methods it could use to distribute Mobility Fund support among unserved

areas, including ways to target support to places that significantly lag behind the level of 3G coverage generally available nationwide.

24. The Commission could make eligible for Mobility Fund support any area nationwide that the Commission deems to be unserved, including territories. Thus, the Commission seeks comment on whether, if it were to adopt its proposal for identifying census tracts with at least one unserved census block, the Commission should make available for bids all such identified census tracts across the country.

25. The Commission also seeks comment on alternative ways of limiting Mobility Fund support to places that lag significantly behind the level of 3G coverage nationwide. Based on May 2010 American Roamer data and November 2009 population estimates, 98.5 percent of the population nationwide resides in areas with access to 3G services. The Commission notes that, as proposed, it would be using updated coverage and population data to determine areas unserved by 3G prior to any Mobility Fund auction, so it is possible that the level of nationwide coverage could change. Therefore, the Commission seeks comment on various ways to identify places that lag significantly behind that level of coverage based on more updated data.

26. For instance, the Commission seeks comment on making Mobility Fund support available for unserved census blocks in census tracts in any county nationwide where the countywide percentage of population with access to 3G services is more than three percentage points below the level of 3G deployment nationwide, as determined prior to an auction based on updated data. The Commission also seeks comment on targeting Mobility Fund support to unserved blocks in census tracts in those states where the statewide percentage of population with access to 3G services is more than three percentage points less than the percentage of the national population with such access. Alternatively, the Commission seeks comment on whether it should target an expanded list of counties or states, for example, those with 3G coverage levels that are more than two percentage points below the nationwide level. The Commission also invites suggestions of other means for identifying the counties or states that the Mobility Fund should target.

27. The Commission invites comment on all of the alternatives—distributing support among unserved areas nationwide and various methods for targeting support to a subset of unserved areas. The Commission seeks comment on the relative merits and drawbacks of these alternative approaches. In particular, the Commission welcomes any insights commenters can provide regarding which of these alternatives would most effectively utilize Mobility Fund support to benefit consumers through expanded 3G coverage. The Commission also seeks commenters' views on which of these ways of distributing Mobility Fund support would best help ensure that places with the lowest levels of 3G coverage will not fall even farther behind as the industry begins to deploy the next generation of 4G mobile broadband service. Finally, the Commission notes that some areas that it identifies as lacking 3G coverage will have some level of mobile voice service, while other identified areas will have no mobile wireless service at all. The Commission seeks comment on whether and how the Commission might prioritize support toward unserved areas that currently lack any mobile wireless service.

e. Targeting Tribal Areas

28. The Commission seeks comment on whether the Commission should reserve funds for developing a Mobility Fund support program targeted separately to Tribal lands that trail national 3G coverage rates. For these purposes, Tribal lands are defined as any federally recognized Indian tribes' reservation, pueblo or colony, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlements Act (85 Stat. 688), and Indian Allotments. 47 CFR 54.400(e). Communities on Tribal lands have historically had less access to telecommunications services than any other segment of the population. Available data illustrates that less than ten percent of residents on Tribal lands have access to broadband. Also, Tribal lands are often in rural, high-cost areas, and present distinct connectivity challenges. The *National Broadband Plan* observed that many Tribal communities face significant obstacles to the deployment of broadband infrastructure, including high build-out costs, limited financial resources that deter investment by commercial providers and a shortage of technically trained members who can undertake deployment and adoption planning. As a result, the *National Broadband Plan* noted that Tribes need substantially greater financial support than is presently available to them, and accelerating Tribal broadband will require increased funding. The Commission has recognized that Tribes are inherently sovereign governments that enjoy a unique relationship with the federal government. In turn, the Commission has reaffirmed its policy to promote a government-to-government relationship between the FCC and federally-recognized Indian tribes. Because this relationship warrants a tailored approach that takes into consideration the unique characteristics of Tribal lands, the Commission believes addressing Mobility Fund support for Tribal lands on a separate track will be beneficial in providing adequate time to coordinate with American Indian Tribes and Alaska Native Village governments and seeks their input.

6. Performance Requirements

a. Coverage Requirement

29. The Commission proposes to establish a coverage requirement that will ensure that Mobility Fund support is put to the purpose for which it is intended—to expand coverage in unserved areas. The Commission seeks comment on the percentage of resident population in the census blocks deemed unserved the Commission should require be covered by any party receiving support for a particular census tract. Should the Commission require 100 percent coverage? Or would it be appropriate to require a level of coverage of between 95 and 100 percent of the resident population of census blocks deemed unserved in order to balance its goal of expanding service with concern that excessively high costs to serve a few residents in an area might deter providers from bidding to cover areas otherwise well suited for Mobility Fund support? The Commission notes that should it decide to require less than 100 percent coverage, recipients would receive support based on the percentage of coverage actually achieved, provided that they cover at least the required percentage.

30. Is a performance requirement appropriate, given the Commission's proposed method of determining unserved areas, its proposed use of per-unit bids to determine the set of winning bidders, and its proposal that the Commission will determine support amounts based on the units deemed unserved in the census blocks within the tract? The Commission asks commenters to consider how it should monitor compliance with any coverage requirement, and to address the ways in which monitoring may create incentives for support recipients to further the goals of the Mobility Fund program. The Commission invites commenters describing any alternatives to its proposal to explain with specificity why

such alternatives would be preferable. To ensure that the Mobility Fund supports service where it is actually needed, should the Commission require winning bidders to actively market their service in the area(s) for which they bid, and/or to provide service to a specified number or percentage of consumers in such areas by certain milestone dates?

31. The Commission also makes proposals to encourage possibilities for competition in the market for 3G or better services in the geographic areas in which it provides support. First, the Commission proposes that any new tower constructed to satisfy Mobility Fund performance obligations provide the opportunity for collocation. The Commission seeks comment on this proposal. Should the Commission require any minimum number of spaces for collocation on any new towers and/or specify terms for collocation? In addition, the Commission proposes that the use of Mobility Fund support be conditioned on providing data roaming on reasonable and not unreasonably discriminatory terms and conditions on 3G and subsequent generations of mobile broadband networks that are built through Mobility Fund support. The Commission seeks comment on this proposal and asks that commenters provide specific information on the impact and/or the importance of such requirements in promoting the availability of advanced mobile services.

b. Service Quality and Rates

32. The Commission proposes that Mobility Fund support be used to expand the availability of advanced mobile communications services comparable or superior to those provided by networks using HSPA or EV–DO, which are commonly available 3G technologies. Universal service support may be provided for services based on widely available current generation technologies—or superior next generation technologies available at the same or lower costs—even though supported services could be based on earlier technologies. Technologies used to provide the services supported by universal service funds need not be technologies that are strictly limited to providing the particular services designated for support. As detailed in connection with proof of deployment requirements, supported networks would demonstrate their quality of service by proving that they have achieved particular data rates under particular conditions. The Commission proposes that these data rates be comparable to those provided by networks using the basic functionality of HSPA or EV–DO. The Commission would not, however, require that supported parties use any particular technology to provide service. Instead, the Commission proposes to use widely deployed technologies to define a baseline of performance that any supported network must meet or exceed. The Commission seeks comment on this proposal. Should supported networks be required to provide data rates comparable to 4G networks? Alternatively, should supported networks be required to present a path to 4G service?

33. The Commission also seeks comment on how to implement, in the context of the Mobility Fund, the statutory principle that supported services should be made available to consumers in rural, insular, and high-cost areas at rates that are reasonably comparable to rates charged for similar services in urban areas. Given the absence of affirmative regulation of rates charged for commercial mobile services, as well as the rate practices and structures used by providers of such services, how can parties demonstrate that the rates they charge in areas where they receive support are reasonably comparable to rates charged in urban areas? What should the Commission use as a standard for reasonably comparable and urban areas in this context? What should be the consequence of failing to make the required showing?

c. Deployment Schedule

34. The Commission proposes that recipients be required to meet certain milestones for the provision of service in each unserved census block in a tract in order to remain qualified for the full amount of any Mobility Fund award. For example, the Commission could require that recipients achieve fifty percent of the coverage requirement within one year after qualifying for support. The Commission seeks comment on this proposal and on appropriate coverage percentages and time periods for such a milestone. Are there critical factors that should be taken into account in establishing timetables for rollout in different areas, such as weather conditions or limited construction seasons? The Commission notes that service providers will have to comply with the Commission's rules implementing the National Environmental Policy Act and other federal environmental statutes, as well as all local requirements for construction. Are there areas where those requirements would make it appropriate to adopt alternative schedules?

d. Proof of Deployment

35. Parties supported by the Mobility Fund must provide 3G or better mobile coverage in specific areas previously deemed unserved by 3G. The Commission proposes that parties satisfy their performance requirement by proving that they have deployed a network covering the relevant area and capable of meeting certain minimum standards. The Commission proposes that data from the drive tests conducted after construction and optimization of the network be used to determine whether these requirements have been met. By drive tests, the Commission refers to tests service providers normally conduct to analyze network coverage for mobile services in a particular area, that is, measurements taken from vehicles traveling on roads in the area. More specifically, the Commission proposes that recipients of Mobility Fund support would provide data from their drive tests showing mobile transmissions to and from the network meeting or exceeding the following minimum standards: Outdoor minimum of 200 kbps uplink and 768 kbps downlink to handheld mobile devices at vehicle speeds up to 70 MPH. These data rates should be achieved with 90 percent coverage area probability at a sector loading of 70 percent. The transmissions would be required to support mobile voice and data. The Commission proposes that the drive test would be conducted over all Interstate, U.S., and State routes in the area, as well as any other roads that the applicable State Agency regulating the provision of telecommunications services deems essential to service. The Commission proposes that drive test data satisfying the foregoing requirements should be submitted within two months of a site providing service or two years of the date support is first provided, whichever comes earlier. The Commission seeks comment on these proposals.

36. The Commission's proposal would not require that providers employ any particular type of technology in expanding coverage. Nevertheless, the Commission seeks comment on whether there are reasons to adopt technology-specific minimum standards. Is there any risk that providers will deploy particular technologies in inefficient ways or ways that limit their capacity for future growth in order to meet the minimum standards? Or should the Commission require superior performance from certain technologies that are capable of far exceeding the minimum requirements? For example, should the Commission require that 4G

technologies deployed with support satisfy minimum standards greater than 3G technologies deployed with support?

37. The Commission seeks comment on how to determine the roads that must be included in any drive tests subject to review. Would it be sufficient to cover Interstates, U.S. Routes, and State Routes? Do circumstances vary sufficiently from state to state or region to region such that different approaches should be adopted for different states? What parties are likely to have the best available information regarding what roads are most important for mobile coverage? Should those parties be involved in the process of determining the roads that must be included in the drive tests?

38. To demonstrate coverage of the population within an unserved area, the Commission proposes that bidders submit in electronic Shapefiles site coverage plots from a standard RF prediction tool that utilizes high resolution terrain data and has been calibrated to match the results of drive tests to the extent possible. The Environmental Systems Research Institute (ESRI) Shapefile format is a commonly used GIS (Geographic Information System) file format representing vector data. These plots would be submitted along with the drive test data, preferably on the same plot, and each will display the same coverage threshold parameter, with adjustments to account for drive test configuration specified as necessary. The coverage threshold selected would be one that is (a) sufficient to initiate and hold a voice call, and (b) is mathematically capable using standard link budget calculations of supporting the minimum data rate requirements. These link budget calculations showing derivation of the threshold would also be provided. The scale of the plots would be at least 1:240,000 such that reasonable coverage resolution is evident. In addition, the plots would be accompanied by all relevant site data, including site coordinates, antenna type(s), radiation centers (AGL), Effective Isotropic Radiated Powers (EIRPs), antenna azimuths, and antenna tilts. These plots would also include major roadways, census tract boundaries, and county (or its equivalent) and state boundaries, as well as the boundaries between served and unserved census blocks, as previously determined by the Commission, so that the site's coverage can easily be compared to areas previously deemed unserved. The specific census blocks may be identified on the plot or listed in accompanying data. Lastly, the plots would show the population previously deemed unserved of each block and the percentage of these that are now served.

39. The Commission proposes that parties receiving support be required to file annual reports with the Commission demonstrating the coverage provided with support from the Mobility Fund for five years after qualifying for support. The Commission proposes that the reports include maps illustrating the scope of the area reached by new services, the population residing in those areas (based on Census Bureau data and estimates), and information regarding efforts to market the service to promote adoption among the population in those areas. In addition, the Commission proposes that each party receiving support be required to include in its annual reports all drive test data that the party receives or makes use of, whether the tests were conducted pursuant to Commission requirements or any other reason. The Commission seeks comment on this proposal and discussion of any alternatives regarding the collection of information about supported services newly offered in previously unserved areas.

D. Mobility Fund Eligibility Requirements

40. In compliance with statutory requirements and to help ensure the commitment of applicants, the Commission proposes certain minimum requirements for those entities wishing to receive support from the Mobility Fund. Specifically, the Commission proposes that a provider be required to (1) Be designated (or have applied for designation) as a wireless Eligible Telecommunications Carrier (ETC) pursuant to 47 U.S.C. 214(e), by the state public utilities commission (PUC) (or the Commission, where the state PUC does not designate ETCs) in any area that it seeks to serve; (2) have access to spectrum capable of 3G or better service in the geographic area to be served; and (3) certify that it is financially and technically capable of providing service within the specified timeframe. The Commission proposes to require that, subject to these requirements, applicants be eligible to submit bids seeking support to deploy service in multiple unserved areas. The Commission seeks comment on these minimum requirements, inquires whether other minimum standards are desirable, and solicits comment on other provider eligibility issues.

41. The Commission proposes a two-stage application process similar to the one it uses in spectrum license auctions. Based on the eligibility requirements for Mobility Fund support, the Commission would require a pre-auction short-form application to establish eligibility to participate in the auction, relying primarily on disclosures as to identity and ownership and applicant certifications, and perform a more extensive, post-auction review of the winning bidders' qualifications based on required long-form applications. Such an approach should provide an appropriate screen to ensure serious participation without being unduly burdensome. This would allow the Commission to move forward quickly with the auction, which would speed the distribution of funding and ultimately the provision of advanced mobile wireless services to currently unserved areas. The Commission seeks comment on the use of this application process to ensure compliance with its eligibility requirements.

1. ETC Designation

42. All USF recipients must be designated as ETCs by the relevant state (or by the Commission in cases of states that have determined they have no jurisdiction over a wireless ETC designation request) before receiving high-cost support pursuant to 47 U.S.C. 214 and 254. Therefore, the Commission proposes to require that applicants for Mobility Fund support be designated as wireless ETCs covering the relevant geographic area prior to participating in a Mobility Fund auction. The Commission seeks comment on the proposal.

43. Alternatively, the Commission seeks comment on allowing entities that have applied for designation as ETCs in the relevant area to participate in a Mobility Fund auction. Pursuant to 47 U.S.C. 214(e)(1) and 47 CFR 54.101(b), an ETC is obligated to provide all of the supported services defined in 47 CFR 54.101(a) throughout the area for which it has been designated an ETC. Therefore, an ETC must be designated (or have applied for designation) with respect to an area that includes area(s) on which it wishes to receive Mobility Fund support. Moreover, a recipient of Mobility Fund support will remain obligated to provide supported services throughout the area for which it is designated an ETC if that area is larger than the areas for which it receives Mobility Fund support. Commenting parties should discuss whether the potential gain by allowing a larger pool of applicants offsets any potential abuse and delay that could result if a non-ETC were to bid and win the auction, but then be deemed ineligible for support.

44. In addition, the Commission seeks comment on the ETC designation requirements of 47 U.S.C. 214(e). For

example, ETCs must offer supported services throughout the service area for which the designation is received. The statute also provides that when states handle the ETC designation, the states also designate the service areas. Section 214 permits this Commission, with respect to interstate services, to designate ETCs and service areas if no common carrier will provide the services that are supported by Federal universal service support mechanisms under 47 U.S.C. 254(c) to an unserved community or any portion thereof that requests such service. The statute also provides that in states where the state commission lacks jurisdiction over the carrier seeking ETC status, which is sometimes the case for wireless carriers, this Commission designates the ETC and the service area. How can the Commission best interpret these and all the interrelated requirements of 47 U.S.C. 214(e) to achieve the purposes of the Mobility Fund?

2. Access to Spectrum To Provide Required Services

45. In order to participate in a Mobility Fund auction and receive support, the Commission proposes that an entity be required to hold, or otherwise have access to, a Commission authorization to provide service in a frequency band that can support 3G or better services. The Commission seeks comment on both the access to, and the type of, spectrum required for Mobility Fund eligibility.

46. As an initial matter, the Commission proposes that entities currently licensed to operate in identified unserved blocks should be deemed to meet this requirement. The Commission also seeks comment on whether entities other than current licensees should be eligible to participate if they have either applied for a Commission license or have entered into an agreement to acquire a license through an assignment or transfer of control. Therefore, the Commission seeks comment on whether a binding agreement to acquire the necessary authorization to use spectrum should be sufficient for Mobility Fund eligibility.

47. The Commission also seeks comment on using leased spectrum to provide the service that would meet the parameters of the Mobility Fund. Commenters supporting Mobility Fund eligibility for entities using leased spectrum should indicate whether the Commission should impose requirements regarding the terms of spectrum leasing arrangements that will confer eligibility, such as the minimum duration of the arrangement, the amount of spectrum, etc. Moreover, the Commission asks whether the entity must currently be leasing the spectrum at the time of the Mobility Fund's short-form or long-form application deadline or whether a signed agreement is sufficient.

48. The Commission proposes further that entities seeking to receive support from the Mobility Fund have access to spectrum (and sufficient bandwidth) capable of supporting the required services, such as spectrum for use in Advanced Wireless Services, the 700 MHz Band, Broadband Radio Services, broadband PCS or cellular bands. Should the Commission limit eligibility based on access to specific spectrum suitable for providing the required services? If so, what spectrum should the Commission consider appropriate? Do the technical rules and configuration for Specialized Mobile Radio frequencies permit 3G service? The Commission also seeks comment on whether, with or without regard to requiring access to particular frequencies, the Commission should require that parties seeking support have access to a minimum amount of bandwidth and whether only paired blocks of bandwidth should be deemed sufficient.

3. Certification of Financial and Technical Capability

49. The Commission also proposes that each party seeking to receive support from the Mobility Fund be required to certify that it is financially and technically capable of providing 3G or better service within the specified timeframe in the geographic areas for which it seeks support. The Commission seeks comment on how best to determine if an entity has sufficient resources to satisfy the Mobility Fund obligations. The Commission likewise seeks comment on certification regarding an entity's technical capacity. Does the Commission need to be specific as to the minimum showing required to make the certification? Or can the Commission rely on its post-auction review and performance requirements?

4. Other Qualifications

50. In addition to the three minimum qualifications (ETC designation, access to spectrum for 3G or better services, and certifications regarding financial and technical capabilities), the Commission seeks comment on other eligibility requirements for entities seeking to receive support from the Mobility Fund. Parties providing suggestions should be specific and explain how the eligibility requirements would serve the ultimate goals of the Mobility Fund. At the same time that the Commission establishes minimum qualifications consistent with the goals of the Mobility Fund, are there ways the Commission can encourage participation by the widest possible range of qualified parties? For example, are there any steps the Commission should take to encourage smaller eligible parties to participate in the bidding for support?

E. Reverse Auction Mechanism

51. At this stage in the development of the Mobility Fund, the Commission proposes rules for and seeks comment on certain auction design elements that will establish a general framework for the proposed reverse auction mechanism. Accordingly, as detailed in Appendix A of the Mobility Fund Notice of Proposed Rulemaking, the Commission proposes rules that will provide the Commission, the Wireless Bureau, and the Wireline Competition Bureau (Wireline Bureau) with some flexibility to choose among various methods of conducting the bidding and procedures to use during the bidding. These rules are generally modeled on the Commission rules that govern the design and conduct of its spectrum license auctions.

52. While the rules the Commission proposes establish the framework for conducting a Mobility Fund auction, they do not necessarily by themselves establish the specific detailed procedures that will govern any auction process. The Commission envisions that it will develop and provide notice to potential bidders of detailed auction procedures prior to conducting a Mobility Fund auction. This will promote the use of specific procedures for an auction that take into account the particular program requirements and auction rules established in this proceeding. Specifically, the Commission proposes that, after establishing program and auction rules for the Mobility Fund in this proceeding, it will release a Public Notice announcing an auction date, identifying areas eligible for support through the auction, and seeking comment on specific detailed auction procedures to be used, consistent with those rules. The Commission further proposes that it will release a subsequent Public Notice specifying the auction procedures, including dates, deadlines, and other details of the application and bidding process. Consistent with the Commission's existing practice for spectrum auctions, the Commission delegates authority jointly to the Wireless and Wireline

Bureaus to establish as outlined here, through public notices, the necessary detailed auction procedures prior to a Mobility Fund auction, and to take all other actions needed to conduct any such auction. The Commission seeks comment on this proposal.

1. Basic Auction Design

53. A reverse auction, in which potential providers or sellers of a defined service or other benefit compete to provide it at the lowest price, can be a relatively quick, simple, and transparent method of selecting parties that will provide a benefit at the lowest price and of setting the price those parties should be paid. Here, the Commission proposes general rules for a Mobility Fund reverse auction including some other aspects of the auction design and process that must be considered before actually conducting an auction. As a threshold matter, although there are a number of formats that could be used for reverse auctions, including both multiple-round and single-round formats, the Commission proposes to use a single-round reverse auction to award Mobility Fund support. The Commission proposes a single-round auction because it is simple and because the Commission expects bidders for Mobility Fund support to be well acquainted with the costs associated with providing access to advanced mobile wireless services in the areas they proposes to cover, and to bid accordingly.

2. Application Process

54. The Commission proposes to use a two-stage application process similar to the one the Commission uses in spectrum license auctions. Under this proposal, the Commission would require a pre-auction short-form application from entities interested in participating in a Mobility Fund auction. After the auction, the Commission would conduct a more extensive review of the winning bidders" qualifications through long-form applications. The Commission envisions that both applications would be filed electronically, in a process similar to that used for spectrum license auctions.

55. The Commission proposes that, in the short-form application, potential bidders provide basic ownership information and certify as to their compliance with the eligibility requirements for obtaining Mobility Fund support. Specifically, the Commission proposes that an applicant would need to provide information about its ownership similar to the Part 1 competitive bidding ownership rule for spectrum auctions, 47 CFR 1.2112. This information will establish the identity of applicants and provide information that will aid in ensuring compliance with and enforcement of Mobility Fund auction and program rules. Also, a potential bidder would need to certify its qualifications to receive Mobility Fund support, including providing its ETC designation status and information regarding its access to adequate and appropriate spectrum. Finally, the Commission proposes that applicants be required to certify that they have and will comply with all rules for Mobility Fund competitive bidding. The Commission seeks comment on these proposed short-form application requirements.

56. In addition, the Commission seeks comment on whether the Commission should require applicants to identify in their short-form applications the specific census tracts with unserved blocks on which they may wish to bid and provide service. As in the Commission's spectrum auctions, the Commission would not necessarily require a bid on each census tract selected in an applicant's short-form application. However, the availability of this information could be helpful in ensuring compliance with the Commission's auction rules. The Commission seeks comment on this and on any other information that the Commission should require of applicants in the pre-auction stage that would help ensure a quick and reliable application process.

57. The Commission proposes that applications to participate in a Mobility Fund auction should be subject to review for completeness and compliance with its rules, and envisions a process similar to that used in spectrum license auctions. Specifically, after the application deadline, Commission staff would review the short-form applications, and once review is complete, the Commission would release a public notice indicating which short-form applications are deemed acceptable and which are deemed incomplete. Applicants whose short-form applications were deemed incomplete would be given a limited opportunity to cure defects and to resubmit correct applications. As with spectrum license auctions, applicants would only be able to make minor modifications to their short-form applications. Major amendments would make the applicant ineligible to bid. Once the Commission staff reviews the resubmitted applications, the Commission would release a second public notice designating the applicants that have qualified to participate in the Mobility Fund auction. The Commission seeks comment on adopting this application process in order to qualify entities to participate in a Mobility Fund auction.

3. Bidding Process

58. The Commission proposes to conduct a single-round reverse auction to identify those applicants that will receive Mobility Fund support and the amount of support they will receive, subject to post-auction processing requirements applicable to winning bidders. The Commission seeks comment on aspects of the bidding process for any Mobility Fund auction, so that potential bidders will understand how bids may be submitted, what bids will be acceptable, and how the auction mechanism will determine winning bidders.

59. Based on the Commission's proposal to award support to bidders that will deploy service in unserved census blocks at the least per-unit cost to the Mobility Fund, the Commission proposes that bids for Mobility Fund support would state the dollar amount of support sought per each unit associated with the unserved area(s) in those census tracts covered by the specific bid submitted. In addition, based on its proposal to award support to only one provider per area, the Commission proposes that a Mobility Fund auction would select at most one winning bidder per census tract. The Commission proposes that after bidding closes, in order to select winning bidders, the auction mechanism will rank bids based on the per-unit bids from lowest to highest and calculate the running sum represented by those bids and the number of units in the unserved areas covered by those bids. The Commission also proposes that if there are any identical bids—in the same per-unit amounts to cover the same tract or tracts, submitted by different bidders—that only one such bid, chosen randomly, be considered in the ranking.

60. Under these proposals, the auction would identify winning bidders starting with the bidder making the lowest per-unit bid and continue to the bidders with the next lowest per-unit bids in turn, provided that support had not already been assigned for that census tract, so long as the running sum based on the units in the identified unserved areas covered by the bids does not exceed the available monies.

61. *Maximum bids and reserve prices.* The Commission proposes a rule to provide the Commission with discretion to establish maximum acceptable per-unit bid amounts for a Mobility Fund auction. The Commission also proposes

that it may, prior to the auction, establish reserve amounts, separate and apart from any maximum opening bids, and may elect whether or not to disclose those reserves.

62. *Aggregating service areas and package bidding.* The Commission proposes a rule to provide generally that the Commission shall have discretion to establish bidding procedures for any Mobility Fund auction that permit bidders to submit bids on packages of tracts, so that their bids may take into account scale and other essential efficiencies that tract-by-tract bidding may not permit. If a bidder were awarded support based on a package bid, it would still be required to meet the performance requirements for each census tract in the package.

63. The Commission seeks comment generally on the use of package bidding. The Commission proposes that specific procedures for package bidding be among those determined as part of the process of establishing the detailed procedures for a Mobility Fund auction. The Commission expects that proposals for such procedures would consider how to implement package bidding consistent with its proposal to award support to at most one provider in a census tract, without allowing geographic overlaps among packages to disqualify desirable bids. For this purpose, proposals might include limited package bidding, *e.g.*, permitting only predefined non-overlapping packages, permitting bidders to submit package bids on geographically adjacent census tracts, and/or the possibility of requiring that bidders submitting package bids also submit separate bids on the component tracts.

64. *Refinements to the selection mechanism to address limited available funds.* The auction would identify winning bidders so long as the running sum of support represented by the winning bids does not exceed the monies to be made available in a Mobility Fund auction. However, there would likely be monies remaining after identifying the last lowest per-unit bid that does not exceed the funds available. The Commission proposes that the Commission's rules should provide it with discretion to establish procedures in the pre-auction process by which to identify winning bidder(s) for such remaining funds, *e.g.*, by continuing to consider bids in order of per-unit bid amount while skipping bids that would require more support than is available, or by not identifying winning bidder(s) for the remaining funds and offering such funds in a subsequent auction. In exercising this discretion, the Commission must balance the advantages of assigning Mobility Fund support quickly and transparently with any disadvantages from supporting less cost-effective per-unit bids.

65. The Commission also proposes that, in the pre-auction process, it will determine procedures to address a situation where there are two or more bids for the same per-unit amount but for different areas (tied bids) and remaining funds are insufficient to satisfy all of the tied bids. Specifically, the Commission proposes a rule that would give it the discretion to identify winning bidders among such tied bids by awarding support to that combination of tied bids that would most nearly exhaust the available funds, by ranking the tied bids to establish an order in which they would be awarded based on remaining available funds, or by declining to select winning bidder(s) for the remaining funds and offering such funds in a subsequent auction.

66. The Commission seeks comment on these proposals for developing procedures to address the possibility that funds will remain after the auction has identified the last lowest per-unit bid that does not exceed the funds available through the auction. The Commission asks commenters to address the relative advantages of any suggested approaches and on other options that may later be considered when the Commission develops specific auction procedures for a Mobility Fund auction.

67. *Withdrawn bids.* The Commission has discretion, in developing procedures for its spectrum license auctions, to provide bidders limited ability to withdraw provisionally winning bids before the close of an auction. While here the Commission proposes that the Wireless and Wireline Bureaus be delegated authority to determine any such procedures in the pre-auction process, the Commission would not expect that the Bureaus would consider permitting any bids to be withdrawn or removed from consideration after the close of bidding in a single-round Mobility Fund auction.

68. In spectrum license auctions, the Commission permits bid withdrawals in certain circumstances so that bidders can better manage their license aggregation strategies. The Commission does not believe that aggregation issues are of comparable importance under the Mobility Fund, which targets support to particular hard-to-reach areas. Further, the Commission believes that permitting bids to be withdrawn after the mechanism has selected winning bidders would unduly disrupt the prompt and smooth distribution of support.

69. The Commission expects that bidders will consider carefully expected costs and the characteristics of the geographic areas they propose to serve if offered Mobility Fund support and bid accordingly, so that if offered support, they can proceed expeditiously to file their long form applications and comply with post-auction procedures.

Information and Competition

70. In the interests of fairness and maximizing competition in the auction process, the Commission proposes to prohibit applicants competing for support in the auction from communicating with one another regarding the substance of their bids or bidding strategies. Information available in short-form applications or in the auction process itself might also be used to attempt to reduce competition. Accordingly, for spectrum auctions, the Commission adopted rules providing it with discretion to limit public disclosure of auction-related information, for example by keeping non-public during the auction process certain information from applications and/or the bidding. The Commission proposes to adopt similar rules for a Mobility Fund reverse auction and seeks comment on this proposal.

5. Auction Cancellation

71. As with the Commission's spectrum license auctions, the Commission proposes that the Commission's rules provide it with the discretion to delay, suspend, or cancel bidding before or after a reverse auction begins under a variety of circumstances, including natural disasters, technical failures, administrative necessity, or any other reason that affects the fair and efficient conduct of the bidding. The Commission seeks comment on this proposal.

F. Post-Auction Process, Administration, Management, and Oversight of the Mobility Fund

1. Administration of the Mobility Fund

72. The Universal Service Administrative Company (USAC), a subsidiary of the National Exchange Carrier Association (NECA), is the private not-for-profit corporation created to serve as the Administrator of the USF under the Commission's direction. The Commission appointed USAC the permanent Administrator of all of the federal universal service support mechanisms. USAC is responsible for performing numerous functions including, but not limited to,

billing USF contributors, collecting USF contributions, disbursing funds, recovering improperly disbursed funds, processing appeals of funding decisions, submitting periodic reports to the Commission, maintaining accounting records, conducting audits of contributors and beneficiaries, and providing outreach to interested parties. *See* 47 CFR 54.702(b) through (m), 54.711, 54.715. USAC administers the USF in accordance with the Commission's rules and orders. The Commission provides USAC with oral and written guidance, as well as regulation through its rulemaking process. Because the Mobility Fund will be a part of the USF high cost support program, the Commission proposes to direct USAC to administer the Mobility Fund in accordance with the applicable terms of its current appointment as administrator, and subject to all existing Commission rules and orders applicable to the USF Administrator. The Commission seeks comment on whether there are any specific rules or orders currently applicable to USAC's administration of the USF that should not apply specifically to USAC's administration of the Mobility Fund, and whether there are new or different requirements the Commission should apply to USAC's administration of the Mobility Fund.

73. In 2008, the Commission entered into a Memorandum of Understanding (MOU) with USAC to facilitate efficient management and oversight of the Commission's federal universal service program. If the Commission establishes a Mobility Fund, the Commission anticipates that Commission staff would work with USAC outside the context of this rulemaking proceeding to revise the MOU as necessary for efficient administration of the Mobility Fund. The Commission nevertheless solicits input from interested parties on whether there are specific aspects of the MOU that the Commission should consider revising based on the specific purpose and goals of the Mobility Fund. For example, under the MOU, the Commission's Wireline Bureau is the USF Administrator's primary point of contact regarding USF policy questions, including without limitation, questions regarding the applicability of the Commission's USF rules, orders, and directives, unless otherwise specified in such requirements. Because the Mobility Fund would be established to distribute support for the deployment of terrestrial mobile wireless networks providing 3G service, the Commission seeks comment on whether it would be appropriate to add the Wireless Bureau as a point of contact for the USF Administrator for policy questions pertaining to the Mobility Fund.

2. Post-Auction Application Process

74. The Commission proposes a two-stage application process. An applicant for Mobility Fund support would file a short-form application to participate in bidding, and the information on that application would be reviewed as part of the Commission's initial screening process to determine the applicant's eligibility for support based on its ETC status and its other qualifications under the Mobility Fund auction rules. After the conclusion of the auction, winning bidders would file long-form applications to qualify for and receive Mobility Fund support. Those applications would be subject to an in-depth review of the applicants' eligibility and qualifications to receive USF support. The Commission seeks comment on each step of the post-auction application process. To the extent a commenter disagrees with a particular aspect of the proposed process, the Commission asks them to identify that with specificity and propose an alternative.

a. Post-Auction Application

75. The Commission proposes that, after bidding has ended, the Commission will identify and notify the winning bidders and declare the bidding closed. Unless otherwise specified by public notice, within 10 business days after being notified that it is a winning bidder for Mobility Fund support, a winning bidder would be required to submit a long-form application pursuant to the program requirements governing the Mobility Fund. The Commission seeks comment on the specific information and showings that should be required of winning bidders on the long-form application before they can be certified to receive support from the Mobility Fund and before actual disbursements from the Mobility Fund can be made to them. The Commission proposes that a winning bidder would be required to provide detailed information showing that it is legally, technically and financially qualified to receive support from the Mobility Fund. The Commission also proposes that, if the Commission were to adopt a rule allowing an applicant to participate in the auction while its ETC designation status is pending, the applicant would be required in its long-form application to demonstrate its ETC status by, for example, providing a copy of its ETC designation order from the relevant state PUC. The Commission seeks comment on these proposals and on the specific information that winning bidders should be required to provide to make the required showings.

76. The Commission also seeks comment on the procedures that it should apply to a winning bidder that fails to submit a long-form application by the established deadline. Imposition of some deterrent measure, in addition to dismissal of the late-filed application, could deter auction participants from submitting insincere bids and serve as an incentive for winning bidders to timely submit their long-form applications, enabling prompt application review and allowing expeditious distribution of support. With respect to the disposition of the Mobility Fund support for which a winning bidder does not timely file a long-form application, the Commission proposes that the funds that would have been provided to such an applicant be offered in a subsequent auction. The Commission seeks comment on this proposal.

b. Ownership Disclosure

77. The Commission discusses a proposed requirement for auction participants to disclose certain ownership information as an aid to bidders by providing them with information about their auction competitors and alerting them to the entities that are subject to its rules concerning prohibited communications. The Commission proposes that in the post-auction application phase, an applicant would also be required to provide additional detailed information about its ownership and control. The Commission seeks comment on what ownership information should be required of applicants for Mobility Fund support. Given that wireless providers often create subsidiaries or related entities for specific licenses or other purposes, detailed ownership information may be necessary to ensure that applicants claiming ETC status in fact qualify for such status. In addition to providing information on an applicant's officers and directors, should the Commission require disclosure of an applicant's controlling interests that is, those individuals and entities with either de jure or de facto control of the applicant? Applicants for authorizations to provide wireless services are required to disclose ownership interests in the applicant of ten percent or more. What threshold level of ownership interest in an applicant for Mobility Fund support should be required to be reported on the applicant's long-form application?

78. The Commission also seeks comment on the extent to which the Commission can minimize the reporting burden on winning bidders by allowing them to use ownership information stored in existing Commission databases and either update the ownership information in the database or certify that there have been no changes in the ownership information since it was last submitted to the Commission.

c. Project Construction

79. The Commission seeks comment on the level of information an applicant for Mobility Fund support should be required to provide regarding the network it will deploy with that support. The Commission proposes that an applicant be required to include in its long-form application a detailed project description that describes the network, identifies the proposed technology, demonstrates that the project is technically feasible, and describes each specific development phase of the project (*e.g.*, network design phase, construction period, deployment and maintenance period). To ensure that projects proceed to completion, the Commission proposes that a participant be required to submit a project schedule that identifies the following project milestones: start and end date for network design; start and end date for drafting and posting requests for proposal (RFPs); start and end date for selecting vendors and negotiating contracts; start date for commencing construction and end date for completing construction. The Commission also proposes that a participant's project schedule identify the dates by which it will meet applicable requirements to receive the installments of Mobility Fund support for which it subsequently qualifies.

d. Guarantee of Performance

80. The Commission also seeks comment on whether a winning bidder should be required to post financial security as a condition to receiving Mobility Fund support to ensure that it has committed sufficient financial resources to meeting the program obligations associated with such support under the Commission's rules. In particular, the Commission seeks comment on whether all winning bidders should be required to obtain an irrevocable standby letter of credit (LOC) no later than the date on which their long-form applications are submitted to the Commission. The Commission also seeks comment on whether alternatively, only certain applicants that do not meet specified criteria should be subject to this requirement, and if so, what those criteria should be. For example, should the Commission establish criteria, based on bond rating, market capitalization, or debt/equity ratios (combined with minimum levels of available capital) that, if not met, would make an LOC necessary? Would such a requirement unnecessarily preclude providers that otherwise might be able to satisfy the obligations of the Mobility Fund from seeking to participate?

81. The Commission seeks comment on how to determine the amount of the LOC necessary to ensure uninterrupted construction of a network, as well as the length of time that the LOC should remain in place. For example, the amount of the LOC could be determined on the basis of an estimated annual budget that could accompany the build-out schedule required as part of the long-form applications, or the Commission could simply require a specific dollar figure for the LOC in an amount that would ensure that construction could proceed for a given amount of time. Should the amount of an initial LOC, or a subsequent LOC, also ensure the continuing maintenance and operation of the network? Under what circumstances should the participant be required to replenish the LOC?

82. The Commission also seeks comment on what events would constitute a default by the recipient of Mobility Fund support that would allow a draw on the entire remaining amount of the LOC. Further, in the event of bankruptcy, the LOC should be insulated from claims other than the draws authorized for the construction and operation of the network. The Commission seeks comment on provisions it might adopt to provide safeguards to this effect. For example, the Commission could require as a condition of receiving Mobility Fund support, that a winning bidder first provide the Commission with a legal opinion letter that would state, subject only to customary assumptions, limitations and qualifications, that in a proceeding under Title 11 of the United States Code, 11 U.S.C. 101 *et seq.* (the Bankruptcy Code), in which the winning bidder is the debtor, the bankruptcy court would not treat the LOC or proceeds of the LOC as property of the winning bidder's bankruptcy estate (or the bankruptcy estate of any other bidder-related entity requesting the issuance of the LOC) under 11 U.S.C. 541.

83. As an alternative to an LOC, the Commission seeks comment on whether the Commission should require a winning bidder to guarantee completion of construction by obtaining a performance bond covering the cost of network construction and operation. Such a requirement would be similar to that which the Commission has imposed as a condition on satellite licenses. The Commission also seeks comment on the types of requirements that bond issuers might impose and whether such requirements would be so unduly burdensome as to restrict the number of carriers that might be able to bid for Mobility Fund support. The Commission also seeks comment on the relative merits of performance bonds and LOCs and the extent to which performance bonds, in the event of the bankruptcy of the recipient of Mobility Fund support, might frustrate the Commission's goal of ensuring timely build-out of the network. The Commission also seeks comment on whether there are other protections that the Commission should reasonably seek to ascertain the financial viability of the winning bidder, and ensure construction of the network and its subsequent operation. For instance, are there ways that the Commission can facilitate timely build-out of the network in areas where recipients of Mobility Fund support enter bankruptcy before completing construction? Are there steps the Commission could take to facilitate completion of the network by another service provider?

e. Other Funding Restrictions

84. The Commission seeks comment on whether participants who receive support from the Mobility Fund should be barred from receiving funds for the same activity under any other federal program, including, for example, federal grants, awards, or loans.

f. Certifications

85. Finally, the Commission seeks comment on the certifications that should be required of a winning bidder to receive Mobility Fund support. The Commission proposes that prior to receiving Mobility Fund support, an applicant be required to certify to the availability of funds for all project costs that exceed the amount of support to be received from the Mobility Fund and certify that they will comply with all program requirements. Should the Commission also require certifications regarding the provision of service at rates reasonably comparable to those offered in urban areas? The Commission has sought comment on the definition of these terms for these purposes in its discussion of performance requirements.

3. Disbursing Support

a. Support Payments

86. The Commission seeks comment on the following proposal to provide Mobility Fund support in installments, and on whether this proposal strikes the appropriate balance between advancing funds to expand service and assuring that service is expanded.

87. The Commission proposes that Mobility Fund support be provided in three installments. Each party receiving support would be eligible for ⅓ of the amount of support associated with any specific census tract once its application for support is granted. A party would receive the second third of its total support when it files a report demonstrating coverage of 50 percent of the population associated with the census block(s) deemed unserved that are within that census tract. A party would receive the final third of the support upon filing a report that demonstrates coverage of 100 percent of the resident population in the unserved census block(s) within the census tract. Alternatively, if the Commission establishes a coverage requirement of less than 100 percent, the Commission proposes that a party may file a report that certifies that, although less than 100 percent of the originally unserved resident population is now covered, at least the required percent of that population is covered and no further coverage expansion is intended. In that case, the party's final payment would be the difference between the total amount of support based on the population of unserved census blocks actually covered, i.e., a figure between the required percentage and 100 percent of the resident population, and any support previously received. The Commission seeks comment on this proposal.

88. 47 U.S.C. 254(e) requires that a carrier shall use support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. How should the Commission ensure that support from the Mobility Fund is used for the purposes in which it was intended as required by 47 U.S.C. 254(e)? The Commission seeks comment on requiring additional information from the recipients concerning how the funds were used and specifically what information should be submitted.

b. Support Liabilities

89. The Commission seeks comment on the extent to which parties qualifying to receive support should be liable in the event that they are unable to expand service pursuant to the goals of the Mobility Fund. The Commission proposes that applicants qualifying for support be able to receive initial payments in advance of providing service in order to finance the expansion of service. Parties receiving such support should be liable to repay the support if they fail to provide the intended service. Should they be subject to additional liabilities and/or security requirements (such as letters of credit or performance bonds) in order to provide them with proper incentives to perform and to protect the Mobility Fund in case they fail to perform as required? Should the Commission require affiliates, such as parent corporations or entities within the same larger enterprise, to be responsible if the recipient fails to meet its obligations? Is there a level of service short of the full service sought that ought to offset the supported parties' liabilities? Are any special provisions needed in the Commission's rules to address the possibility that a party qualifying for support from the Mobility Fund might enter bankruptcy prior to providing all the coverage necessary to receive support? Are there measures the Commission can take to limit the possibility that Mobility Fund support becomes an asset in such party's bankruptcy estate for an extended period of time instead of being used promptly to further the goals of the Mobility Fund? The Commission seeks comment on these issues.

4. Audits and Record Retention

90. The Commission seeks comment on the rules that the Commission should establish to impose certain internal control requirements on program participants to facilitate program oversight. The Commission has taken action in previous proceedings to detect and deter waste, fraud, and abuse of the USF.

a. Audits

91. Audits are an important tool for the Commission and the USF Administrator to ensure program integrity and to detect and deter waste, fraud, and abuse. Commission rules authorize the Administrator to conduct audits of contributors to the universal service support mechanisms. The 2008 FCC–USAC MOU requires the USF Administrator to conduct audits, including audits of USF beneficiaries, in accordance with generally accepted government auditing standards, as required by 47 CFR 54.702(n). USAC's audit program consists of audits by USAC's internal audit division staff as well as audits by independent auditors under contract with USAC.

92. The Commission proposes that Mobility Fund beneficiaries, like beneficiaries of other USF programs, be subject to assessments as required under the Improper Payments Information Act of 2002 and random compliance audits to ensure compliance with program rules and orders. The Commission seeks comment on whether random compliance audits of Mobility Fund beneficiaries would provide adequate audit oversight of that program. Are there other or additional oversight measures, including scheduled compliance audits that would be appropriate and effective in detecting and deterring waste, fraud, and abuse?

b. Record Retention

93. The Commission adopted rules establishing rigorous document retention requirements for USF program participants. The rules create additional penalties for bad actors-specifically, the Commission can now debar from continued participation in all USF programs, any party that defrauds any of the four USF disbursement programs. Consistent with the rules governing the Commission's existing high-cost support program, the Commission proposes to require recipients of Mobility Fund support to retain all records that they may require to demonstrate to auditors that the support they received was consistent with the Act and the Commission's rules.

94. The Commission seeks comment on what records should at a minimum be included in this requirement. As an initial matter, the Commission proposes that the record retention requirements apply to all agents of the recipient, and any documentation prepared for or in connection with the recipient's Mobility Fund support. The Commission further proposes that beneficiaries be required to make all such documents and records that pertain to them, contractors, and consultants working on behalf of the beneficiaries, available to the Commission's Office of Managing Director, Wireless Bureau, Wireline Bureau, Office of Inspector General, and the USF Administrator, and their auditors.

95. The Commission proposes that a five-year period for record retention, consistent with the rules the Commission adopted for those receiving other universal service high cost support, is a reasonable standard that will serve the public interest. To the extent other rules or any other law require or necessitate documents be kept for longer periods of time, the Commission does not alter, amend, or supplant such rule or law. High cost program recipients would be required to

keep documents for such longer periods of time as required or necessary under such other rules or law and make such documents available to the Commission and USAC. The Commission seeks comment on this proposal.

5. Delegation of Authority

96. In order to implement the various requirements the Commission adopts for applicants for and recipients of Mobility Fund support, the Commission proposes to delegate jointly to the Wireless Bureau and Wireline Bureau the authority to determine the method and procedures for applicants and recipients to submit the appropriate and relevant documents and information. This delegation of authority to both bureaus would authorize modification, as necessary, of existing FCC forms and the creation, if necessary, of new FCC forms to implement the rules the Commission adopt in this proceeding.

II. Procedural Matters

A. Filing Requirements

97. *Ex Parte Rules.* The *Mobility Fund Notice of Proposed Rulemaking* will be treated as a permit-but-disclose proceeding subject to the permit-but-disclose requirements under 47 CFR 1.1206(b). *Ex parte* presentations are permissible if disclosed in accordance with Commission rules, except during the Sunshine Agenda period when presentations, ex parte or otherwise, are generally prohibited. Persons making oral ex parte presentations are reminded that a memorandum summarizing a presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one-or two-sentence description of the views and arguments presented is generally required. Additional rules pertaining to oral and written presentations are set forth in 47 CFR 1.1206(b).

B. Initial Regulatory Flexibility Analysis

98. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules proposed in the *Mobility Fund Notice of Proposed Rulemaking.* Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments set forth in this **Federal Register** summary—that is, the same dates as the comment and reply deadlines for the *Mobility Fund Notice of Proposed Rulemaking.* The Commission will send a copy of the *Mobility Fund Notice of Proposed Rulemaking*, including the IRFA to the Chief Counsel for Advocacy of the Small Business Administration.

1. Need for, and Objectives of, the Proposed Rules

99. The *Mobility Fund Notice of Proposed Rulemaking* seeks comment on creation of a new Mobility Fund within the high-cost mechanism of the federal universal service program. The purpose of this Mobility Fund is to significantly improve coverage of current-generation or better mobile voice and Internet service for consumers in areas where such coverage is currently missing, and to do so by supporting private investment.

100. The Mobility Fund is one of a set of initiatives to promote deployment of broadband and mobile services in the United States. In the *Mobility Fund Notice of Proposed Rulemaking*, the Commission seeks comment on the creation of the Mobility Fund to provide an initial infusion of funds toward solving persistent gaps in mobile services through targeted, one-time support for the build-out of current- and next-generation wireless infrastructure in areas where these services are unavailable. This proposal represents a critical step in modernizing the USF.

2. Legal Basis

101. The legal basis for the proposed rules and the *Mobility Fund Notice of Proposed Rulemaking* is contained in 47 U.S.C. 154(i), 301, 303(c), 303(f), 303(r), 303(y), and 310, and 47 CFR 1.411.

3. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

102. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

103. *Small Businesses.* Nationwide, there are a total of approximately 29.6 million small businesses, according to the SBA.

104. *Small Organizations.* Nationwide, as of 2002, there are approximately 1.6 million small organizations. A "small organization" is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."

105. *Small Governmental Jurisdictions.* The term "small governmental jurisdiction" is defined generally as "governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand." Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States. The Commission estimates that, of this total, 84,377 entities were "small governmental jurisdictions." Thus, the Commission estimates that most governmental jurisdictions are small.

106. *Wireless Telecommunications Carriers (except Satellite).* Since 2007, the Census Bureau has placed wireless firms within this new, broad, economic census category. Prior to that time, such firms were within the now-superseded categories of "Paging" and "Cellular and Other Wireless Telecommunications." Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. Because Census Bureau data are not yet available for the new category, the Commission will estimate small business prevalence using the prior categories and associated data. For the category of Paging, data for 2002 show that there were 807 firms that operated for the entire year. Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more. For the category of Cellular and Other Wireless Telecommunications, data for 2002 show that there were 1,397 firms that operated for the entire year. Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more. Thus, the Commission estimates that the majority of wireless firms are small.

107. *Auctions.* Initially, the Commission notes that, as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Also, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated.

108. *2.3 GHz Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation, and digital audio

broadcasting satellite uses. The Commission defined "small business" for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a "very small business" as an entity with average gross revenues of $15 million for each of the three preceding years. The SBA has approved these definitions. The Commission auctioned geographic area licenses in the WCS service. In the auction, which was conducted in 1997, there were seven bidders that won 31 licenses that qualified as very small business entities, and one bidder that won one license that qualified as a small business entity.

109. *1670–1675 MHz Band*. An auction for one license in the 1670–1675 MHz band was conducted in 2003. The Commission defined a "small business" as an entity with attributable average annual gross revenues of not more than $40 million for the preceding three years and thus would be eligible for a 15 percent discount on its winning bid for the 1670–1675 MHz band license. Further, the Commission defined a "very small business" as an entity with attributable average annual gross revenues of not more than $15 million for the preceding three years and thus would be eligible to receive a 25 percent discount on its winning bid for the 1670–1675 MHz band license. One license was awarded. The winning bidder was not a small entity.

110. *Wireless Telephony*. Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. As noted, the SBA has developed a small business size standard for Wireless Telecommunications Carriers (except Satellite). Under the SBA small business size standard, a business is small if it has 1,500 or fewer employees. According to *Trends in Telephone Service* data, 434 carriers reported that they were engaged in wireless telephony. Of these, an estimated 222 have 1,500 or fewer employees and 212 have more than 1,500 employees. The Commission has estimated that 222 of these are small under the SBA small business size standard.

111. *Broadband Personal Communications Services*. The broadband personal communications services (PCS) spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission has created a small business size standard for the C and F Blocks as an entity that has average gross revenues of less than $40 million in the three previous calendar years. For the F Block, an additional small business size standard for "very small business" was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These small business size standards, in the context of broadband PCS auctions, have been approved by the SBA. No small businesses within the SBA-approved small business size standards bid successfully for licenses in the A and B Blocks. There were 90 winning bidders that qualified as small entities in the C Block auctions. A total of 93 "small" and "very small" business bidders won approximately 40 percent of the 1,479 licenses for the D, E, and F Blocks. In 1999, the Commission reauctioned 155 C, D, E, and F Block licenses; there were 113 small business winning bidders.

112. In 2001, the Commission completed the auction of 422 C and F Block broadband PCS licenses in Auction 35. Of the 35 winning bidders in this auction, 29 qualified as "small" or "very small" businesses. Subsequent events, concerning Auction 35, including judicial and agency determinations, resulted in a total of 163 C and F Block licenses being available for grant. In 2005, the Commission completed an auction of 188 C block licenses and 21 F block licenses in Auction 58. There were 24 winning bidders for 217 licenses. Of the 24 winning bidders, 16 claimed small business status and won 156 licenses. In 2007, the Commission completed an auction of 33 licenses in the A, C, and F Blocks in Auction 71. Of the 14 winning bidders, six were designated entities. In 2008, the Commission completed an auction of 20 broadband PCS licenses in the C, D, E and F block licenses in Auction 78.

113. *Narrowband Personal Communications Services*. In 1994, the Commission conducted an auction for narrowband PCS licenses. A second auction was also conducted later in 1994. For purposes of the first two narrowband PCS auctions, "small businesses" were entities with average gross revenues for the prior three calendar years of $40 million or less. Through these auctions, the Commission awarded a total of 41 licenses, 11 of which were obtained by four small businesses. To ensure meaningful participation by small business entities in future auctions, the Commission adopted a two-tiered small business size standard. A "small business" is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $40 million. A "very small business" is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $15 million. The SBA has approved these small business size standards. A third auction was conducted in 2001, with five bidders winning 317 (Metropolitan Trading Areas and nationwide) licenses. Three of these bidders claimed status as a small or very small entity and won a total of 311 licenses.

114. *Advanced Wireless Services*. In 2006, the Commission conducted its first auction of Advanced Wireless Services licenses in the 1710–1755 MHz and 2110–2155 MHz bands (AWS–1), designated as Auction 66. The Commission defined "small business" as an entity with attributed average annual gross revenues that exceeded $15 million and did not exceed $40 million for the preceding three years. A small business received a 15 percent discount on its winning bid. A "very small business is defined as an entity with attributed average annual gross revenues that did not exceed $15 million for the preceding three years. A very small business received a 25 percent discount on its winning bid. In Auction 66, thirty-one winning bidders identified themselves as very small businesses and won 142 licenses. Twenty-six of the winning bidders identified themselves as small businesses and won 73 licenses. In 2008, the Commission conducted an auction of AWS–1 licenses, designated as Auction 78, in which it offered 35 AWS–1 licenses for which there were no winning bids in Auction 66. Four winning bidders that identified themselves as very small businesses won 17 AWS–1 licenses; three of the winning bidders that identified themselves as a small business won five AWS–1 licenses.

115. *700 MHz Band Licenses*. The Commission previously adopted criteria for defining three groups of small businesses for purposes of determining their eligibility for special provisions such as bidding credits. The Commission defined a "small business" as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $40 million for the preceding three years. A "very small business" is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $15 million for the preceding three years. Additionally, the Lower 700 MHz Band had a third category of small business status for Metropolitan/Rural Service Area (MSA/RSA) licenses,

identified as "entrepreneur" and defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA approved these small size standards. The Commission conducted an auction in 2002 of 740 Lower 700 MHz Band licenses (one license in each of the 734 MSAs/RSAs and one license in each of the six Economic Area Groupings (EAGs)). Of the 740 licenses available for auction, 484 licenses were sold to 102 winning bidders. Seventy-two of the winning bidders claimed small business, very small business or entrepreneur status and won a total of 329 licenses. The Commission conducted a second Lower 700 MHz Band auction in 2003 that included 256 licenses: 5 EAG licenses and 476 Cellular Market Area licenses. Seventeen winning bidders claimed small or very small business status and won 60 licenses, and nine winning bidders claimed entrepreneur status and won 154 licenses. In 2005, the Commission completed an auction of 5 licenses in the Lower 700 MHz Band, designated Auction 60. There were three winning bidders for five licenses. All three winning bidders claimed small business status.

116. In 2007, the Commission revised the band plan for the commercial (including Guard Band) and public safety 700 MHz Band spectrum, adopted services rules, including stringent build-out requirements, an open platform requirement on the C Block, and a requirement on the D Block licensee to construct and operate a nationwide, interoperable wireless broadband network for public safety users. In 2008, the Commission conducted Auction 73 which offered all available, commercial 700 MHz Band licenses (1,099 licenses) for bidding using the Commission's standard simultaneous multiple-round (SMR) auction format for the A, B, D, and E Block licenses and an SMR auction design with hierarchical package bidding (HPB) for the C Block licenses. For Auction 73, a bidder with attributed average annual gross revenues that did not exceed $15 million for the preceding three years (very small business) qualified for a 25 percent discount on its winning bids. A bidder with attributed average annual gross revenues that exceeded $15 million, but did not exceed $40 million for the preceding three years, qualified for a 15 percent discount on its winning bids. At the conclusion of Auction 73, 36 winning bidders identifying themselves as very small businesses won 330 of the 1,090 licenses, and 20 winning bidders identifying themselves as a small business won 49 of the 1,090 licenses. The provisionally winning bids for the A, B, C, and E Block licenses exceeded the aggregate reserve prices for those blocks. However, the provisionally winning bid for the D Block license did not meet the applicable reserve price and thus did not become a winning bid.

117. *700 MHz Guard Band Licenses.* For 700 MHz Guard Band licenses, the Commission adopted size standards for "small businesses" and "very small businesses" for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A small business in this service is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $40 million for the preceding three years. Additionally, a very small business is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $15 million for the preceding three years. SBA approval of these definitions is not required. In 2000, the Commission conducted an auction of 52 Major Economic Area (MEA) 700 MHz Guard Band licenses. Of the 104 licenses auctioned, 96 licenses were sold to nine bidders, of which five identified themselves as small businesses and won a total of 26 licenses. A second auction of eight 700 MHz Guard Band licenses commenced and closed in 2001. Of three bidders, one was a small business that won two of the eight licenses.

118. *Specialized Mobile Radio.* The Commission awards small business bidding credits in auctions for Specialized Mobile Radio (SMR) geographic area licenses in the 800 MHz and 900 MHz bands to entities that had revenues of no more than $15 million in each of the three previous calendar years. The Commission awards very small business bidding credits to entities that had revenues of no more than $3 million in each of the three previous calendar years. The SBA has approved these small business size standards for the 800 MHz and 900 MHz SMR Services. The Commission has held auctions for geographic area licenses in the 800 MHz and 900 MHz bands. The 900 MHz SMR auction was completed in 1996. Sixty bidders claiming that they qualified as small businesses under the $15 million size standard won 263 geographic area licenses in the 900 MHz SMR band. The 800 MHz SMR auction for the upper 200 channels was conducted in 1997. Ten bidders claiming that they qualified as small businesses under the $15 million size standard won 38 geographic area licenses for the upper 200 channels in the 800 MHz SMR band. A second auction for the 800 MHz band was conducted in 2002 and included 23 BEA licenses. One bidder claiming small business status won five licenses.

119. The auction of the 1,053 800 MHz SMR geographic area licenses for the General Category channels was conducted in 2000. Eleven bidders won 108 geographic area licenses for the General Category channels in the 800 MHz SMR band qualified as small businesses under the $15 million size standard. In an auction completed in 2000, a total of 2,800 Economic Area licenses in the lower 80 channels of the 800 MHz SMR service were awarded. Of the 22 winning bidders, 19 claimed small business status and won 129 licenses. Thus, combining all three auctions, 40 winning bidders for geographic licenses in the 800 MHz SMR band claimed status as small business.

120. In addition, there are numerous incumbent site-by-site SMR licensees and licensees with extended implementation authorizations in the 800 and 900 MHz bands. The Commission does not know how many firms provide 800 MHz or 900 MHz geographic area SMR pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than $15 million. One firm has over $15 million in revenues. In addition, the Commission does not know how many of these firms have 1500 or fewer employees. The Commission assumes, for purposes of this analysis, that all of the remaining existing extended implementation authorizations are held by small entities, as that small business size standard is approved by the SBA.

121. *Cellular Radiotelephone Service.* Auction 77 was held to resolve one group of mutually exclusive applications for Cellular Radiotelephone Service licenses for unserved areas in New Mexico. Bidding credits for designated entities were not available in Auction 77. In 2008, the Commission completed the closed auction of one unserved service area in the Cellular Radiotelephone Service, designated as Auction 77. Auction 77 concluded with one provisionally winning bid for the unserved area totaling $25,002.

122. *Private Land Mobile Radio (PLMR).* PLMR systems serve an essential role in a range of industrial, business, land transportation, and public safety activities. These radios are used by companies of all sizes operating in all U.S. business categories, and are often used in support of the licensee's

primary (non-telecommunications) business operations. For the purpose of determining whether a licensee of a PLMR system is a small business as defined by the SBA, the Commission uses the broad census category, Wireless Telecommunications Carriers (except Satellite). This definition provides that a small entity is any such entity employing no more than 1,500 persons. The Commission does not require PLMR licensees to disclose information about number of employees, so the Commission does not have information that could be used to determine how many PLMR licensees constitute small entities under this definition. The Commission notes that PLMR licensees generally use the licensed facilities in support of other business activities, and therefore, it would also be helpful to assess PLMR licensees under the standards applied to the particular industry subsector to which the licensee belongs.

123. As of March 2010, there were 424,162 PLMR licensees operating 921,909 transmitters in the PLMR bands below 512 MHz. The Commission notes that any entity engaged in a commercial activity is eligible to hold a PLMR license, and that any revised rules in this context could therefore potentially impact small entities covering a great variety of industries.

124. *Rural Radiotelephone Service.* The Commission has not adopted a size standard for small businesses specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio System (BETRS). In the present context, the Commission will use the SBA's small business size standard applicable to Wireless Telecommunications Carriers (except Satellite), *i.e.*, an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and the Commission estimates that there are 1,000 or fewer small entity licensees in the Rural Radiotelephone Service that may be affected by the rules and policies proposed herein.

125. *Broadband Radio Service and Educational Broadband Service.* Broadband Radio Service systems, previously referred to as Multipoint Distribution Service (MDS) and Multichannel Multipoint Distribution Service (MMDS) systems, and "wireless cable," transmit video programming to subscribers and provide two-way high speed data operations using the microwave frequencies of the Broadband Radio Service (BRS) and Educational Broadband Service (EBS) (previously referred to as the Instructional Television Fixed Service (ITFS)). In connection with the 1996 BRS auction, the Commission established a small business size standard as an entity that had annual average gross revenues of no more than $40 million in the previous three calendar years. The BRS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas (BTAs). Of the 67 auction winners, 61 met the definition of a small business. BRS also includes licensees of stations authorized prior to the auction. At this time, the Commission estimates that of the 61 small business BRS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 392 incumbent BRS licensees that are considered small entities. After adding the number of small business auction licensees to the number of incumbent licensees not already counted, the Commission finds that there are currently approximately 440 BRS licensees that are defined as small businesses under either the SBA or the Commission's rules. The Commission has adopted three levels of bidding credits for BRS: (i) A bidder with attributed average annual gross revenues that exceed $15 million and do not exceed $40 million for the preceding three years (small business) is eligible to receive a 15 percent discount on its winning bid; (ii) a bidder with attributed average annual gross revenues that exceed $3 million and do not exceed $15 million for the preceding three years (very small business) is eligible to receive a 25 percent discount on its winning bid; and (iii) a bidder with attributed average annual gross revenues that do not exceed $3 million for the preceding three years (entrepreneur) is eligible to receive a 35 percent discount on its winning bid. In 2009, the Commission conducted Auction 86, which offered 78 BRS licenses. Auction 86 concluded with ten bidders winning 61 licenses. Of the ten, two bidders claimed small business status and won 4 licenses; one bidder claimed very small business status and won three licenses; and two bidders claimed entrepreneur status and won six licenses.

126. In addition, the SBA's Cable Television Distribution Services small business size standard is applicable to EBS. There are presently 2,032 EBS licensees. All but 100 of these licenses are held by educational institutions. Educational institutions are included in this analysis as small entities. Thus, the Commission estimates that at least 1,932 licensees are small businesses. Since 2007, Cable Television Distribution Services have been defined within the broad economic census category of Wired Telecommunications Carriers; that category is defined as follows: "This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies." The SBA defines a small business size standard for this category as any such firms having 1,500 or fewer employees. To gauge small business prevalence for these cable services the Commission must, however, use current census data that are based on the previous category of Cable and Other Program Distribution and its associated size standard; that size standard was: all such firms having $13.5 million or less in annual receipts. According to Census Bureau data for 2002, there were a total of 1,191 firms in this previous category that operated for the entire year. Of this total, 1,087 firms had annual receipts of under $10 million, and 43 firms had receipts of $10 million or more but less than $25 million. Thus, the majority of these firms can be considered small.

127. *Internet Service Providers (ISPs).* The 2007 Economic Census places ISPs, whose services might include voice over Internet protocol (VoIP), in either of two categories, depending on whether the service is provided over the provider's own telecommunications connections (*e.g.*, cable and DSL ISPs), or over client-supplied telecommunications connections (*e.g.*, dial-up ISPs). The former are within the category of Wired Telecommunications Carriers, which has an SBA small business size standard of 1,500 or fewer employees. The latter are within the category of All Other Telecommunications, which has a size standard of annual receipts of $25 million or less. The most current Census Bureau data for all such firms, however, are the 2002 data for the previous census category called Internet Service Providers. That category had a small business size standard of $21 million or less in annual receipts, which was revised in late 2005 to $23 million. The 2002 data show that there were 2,529 such firms that operated for the entire year. Of those, 2,437 firms had annual receipts of under $10 million, and an additional 47 firms had receipts of between $10 million and $24,999,999. Consequently, the Commission

estimates that the majority of ISP firms are small entities.

128. The ISP industry has changed dramatically since 2002. The 2002 data cited above may therefore include entities that no longer provide Internet access service and may exclude entities that now provide such service. To ensure that this IRFA describes the universe of small entities that our action might affect, the Commission discusses in turn several different types of entities that might be providing Internet access service.

129. The Commission notes that, although the Commission has no specific information on the number of small entities that provide Internet access service over unlicensed spectrum, it includes these entities in the IRFA.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

130. The *Mobility Fund Notice of Proposed Rulemaking* seeks public comment on creation of a new Mobility Fund within the high-cost mechanism of the federal universal service program. The Mobility fund would make available non-recurring support to providers to deploy 3G or better networks where these services are not currently available. The proposed Mobility Fund would use market mechanisms—specifically, a reverse-auction—to compare all offers to provide service across the unserved areas eligible for participation in the Mobility Fund program.

13. In proposing the Mobility Fund, the Commission seeks comment on various reporting, record-keeping, and other compliance requirements for the parties that will be applying for and receiving support from the Mobility Fund. The *Mobility Fund Notice of Proposed Rulemaking* proposes, for example, that parties interested in participating in a Mobility Fund auction must disclose certain information, such as their ownership, before participating in the auction. The *Mobility Fund Notice of Proposed Rulemaking* proposes that auction winners be required to provide more detailed information, including project descriptions and timetables. The parties receiving support would be subject to certain reporting requirements demonstrating a certain level of network quality of service and reasonably comparable rates, and would need to provide, in annual reports, data from drive tests showing mobile transmissions to and from the network meeting or exceeding certain minimum standards. The *Mobility Fund Notice of Proposed Rulemaking* also proposes a five-year record retention period, consistent with the record retention period for other universal service high-cost support.

132. Because the overall design and scope of the Mobility Fund have not been finalized, the Commission does not have a more specific estimate of potential reporting, recordkeeping, and compliance burdens on small businesses. The Commission anticipates that commenters will address the reporting, recordkeeping, and other compliance proposals made in the *Mobility Fund Notice of Proposed Rulemaking,* and will provide reliable information on any costs and burdens on small businesses for inclusion in the record of this proceeding.

5. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

133. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

134. The reporting, recordkeeping, and other compliance requirements in this *Mobility Fund Notice of Proposed Rulemaking* could have an impact on both small and large entities. However, even though the impact may be more financially burdensome for smaller entities, the Commission believes the impact of such requirements is outweighed by the benefit of providing the additional USF support necessary to make advanced wireless services available to areas of the nation that are currently unserved. Further, these requirements are necessary to ensure that the statutory goals of 47 U.S.C. 254 are met without waste, fraud, or abuse.

135. The Commission expects to consider the economic impact on small entities, as identified in comments filed in response to the *Mobility Fund Notice of Proposed Rulemaking*, in reaching its final conclusions and taking action in this proceeding.

6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

136. None.

List of Subjects in 47 CFR Parts 1 and 54

Administrative practice and procedure, Competitive bidding, Telecommunications, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2010–27458 Filed 10–29–10; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 10–2000; MB Docket No. 08–194; RM–11488]

Television Broadcasting Services; Huntsville, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has before it a petition for rulemaking filed by Local TV Alabama License, LLC ("Local TV"), the licensee of WHNT–TV, channel 46, Huntsville, Alabama. Local TV requests the substitution of channel 46 for channel 19 at Huntsville.

DATES: Comments must be filed on or before December 1, 2010, and reply comments on or before December 16, 2010.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 445 12th Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: Scott S. Patrick, Esq., Dow Lohnes PLLC, 1200 New Hampshire Avenue, NW., Suite 800, Washington, DC 20036–6802.

FOR FURTHER INFORMATION CONTACT: David Brown, *david.brown@fcc.gov,* Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 08–194, adopted October 18, 2010, and released October 19, 2010. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC 20554. This document

will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–478–3160 or via e-mail *http://www.BCPIWEB.com.* To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). 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).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts (other than *ex parte* presentations exempt under 47 CFR 1.1204(a) are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1208 for rules governing restricted proceedings.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television, Television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 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.

§ 73.622(i) [Amended]

2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Alabama, is amended by adding channel 19 and removing channel 46 at Huntsville.

Federal Communications Commission.

Clay C. Pendarvis,

Associate Chief, Video Division, Media Bureau.

[FR Doc. 2010–27461 Filed 10–29–10; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 75, No. 210
Monday, November 1, 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

Operating Guidelines, Forms, and Waivers; Correction

AGENCY: Food and Nutrition Service.

ACTION: Notice; Correction.

SUMMARY: The Department of Agriculture published a document in the **Federal Register** on October 12, 2010, concerning a request for comments on the information collection "Operating Guidelines, Forms, and Waivers" OMB control number 0584–0083. The document contained incorrect burden hours. The total burden hours should be 7,537 not 2,849 as published.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2010–27507 Filed 10–29–10; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Delta-Bienville Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Delta-Bienville Resource Advisory Committee will meet in Forest, Mississippi. 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 is to hold the first meeting of the newly formed committee.

DATES: The meeting will be held on November 30, 2010, and will begin at 6 p.m.

ADDRESSES: The meeting will be held at the Bienville Ranger District Work Center, Hwy. 501 South, 935A South Raleigh St., Forest, Mississippi 39074. Written comments should be sent to Michael T. Esters, Bienville Ranger District Office, 3473 Hwy. 35 South, Forest, Mississippi 39074. Comments may also be sent via e-mail to *mesters@fs.fed.us,* or via facsimile to (601) 469–2513.

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 Bienville Ranger District Office, 3473 Hwy. 35 South, Forest, Mississippi 39074. Visitors are encouraged to call ahead to (601) 469–3811 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Nefisia Kittrell, RAC coordinator, USDA, Bienville Ranger District Office, 3473 Hwy. 35 South, Forest, Mississippi; (601) 469–3811; E-mail *nkittrell@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) Introductions of all committee members, replacement members and Forest Service personnel. (2) Selection of a chairperson by the committee members. (3) Receive materials explaining the process for considering and recommending Title II projects; and (4) 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.

Dated: October 21, 2010.

Michael T. Esters,

Designated Federal Officer.

[FR Doc. 2010–27485 Filed 10–29–10; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

FOR FURTHER INFORMATION CONTACT: Sheila E. Forbes, Office of AD/CVD Operations, Customs Unit, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4697.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended ("the Act"), may request, in accordance with section 351.213 of the Department of Commerce ("the Department") regulations, that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

All deadlines for the submission of comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting date.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, the Department intends to select respondents based on U.S. Customs and Border Protection ("CBP") data for U.S. imports during the period of review. We intend to release the CBP data under Administrative Protective Order ("APO") to all parties having an APO within seven days of publication of the initiation notice and to make our decision regarding respondent selection within 21 days of publication of the initiation **Federal Register** notice. Therefore, we encourage all parties interested in commenting on respondent selection to submit their APO

applications on the date of publication of the initiation notice, or as soon thereafter as possible. The Department invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the review.

Opportunity to Request a Review: Not later than the last day of November 2010,[1] interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in November for the following periods:

	Period of review
Antidumping Duty Proceedings	
Brazil:	
Certain Circular Welded Non-Alloy Steel Pipe, A–351–809	11/1/09–10/31/10
Polyethylene Terephthalate (Pet) Film, A–351–841	11/1/09–10/31/10
Germany: Lightweight Thermal Paper, A–428–840	11/1/09–10/31/10
Mexico: Certain Circular Welded Non-Alloy Steel Pipe, A–201–805	11/1/09–10/31/10
Republic of Korea:	
Certain Circular Welded Non-Alloy Steel Pipe, A–580–809	11/1/09–10/31/10
Diamond Sawblades And Parts Thereof, A–580–855	1/23/09–10/31/10
Taiwan:	
Certain Hot-Rolled Carbon Steel Flat Products, A–583–835	11/1/09–10/31/10
Certain Circular Welded Non-Alloy Steel Pipe, A–583–814	11/1/09–10/31/10
Thailand: Certain Hot-Rolled Carbon Steel Flat Products, A–549–817	11/1/09–10/31/10
The People's Republic of China:	
Certain Cut-To-Length Carbon Steel, A–570–849	11/1/09–10/31/10
Certain Hot-Rolled Carbon Steel Flat Products, A–570–865	11/1/09–10/31/10
Diamond Sawblades And Parts Thereof, A–570–900	1/23/09–10/31/10
Fresh Garlic, A–570–831	11/1/09–10/31/10
Lightweight Thermal Paper, A–570–920	11/1/09–10/31/10
Paper Clips, A–570–826	11/1/09–10/31/10
Polyethylene Terephthalate (Pet) Film, A–570–924	11/1/09–10/31/10
Pure Magnesium In Granular Form, A–570–864	11/1/09–10/31/10
Refined Brown Aluminum Oxide, A–570–882	11/1/09–10/31/10
Ukraine: Certain Hot-Rolled Carbon Steel Flat Products, A–823–811	11/1/09–10/31/10
United Arab Emirates: Polyethylene Terephthalate (Pet) Film, A–520–803	11/1/09–10/31/10
Countervailing Duty Proceedings	
The People's Republic of China: Lightweight Thermal Paper, C–570–921	1/1/09–12/31/09
Suspension Agreements	
Ukraine: Certain Cut-to-Length Carbon Steel, A–823–808	11/1/09–10/31/10

In accordance with section 351.213(b) of the regulations, an interested party, as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review. In addition, a domestic interested party or an interested party described in section 771(9)(B) of the Act must state why it desires the Secretary to review those particular producers or exporters.[2] If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Please note that, for any party the Department was unable to locate in prior segments, the Department will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to section 351.303(f)(3)(ii) of the regulations.

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003), the Department has clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders. *See also* the Import Administration Web site at *http://www.trade.gov/ia.*

Six copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Operations, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 351.303(f)(3)(ii), a copy of each request must be served on the petitioner and

[1] Or the next business day, if the deadline falls on a weekend, Federal holiday or any other day when the Department is closed.

[2] If the review request involves a non-market economy and the parties subject to the review request do not qualify for separate rates, all other exporters of subject merchandise from the non-market economy country who do not have a separate rate will be covered by the review as part of the single entity of which the named firms are a part.

each exporter or producer specified in the request.

The Department will publish in the **Federal Register** a notice of "Initiation of Administrative Review of Antidumping or Countervailing Duty Orders, Findings, or Suspended Investigations" for requests received by the last day of November 2010. If the Department does not receive, by the last day of November 2010, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures "gap" period, of the order, if such a gap period is applicable to the period of review.

This notice is not required by statute but is published as a service to the international trading community.

Dated: October 25, 2010.

Susan H. Kuhbach,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–27521 Filed 10–29–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

Background

Every five years, pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"), the Department of Commerce ("the Department") and the International Trade Commission automatically initiate and conduct a review to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 of the Act would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

Upcoming Sunset Reviews for December 2010

The following Sunset Reviews are scheduled for initiation in December 2010 and will appear in that month's Notice of Initiation of Five-Year Sunset Reviews.

	Department contact
Antidumping duty proceedings [1]	
Solid Urea from Russia (A–821–801) (3rd Review)	Dana Mermelstein; (202) 482–1391.
Solid Urea from Ukraine (A–823–801) (3rd Review)	Dana Mermelstein; (202) 482–1391.

Countervailing Duty Proceedings

No Sunset Review of countervailing duty orders is scheduled for initiation in December 2010.

Suspended Investigations

No Sunset Review of suspended investigations is scheduled for initiation in December 2010.

The Department's procedures for the conduct of Sunset Reviews are set forth in 19 CFR 351.218. Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998). The Notice of Initiation of Five-Year ("Sunset") Reviews provides further information regarding what is required of all parties to participate in Sunset Reviews.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Please note that if the Department receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue. Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation.

This notice is not required by statute but is published as a service to the international trading community.

Dated: October 27, 2010.

Susan H. Kuhbach,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–27523 Filed 10–29–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 62–2010]

Foreign-Trade Zone 176—Rockford, IL; Application for Reorganization (Expansion of Service Area) Under the Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Greater Rockford Airport Authority, grantee of FTZ 176, requesting authority to reorganize its zone to expand its service area under the alternative site framework (ASF)

[1] The Department was scheduled to initiate the sunset review of the antidumping order on raw pistachios from Iran (A–507–502) in December 2010. However, the recently enacted Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 includes a ban on all U.S. imports from Iran, including pistachios, effective September 29, 2010. *See* Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, 111 Public Law 195, § 103(b); *see also Iranian Transactions Regulations,* 75 FR 59611 (September 28, 2010). While this import ban remains in effect, 19 U.S.C. 1675(c)(7) provides that the five-year period from the date of the Department's prior determination to continue the order in effect is tolled. Accordingly, the Department may not initiate a sunset review of the antidumping order on raw pistachios from Iran until two months after the import ban on pistachios is lifted.

adopted by the Board (74 FR 1170, 1/12/09; correction 74 FR 3987, 1/22/09). The ASF is an option for grantees for the establishment or reorganization of general-purpose zones and can permit significantly greater flexibility in the designation of new "usage-driven" FTZ sites for operators/users located within a grantee's "service area" in the context of the Board's standard 2,000-acre activation limit for a general-purpose zone project. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on October 26, 2010.

FTZ 176 was approved by the Board on March 1, 1991 (Board Order 511, 56 FR 10409, 3/12/91) and expanded on February 9, 2005 (Board Order 1368, 70 FR 9613, 2/28/05), August 3, 2006 (Board Order 1473, 71 FR 47483, 8/17/06) and on January 30, 2009 (Board Order 1603, 74 FR 6570, 2/10/09). FTZ 176 was reorganized under the ASF on August 19, 2010 (Board Order 1702, 75 FR 52511–52512, 8/26/2010).

The zone project currently has a service area that includes Winnebago, Stephenson, Ogle, Lee, DeKalb, and Boone Counties, and portions of Bureau, McHenry and Kane Counties, Illinois.

The applicant is requesting authority to expand the service area of the zone to include portions of LaSalle and Putnam Counties, as described in the application. If approved, the grantee would be able to serve sites throughout the expanded service area based on companies' needs for FTZ designation. The proposed expanded service area is adjacent to the Rockford Customs and Border Protection port of entry.

In accordance with the Board's regulations, Elizabeth Whiteman of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is January 3, 2011. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to January 18, 2011.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230–0002, and in the "Reading Room" section of the Board's Web site, which is accessible via *http://www.trade.gov/ftz.* For further information, contact Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: October 26, 2010.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2010–27520 Filed 10–29–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year ("Sunset") Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended ("the Act"), the Department of Commerce ("the Department") is automatically initiating a five-year review ("Sunset Review") of the antidumping and countervailing duty orders listed below. The International Trade Commission ("the Commission") is publishing concurrently with this notice its notice of *Institution of Five-Year Review* which covers the same orders.

DATES: *Effective Date:* November 1, 2010.

FOR FURTHER INFORMATION CONTACT: The Department official identified in the *Initiation of Review* section below at AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

Background

The Department's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-Year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders: Policy Bulletin,* 63 FR 18871 (April 16, 1998).

Initiation of Review

In accordance with 19 CFR 351.218(c), we are initiating the Sunset Review of the following antidumping and countervailing duty orders:

DOC case No.	ITC case No.	Country	Product	Department contact
A–533–817	731–TA–817	India	Certain Cut-to-Length Carbon-Quality Steel Plate (2nd Review).	David Goldberger (202) 482–4136.
A–560–805	731–TA–818	Indonesia	Certain Cut-to-Length Carbon-Quality Steel Plate (2nd Review).	David Goldberger (202) 482–4136.
A–475–826	731–TA–819	Italy	Certain Cut-to-Length Carbon-Quality Steel Plate (2nd Review).	David Goldberger (202) 482–4136.
A–588–847	731–TA–820	Japan	Certain Cut-to-Length Carbon-Quality Steel Plate (2nd Review).	David Goldberger (202) 482–4136.
A–580–836	731–TA–821	South Korea	Certain Cut-to-Length Carbon-Quality Steel Plate (2nd Review).	David Goldberger (202) 482–4136.
A–475–703	731–TA–385	Italy	Certain Cut-to-Length Carbon-Quality Steel Plate (3rd Review).	David Goldberger (202) 482–4136.
A–588–707	731–TA–386	Japan	Granular Polytetraflouroethylene (3rd Review).	David Goldberger (202) 482–4136.
A–588–866	731–TA–1090	Japan	Superalloy Degassed Chromium	Dana Mermelstein (202) 482–1391.
A–570–827	731–TA–669	PRC	Cased Pencils (3rd Review)	David Goldberger (202) 482–4136.
A–570–804	731–TA–464	PRC	Sparklers (3rd Review)	Jennifer Moats (202) 482–5047.
A–533–809	731–TA–639	India	Forged Stainless Steel Flanges (3rd Review).	Dana Mermelstein (202) 482–1391.

DOC case No.	ITC case No.	Country	Product	Department contact
A–583–821	731–TA–640	Taiwan	Forged Stainless Steel Flanges (3rd Review).	Dana Mermelstein (202) 482–1391.
C–533–818	701–TA–388	India	Certain Cut-to-Length Carbon-Quality Steel Plate (2nd Review).	David Goldberger (202) 482–4136.
C–560–806	701–TA–389	Indonesia	Certain Cut-to-Length Carbon-Quality Steel Plate (2nd Review).	David Goldberger (202) 482–4136.
C–475–827	701–TA–390	Italy	Certain Cut-to-Length Carbon- Quality Steel Plate (2nd Review).	David Goldberger (202) 482–4136.
C–580–837	701–TA–391	South Korea	Certain Cut-to-Length Carbon-Quality Steel Plate (2nd Review).	David Goldberger (202) 482–4136.

Filing Information

As a courtesy, we are making information related to Sunset proceedings, including copies of the pertinent statute and Department's regulations, the Department schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on the Department's Internet Web site at the following address: "*http://ia.ita.doc.gov/sunset/*." All submissions in these Sunset Reviews must be filed in accordance with the Department's regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Because deadlines in Sunset Reviews can be very short, we urge interested parties to apply for access to proprietary information under administrative protective order ("APO") immediately following publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required From Interested Parties

Domestic interested parties defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b)) wishing to participate in a Sunset Review must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review. *See* 19 CFR 351.218(d)(1)(iii).

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that *all parties* wishing to participate in the Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Please consult the Department's regulations for information regarding the Department's conduct of Sunset Reviews.[1] Please consult the Department's regulations at 19 CFR part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218 (c).

Dated: October 27, 2010.

Susan H. Kuhbach,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010–27522 Filed 10–29–10; 8:45 am]

BILLING CODE 3510–DS–P

[1] In comments made on the interim final sunset regulations, a number of parties stated that the proposed five-day period for rebuttals to substantive responses to a notice of initiation was insufficient. This requirement was retained in the final sunset regulations at 19 CFR 351.218(d)(4). As provided in 19 CFR 351.302(b), however, the Department will consider individual requests to extend that five-day deadline based upon a showing of good cause.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0684–XZ34

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permit

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS, has made a preliminary determination that the subject exempted fishing permit (EFP) application contains all the required information and warrants further consideration. The subject EFP would allow commercial fishing vessels to conduct fishing operations that are otherwise restricted by the regulations governing the fisheries of the Northeastern United States. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Comments must be received on or before November 16, 2010.

ADDRESSES: Comments may be submitted by e-mail to *NERO.EFP@noaa.gov.* Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on the SNE Flatfish Discard Mortality EFP." Comments may also be sent via facsimile (fax) to (978) 281–9135.

FOR FURTHER INFORMATION CONTACT: Melissa Vasquez, Fishery Policy Analyst, (978) 281–9166, fax (978) 281–9135.

SUPPLEMENTARY INFORMATION: An EFP is being requested for one vessel participating in the Southern New England (SNE) Flatfish Discard Mortality Study conducted by the University of Massachusetts, Dartmouth, School for Marine Science and Technology (SMAST) Cooperative Marine Education and Research program. The primary objective of this study is to assess the effects of different stressors on the mortality of flatfish discarded in SNE and Mid-Atlantic trawl fisheries. The researchers would conduct field and lab observations of flatfish captured during regular commercial fishing operations for Reflex Action Mortality Predictors (RAMP) under different stressors to assess the discard mortality rates of five flatfish stocks: SNE yellowtail flounder; SNE winter flounder; summer flounder; northern windowpane flounder; and southern windowpane flounder. In addition, the applicants would use the results of their study to assess the use of RAMP in estimating the mortality of each species within the flatfish complex.

The study would be conducted aboard one commercial fishing vessel in the SNE and Mid-Atlantic mixed trawl fishery, beginning the date of issuance of the EFP and continuing for a full year. The vessel would utilize otter trawl gear with gear configuration and mesh size dictated by current fishery regulations. SMAST technicians and/or commercial fishermen would collect 100 fish of each species per month, during regular commercial fishing operations, for a maximum catch of 6,000 fish over the course of the 12-month study (Table 1). Fish would be placed in oxygen-enriched seawater tanks and, upon landing, be transported live to the SMAST seawater lab facility for testing. Fish collected for laboratory observation would not be sold. The applicant has requested an exemption from NE multispecies possession restrictions for SNE yellowtail flounder, and SNE winter flounder and windowpane flounder, at §§ 648.86(g)(1) and 648.86(l), respectively, in order to land the live specimens in excess of possession limits. The applicants have also requested an exemption from NE multispecies minimum fish sizes at § 648.83 and the summer flounder minimum fish size at § 648.103(a), in order to test a representative sample of the age composition of flatfish.

TABLE 1—ESTIMATED SAMPLE SIZE

Species	Number of fish/month	Number of fish total
SNE Yellowtail Flounder	100	1200
SNE Winter Flounder	100	1200
Summer Flounder	100	1200
Northern Windowpane Flounder	100	1200
Southern Windowpane Flounder	100	1200

The participating vessel is enrolled in Northeast Fishery Sector V for the 2010 fishing year, which has received a SNE yellowtail flounder annual catch entitlement (ACE). Consistent with the regulations at § 648.87, the participating vessel is currently exempt from trip limits on this stock, but would not be exempt from any sector requirements, including at-sea and dockside monitoring of sector trips and full retention of legal-sized fish of allocated stocks, while fishing under this EFP. In addition, all catch of allocated stocks by the sector vessel on a sector trip, while participating in the EFP, would count toward the sector's ACE, and the vessel's sector must have ACE of all stocks in the area the vessel intends to fish a sector trip. The vessel would be required to report research catch landed that is of legal size separate from that of sub-legal size, on their Vessel Trip Reports (VTRs). The vessel's sector manager would be notified to include legal-sized research landings from the VTRs in their ACE accounting, in addition to the vessel's dealer-recorded landings.

In addition to retaining fish for laboratory observation, technicians would observe a minimum of 100 fish of each species on commercial fishing trips for RAMP before they are discarded at-sea. The applicants would require a temporary exemption from the summer flounder commercial minimum fish size restriction at § 648.103(a), the NE multispecies minimum fish size restrictions at § 648.83, and the NE multispecies possession restrictions at §§ 648.86(g)(1) and 648.86(l), for the time period when trained technicians or crew are sampling fish. To ensure that monthly sampling is not disrupted, the applicants have also requested vessels be exempt from the summer flounder closure specified at § 648.101(a) for the purposes of collecting the 100 live specimens of each species each month.

The applicants may request minor modifications and extensions to the EFP throughout the course of research. EFP modifications and extensions may be granted without further public notice if they are deemed essential to facilitate completion of the proposed research and result in only a minimal change in the scope or impacts of the initially approved EFP request. If an extension is requested that goes beyond the fishing year, it is required to go through the publication process again.

In accordance with NAO Administrative Order 216–6, a Categorical Exclusion or other appropriate National Environmental Policy Act document would be completed prior to the issuance of the EFP. Further review and consultation may be necessary before a final determination is made to issue the EFP. After publication of this document in the **Federal Register**, the EFP, if approved, may become effective following the public comment period.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 27, 2010.

Carrie Selberg,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2010–27534 Filed 10–29–10; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Notice of Availability of the Draft Programmatic Environmental Impact Statement for the Mechanical Creation and Maintenance of Emergent Sandbar Habitat in the Riverine Segments of the Upper Missouri River, Missouri River Basin, United States

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1968, as amended, the U.S. Army Corps

of Engineers has prepared a Draft Programmatic Environmental Impact Statement (EIS) for the Mechanical Creation and Maintenance of Emergent Sandbar Habitat on the Riverine Segments of the Upper Missouri River and by this notice is announcing the opening of the comment period.

DATES: The comment period will be open from November 1, 2010 to January 21, 2011. Public meetings will take place in December, 2010 and January, 2011; The specific schedule is provided under **SUPPLEMENTARY INFORMATION.**

ADDRESSES: Written comments should be sent to: Department of the Army; Corps of Engineers, Omaha District; CENWO–PM–AC; ATTN: Emergent Sandbar Habitat Programmatic EIS; 1616 Capitol Avenue; Omaha, NE 68102–4901. Comments can also be e-mailed to: *Cynthia.s.upah@usace.army.mil*. Comments on the Draft Programmatic Environmental Impact Statement for the Mechanical Creation and Maintenance of Emergent Sandbar Habitat in the Riverine Segments of the Upper Missouri River must be postmarked, e-mailed, or otherwise submitted no later than January 21, 2011.

FOR FURTHER INFORMATION CONTACT: For further information and/or questions about the Emergent Sandbar Habitat Programmatic EIS, please contact Ms. Cynthia Upah, Project Manager, by telephone: (402) 995–2672, by mail: 1616 Capitol Avenue, Omaha, NE 68102–4901, or by e-mail: *Cynthia.s.upah@usace.army.mil*. For inquires from the media, please contact the USACE Omaha District Public Affairs Officer (PAO), Ms. Monique Farmer by telephone: (402) 995–2416, by mail: 1616 Capitol Avenue, Omaha, NE 68102, or by e-mail: *Monique.l.farmer@usace.army.mil*.

SUPPLEMENTARY INFORMATION:

1. Background

The Emergent Sandbar Habitat (ESH) program is being implemented by the U.S. Army Corps of Engineers (Corps) for the benefit and recovery of the interior population of the Interior least tern (least tern) and the northern Great Plains piping plover (piping plover). This implementation program resulted from a Biological Opinion (BiOp) issued by the U.S. Fish and Wildlife Service (USFWS) in which the Reasonable and Prudent Alternative called for the Corps to provide sufficient ESH acreage in order to meet biological metrics (fledge ratios) to avoid jeopardizing continued existence of the species, as defined by the Endangered Species Act (ESA).

The Programmatic EIS (PEIS) is needed to provide National Environmental Policy Act (NEPA) coverage for the mechanical construction of ESH. The purpose of the PEIS is to analyze the potential environmental consequences of implementing the ESH program on the Missouri River. The PEIS allows the public, cooperating agencies (USFWS and National Park Service), and Corps decision makers to compare impacts among a range of alternatives. The goal is to inform the selection of a preferred alternative that allows for the creation and replacement of sufficient habitat to support tern and plover populations on the Missouri River in a safe, efficient and cost-effective manner that minimizes negative environmental consequences.

2. Document Availability

The Emergent Sandbar Habitat Programmatic EIS is available online at *http://www.moriverrecovery.org/mrrp/mrrp_pub_dev.download_documentation_esh,* and at the following community libraries: Glasgow City-County Library, 408 Third Avenue South, Glasgow, MT; Bismarck Veterans Memorial Public Library, 515 N Fifth Street, Bismarck, ND; Rawlins Municipal Library, 1000 E. Church St., Pierre, SD; Yankton Community Library, 515 Walnut, Yankton, SD; Sioux City Public Library, 529 Pierce Street, Sioux City, IA; W Dale Clark Library, 215 S. 15th Street, Omaha, NE; Kansas City Public Library, 14 West 10th Street, Kansas City, MO, or please contact Ms. Cynthia Upah, Project Manager, by telephone: (402) 995–2672, by mail: 1616 Capitol Avenue, Omaha, NE 68102–4901, or by e-mail: *Cynthia.s.upah@usace.army.mil*.

3. Public Involvement Meetings

The Omaha District of the U.S. Army Corps of Engineers invites all interested entities including Tribal governments, Federal agencies, state and local governments, and the general public to comment on the Emergent Sandbar Habitat Programmatic EIS. The public comment period began with the publication of this notice on November 1, 2010 and will continue until January 21, 2011.

All public involvement meetings will use an open house format, followed by a presentation and the opportunity to make public comment. Informational materials about the Emergent Sandbar Habitat program and the Programmatic EIS will be located throughout the room for participant perusal throughout the evening. Corps representatives will be available to meet one-on-one with meeting participants. In addition to public comments being recorded, written comments will be collected on comment cards, and the opportunity to have formal verbal comments transcribed will be available. All forms of comment will be weighted equally. Input from the public involvement meetings, along with comments received by other means (regular mail or e-mail), will be used to refine the document before a Final Programmatic EIS is released.

The Corps has scheduled public involvement meetings at the following locations:

1. Tuesday, November 30: Bismarck, North Dakota, Best Western Doublewood Inn & Conference Center, 1400 E. Interchange Avenue, Bismarck, ND 58501.

2. Thursday, December 2: Fort Peck, Montana, Fort Peck Interpretive Center & Museum, Lower Yellowstone Rd., Fort Peck, MT 59223.

3. Tuesday, December 7: Pierre, South Dakota, Best Western Ramkota Hotel & Conference Center, 920 W. Sioux Avenue, Pierre, SD 57501.

4. Wednesday, December 8: Yankton, South Dakota, Riverfront Event Center, 121 W. 3rd Street, Yankton, SD 57078.

5. Thursday, December 9: Sioux City, Iowa, Stoney Creek Inn & Conference Center, 300 3rd Street, Sioux City, IA 51101.

6. Wednesday, January 5, 2011: Omaha, Nebraska, Creighton University Mike & Josie Harper Center, 602 N. 20th Street, Omaha, NE 68178.

7. Thursday, January 6, 2011: Kansas City, Missouri, Kansas City Marriott Country Club Plaza, 4445 Main Street, Kansas City, MO 64111.

If you require assistance under the Americans With Disabilities Act please send your name and phone via e-mail to *Lois@djcase.com* at least three days prior to the meeting you plan to attend. Persons who use a telecommunications service for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at (800) 877–8339, 24 hours a day, seven days a week to relay this same information. For more information about the Emergent Sandbar Habitat program, please visit *http://www.moriverrecovery.org* under "BiOp/Mit Efforts."

Dated: October 19, 2010.

Kayla Eckert Uptmor,

Chief Planning Branch, Omaha District.

[FR Doc. 2010–27496 Filed 10–29–10; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF ENERGY

[FE Docket No. 10–111–LNG]

Sabine Pass Liquefaction, LLC; Opinion and Order Denying Request for Review Under Section 3(c) of the Natural Gas Act

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that on October 21, 2010, it issued an opinion and order pursuant to section 3 of the Natural Gas Act (NGA), that Sabine Pass Liquefaction, LLC's (Sabine Pass) pending application of September 7, 2010, in DOE/FE Docket No. 10–111 LNG for authorization to export liquefied natural gas (LNG) to non free trade agreement countries will be reviewed under section 3(a) of the NGA, and Sabine Pass' request for review under section 3(c) of the NGA is denied.

This Order is available for inspection and copying in the Office of Oil and Gas Global Security and Supply docket room, 3E–042, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The Order is also available electronically at the following DOE/FE Web address: *http://www.fe.doe.gov/programs/gasregulation/index.html.*

Issued in Washington, DC, on October 26, 2010.

John A. Anderson,

Manager, Natural Gas Regulatory Activities, Office of Oil and Gas Global Security and Supply, Office of Fossil Energy.

[FR Doc. 2010–27497 Filed 10–29–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Proposed Subsequent Arrangement

AGENCY: Office of Nonproliferation and International Security, Department of Energy.

ACTION: Proposed subsequent arrangement.

SUMMARY: This notice has been issued under the authority of Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160). The Department is providing notice of a proposed subsequent arrangement under the Agreement for Cooperation Concerning Civil Uses of Nuclear Energy Between the Government of the United States of America and the Government of Canada and the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy Between the United States of America and the European Atomic Energy Community.

This subsequent arrangement concerns the retransfer of 1,470,588.2 kg of U.S.-origin natural uranium hexafluoride (68.00% U), 1,000,000 kg of which is uranium, from Areva Resources Canada, Inc. (Areva Resources) in Saskatoon, Saskatchewan, Canada, to Eurodif Production in Pierrelatte, France. The material, which is currently located at Areva Resources, will be transferred to Eurodif Production for enrichment and use as fuel in civilian nuclear power programs in the United States and France. The material was originally obtained by Areva Resources from the Feed Component Substitution Implementing Contract.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: October 1, 2010.

For the Department of Energy.

Thomas P. D'Agostino,

Administrator, National Nuclear Security Administration.

[FR Doc. 2010–27500 Filed 10–29–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Proposed Subsequent Arrangement

AGENCY: Office of Nonproliferation and International Security, Department of Energy.

ACTION: Proposed subsequent arrangement.

SUMMARY: This notice has been issued under the authority of Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160). The Department is providing notice of a proposed subsequent arrangement under the Agreement for Cooperation Concerning Civil Uses of Nuclear Energy Between the Government of the United States of America and the Government of Canada and the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy Between the United States of America and the European Atomic Energy Community.

This subsequent arrangement concerns the retransfer of 514,705.9 kg of U.S.-origin natural uranium hexafluoride (68.00% U), 350,000 kg of which is uranium, from Areva Resources Canada, Inc. (Areva Resources) in Saskatoon, Saskatchewan, Canada, to URENCO in Almelo, Netherlands. The material, which is currently located at Areva Resources, will be transferred to URENCO–Almelo for enrichment and use as fuel in civilian nuclear power programs in the United States and France. The material was originally obtained by Areva Resources from the Feed Component Substitution Implementing Contract.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: October 1, 2010.

For the Department of Energy.

Thomas P. D'Agostino,

Administrator, National Nuclear Security Administration.

[FR Doc. 2010–27501 Filed 10–29–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Proposed Subsequent Arrangement

AGENCY: Office of Nonproliferation and International Security, Department of Energy.

ACTION: Proposed subsequent arrangement.

SUMMARY: This notice has been issued under the authority of Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160). The Department is providing notice of a proposed subsequent arrangement under the Agreement for Cooperation Concerning Civil Uses of Nuclear Energy Between the Government of the United States of America and the Government of Canada and the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy Between the United States of America and the European Atomic Energy Community.

This subsequent arrangement concerns the retransfer of 441,176.5 kg of U.S.-origin natural uranium hexafluoride (68.00% U), 300,000 kg of which is uranium, from Areva Resources Canada, Inc. (Areva Resources) in Saskatoon, Saskatchewan, Canada, to URENCO in Capenhurst, United Kingdom. The material, which is currently located at Areva Resources,

will be transferred to URENCO–Capenhurst for enrichment and use as fuel in civilian nuclear power programs in the United States and France. The material was originally obtained by Areva Resources from the Feed Component Substitution Implementing Contract.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: October 1, 2010.

For the Department of Energy.

Thomas P. D'Agostino,

Administrator, National Nuclear Security Administration.

[FR Doc. 2010–27499 Filed 10–29–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Proposed Subsequent Arrangement

AGENCY: Office of Nonproliferation and International Security, Department of Energy.

ACTION: Proposed subsequent arrangement.

SUMMARY: This notice has been issued under the authority of Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160). The Department is providing notice of a proposed subsequent arrangement under the Agreement for Cooperation Concerning Civil Uses of Nuclear Energy Between the Government of the United States of America and the Government of Canada and the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy Between the United States of America and the European Atomic Energy Community.

This subsequent arrangement concerns the retransfer of 514,705.9 kg of U.S.-origin natural uranium hexafluoride (68.00% U), 350,000 kg of which is uranium, from Areva Resources Canada, Inc. (Areva Resources) in Saskatoon, Saskatchewan, Canada, to URENCO in Gronau, Germany. The material, which is currently located at Areva Resources, will be transferred to URENCO–Gronau for enrichment and use as fuel in civilian nuclear power programs in the United States and France. The material was originally obtained by Areva Resources from the Feed Component Substitution Implementing Contract.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: October 1, 2010.

For the Department of Energy.

Thomas P. D'Agostino,

Administrator, National Nuclear Security Administration.

[FR Doc. 2010–27498 Filed 10–29–10; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2010–0469; FRL–9219–3]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Secondary Aluminum Production Residual Risk and Technology Review (RTR); EPA ICR No. 2400.01, OMB Control Number 2060—NEW

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request for a new collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before December 1, 2010.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2010–0469, to (1) EPA online using www.regulations.gov (our preferred method), by email to *a-and-r-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, 22821T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Rochelle Boyd, Office of Air Quality Planning and Standards, D243–02, Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–1390; fax number: (919) 541–3207; email address: *boyd.rochelle@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On July 26, 2010 (75 FR 43520), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received one 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–OAR–2010–0469, which is available for online viewing at *http://www.regulations.gov* or in person viewing at the Air and Radiation 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 Air and Radiation Docket is 202–566–1742.

Use *http://www.regulations.gov* to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified in this document. Please note that EPA's policy is that public comments, whether submitted electronically or on paper, will be made available for public viewing at *http://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 *http://www.regulations.gov*.

Title: NESHAP for Secondary Aluminum Production Residual Risk and Technology Review (RTR).

ICR numbers: EPA ICR No. 2400.01, OMB Control No. 2060—New.

ICR Status: This ICR is for a new information collection activity. 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 are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: This ICR was developed specifically for secondary aluminum production facilities and has been tailored to the processes at secondary aluminum production facilities. EPA intends to provide the survey in electronic format. The survey will be sent to all facilities identified as owning or operating secondary aluminum production facilities through information available to the Agency.

Information is requested from approximately 400 secondary aluminum production facilities on general facility information, process information, emission control devices used at the facilities and their basic design and operating features, quantity of air emissions, throughput and capacity of process units. An update of the 2005 National-Scale Air Toxics Assessment/National Emissions Inventory data sets and more specific information needed for further rulemaking would be derived from the ICR. This information is necessary for EPA to adequately characterize residual risk at these facilities, and to develop standards for new and existing secondary aluminum production facilities under section 112 of the Clean Air Act (CAA).

EPA is charged, under section 112 of the CAA, with developing national emission standards for 189 listed hazardous air pollutants (HAP). The Secondary Aluminum Production Maximum Achievable Control Technology (Secondary Aluminum MACT) standard (40 CFR part 63, subpart RRR) is a national emission standard for HAP developed under the authority of section 112(d) of the CAA. EPA is required to review each MACT standard and revise them "as necessary (taking into account developments in practices, processes and control technologies)" no less frequently than every eight years. These reviews are commonly referred to as "technology reviews." In addition, EPA is required to assess the risk remaining (residual risk) after implementation of the MACT standard and promulgate more stringent standards if they are necessary to protect public health. Under EPA's RTR program, EPA is addressing these two requirements concurrently. EPA is updating the information they currently possess and filling identified data gaps in that information in order to provide a thorough basis for the RTR efforts. The data collection effort will gather additional information to allow comprehensive and technically sound analyses that will form the basis for future rulemaking decisions. Responses to the ICR are mandatory under the authority of section 114 of the CAA.

Burden Statement: The one time public reporting burden for the collection of this information is estimated to average 91 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners or operators of secondary aluminum production facilities.

Estimated Number of Respondents: 400 facilities.

Frequency of Response: One time.

Estimated Total Annual Hour Burden: 36,248.

Estimated Total Annual Cost: $3,429,747, which includes $1,200 in operation and maintenance costs.

Changes in the Estimates: This is a new collection.

Dated: October 26, 2010.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2010–27508 Filed 10–29–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0818; FRL–9218–6]

Clean Water Act (CWA) and Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Common Aquatic Life Effects Assessment for Pesticides Using Available Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of national meeting and request for public comment.

SUMMARY: EPA will conduct a national stakeholders meeting to solicit input on methods being evaluated by the Office of Pesticide Programs (OPP) and the Office of Water (OW), with the support of the Office of Research and Development (ORD) to develop common characterizations of effects from pesticides on fish, other aquatic organisms, and aquatic plants in aquatic ecosystems. The national meeting will be held in Washington, DC, December 1, 2010. EPA has developed a set of draft white papers that explore: (1) The use of various tools to estimate aquatic toxicity data; (2) approaches for deriving community level benchmarks; and (3) procedures for better integrating plant effects data into community level assessments. EPA is soliciting stakeholder input on the tools and approaches presented in the draft white papers via public comment and at the national meeting.

DATES: The national stakeholders meeting will be held December 1, 2010; the agency must receive written requests (via e-mail or US Mail to one of the points of contact listed below) to deliver verbal comments at the National Stakeholder prior to the meeting on December 1, 2010. Written comments may be submitted to the docket (see instructions below) anytime between November 1, 2010 and prior to the close of the docket on January 15, 2010.

ADDRESSES: EPA will hold a national stakeholders meeting at the following address: USEPA East (EPA East) [Old ICC Building], 1201 Constitution Avenue, NW., Washington, DC 20004, Room # 1153 EPA East.

To request accommodation of a disability, please contact the person listed under **FOR FURTHER INFORMATON CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

You may submit comments, identified by the Docket ID: EPA–HQ–OW–2010–0818, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Agency Web Site: owdocket@epa.gov.* Follow the instructions for submitting comments on the *owdocket@epa.gov*.
- *E-mail: OW-Docket@epa.gov.* Include EPA–HQ–OW–2010–0818 in the subject line of the message.
- *Mail:* US Environmental Protection Agency, EPA Docket Center (EPA/DC) Water Docket, MC 4101T,1200

Pennsylvania Avenue, NW., Washington, DC 20460

• *Hand Delivery/Courier:* Public Reading Room, Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

FOR FURTHER INFORMATION CONTACT: Joseph Beaman, Health and Ecological Criteria Division (4304T), Office of Water, U.S. EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20460; 202–566–0420; *beaman.joe@epa.gov*.

Mark Corbin, Environmental Fate and Effects Division (7507P), Office of Pesticide Programs, U.S. EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20460; 703–605–0033; *corbin.mark@epa.gov*

Cindy Roberts, Office of Science Policy (8104R), Office of Research and Development, U.S. EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20460; 202–564–1999; *roberts.cindy@epa.gov*

SUPPLEMENTARY INFORMATION:

I. General Information

A. *Instructions:* All submissions received must include the agency name and docket number for this notice. All comments received will be posted without change to www.regulations.gov, including any personal information provided.

B. *Meeting:* This meeting is open to the public; registration is not required for attending this meeting. Seats will be available on a first come, first served basis.

C. *Does this Action Apply to Me?* This action is directed to the public in general, and may be of interest to a wide range of stakeholders, including environmental, water resources professionals, and agricultural advocates, the chemical industry, pesticide users, and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

D. How Can I Get Copies of this Document and Other Related Information? EPA has established a docket for this action under docket ID number EPA–HQ–OW–2010–0818. 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 Water's (OW) Public Reading Room, Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC. The hours of operation of this Docket Facility are from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (202) 566–2426.

Alternatively, the documents for this meeting as well as materials related to this action that have been previously developed can be found on the EPA Web site: *Office of Water link: http://www.epa.gov/waterscience/criteria/aqlife/cem.html Office of Pesticide Programs link*: *http://www.epa.gov/oppefed1/cwa_fifra_effects_methodology/*.

II. Background

Section 304(a)(1) of the Clean Water Act (CWA) requires EPA to develop, publish, and from time to time, revise criteria for water quality that accurately reflect the latest scientific knowledge. Water quality criteria are scientifically derived numeric values that measure the level beyond which pollutants in ambient water are expected to have deleterious effects on aquatic life or human health. Water quality criteria developed under Section 304(a) are based solely on data and scientific judgments on the relationship between pollutant concentrations and environmental and human health effects. Section 304(a) criteria do not reflect consideration of economic impacts or the technological feasibility of meeting the chemical concentrations in ambient water.

Section 304(a) criteria provide guidance to states and authorized tribes in adopting water quality standards that ultimately provide the basis for controlling discharges or releases of pollutants. The criteria also provide guidance to EPA when promulgating federal regulations under Section 303(c), when such action is necessary. Under the CWA and its implementing regulations, states and authorized tribes adopt water quality criteria to support designated uses (e.g., aquatic life, public water supply, recreational use). EPA's recommended criteria do not impose legally binding requirements. States and authorized tribes have the discretion to adopt, where appropriate, other water quality criteria based on scientifically defensible approaches that differ from EPA's recommended criteria.

FIFRA requires that all pesticides used in the U.S. be registered by EPA and thus ensures federal control of distribution, sale, and use of pesticides. Registration assures that pesticides will be properly labeled and that, if used in accordance with labeled specifications, will not cause unreasonable adverse effects on human health and the environment. FIFRA ecological risk assessments quantitatively evaluate reduced survival of aquatic animals from direct acute exposures and survival, growth, and reproductive impairment for aquatic animals from direct chronic exposures. Assessments for aquatic plants focus on growth rates and biomass (reproduction) measurements. Effects assessments are an important component of a FIFRA risk assessment.

For FIFRA ecological effects assessments, EPA reviews toxicity data provided by the registrant as required by regulation, as well as data from public sources obtained from EPA's ECOTOX database. Current testing requirements for aquatic organisms include toxicity studies containing information on survival, reproduction, and growth endpoints for freshwater and estuarine/marine animals and biomass and growth endpoints for aquatic plants. These test requirements are defined for each chemical class by use category in title 40 of the Code of Federal Regulations, Part 158. Studies are performed on laboratory test organisms in the following broad taxonomic groupings: freshwater fish and invertebrates, estuarine/marine fish and invertebrates, and aquatic plants. For screening-level assessments, OPP's effects assessments are based on the lowest acute and chronic toxicity values from the most sensitive species tested in acceptable studies. More refined assessments may use the full species sensitivity distribution for a given taxon or other toxicity endpoints, as for the variability and uncertainty of the data (probabilistic approaches). The "OPP Aquatic Benchmarks" is a web site developed by OPP that contains the aquatic toxicity endpoints used in EPA pesticide risk assessments. (*http://www.epa.gov/oppefed1/ecorisk_ders/aquatic_life_benchmarks.htm*).

OPP toxicity benchmarks and OW AWQC are both developed with high quality data pursuant to parallel but somewhat different rigorously peer-reviewed assessment methodologies. The opportunity being addressed by EPA is how best to build on the substantial high quality science developed under both programs to develop a consistent and common set of effects characterization methods that integrates these approaches for regulators to use in different programs at both the Federal and State level. Stakeholders have identified a need for

consistent and timely federal input that will allow EPA, states, tribes, and the public to gauge whether pesticides represent a concern for aquatic life, for example, based on water monitoring results. To address these concerns, the Agency has begun a process to explore how to build on the high quality science in both OW and OPP to develop additional tools and approaches to support consistent and common effects characterizations using the best available information. If successful, this common tiered effects characterization methodology and resultant advisory values would allow Federal and State risk managers to make environmentally protective and scientifically defensible, timely decisions about chemicals that may be found in ambient water in a consistent manner while meeting the mandates of both CWA and FIFRA.

A scoping document was published in April 2009, *http://www.epa.gov/oppefed1/cwa_fifra_effects_methodology/scope.html* that described this effort in more detail and invited public participation in our collective efforts. Following through on this invitation, 6 regional stakeholders meetings where held in January 2010. The feedback received from stakeholders assisted EPA in crafting three draft white papers. Now, a national stakeholders meeting is being planned for October 29, 2010 to solicit input on the Agency's draft white papers that address the following topics:

(1) The use of various tools to estimate aquatic toxicity data;

(2) approaches for deriving community level benchmarks; and

(3) procedures for better integrating plant effects data into community level assessments.

These white papers also describe how the potential new tools, methods, and analytical approaches that may be used by the Agency, state pesticide and water quality agencies, and other stakeholders to gauge whether pesticides represent a concern for aquatic life. Following this meeting, the Agency plans to revise the white papers, based on public comments and feedback from the stakeholders. The white papers will then be reviewed by EPA's Science Advisory Board in summer 2011.

For more information about water quality criteria and Water Quality Standards, refer to the following: *Water Quality Standards Handbook* (EPA 823–B94–005a); *Advanced Notice of Proposed Rule Making (ANPRM),* (63 FR 36742); *Water Quality Criteria and Standards Plan—Priorities for the Future* (EPA 822–R–98–003); *Guidelines and Methodologies Used in the Preparation of Health Effects Assessment Chapters of the Consent Decree Water Criteria Documents* (45 FR 79347); *Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health* (2000), EPA–822–B–00–004); *Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses* (EPA 822/R–85–100); *National Strategy for the Development of Regional Nutrient Criteria* (EPA 822–R–98–002); and *EPA Review and Approval of State and Tribal Water Quality Standards* (65 FR 24641). You can find these publications through EPA's National Service Center for Environmental Publications (NSCEP, previously NCEPI) or on the Office of Science and Technology's home page (*http://www.epa.gov/waterscience*).

For more information about the OPP Ecological Exposure Assessment Process under FIFRA, refer to the following: *Overview of the Ecological Risk Assessment Process in the Office of Pesticide Programs,* which describes how pesticide data are used in ecological risk assessments (*http://www.epa.gov/oppfead1/endanger/consultation/ecorisk-overview.pdf*). The data requirements for aquatic non-target plants and animals for pesticides are described in title 40 of the Code of Federal Regulations, revised July 1, 2008 (158.660 Non-target Plant Protection Data Requirements). The required procedures for conducting the studies are described in *OPPTS Harmonized Test Guidelines. Series 850 Ecological Effects Test Guidelines—Public Drafts* (*http://www.epa.gov/opptsfrs/publications/OPPTS_Harmonized/850_Ecological_Effects_Test_Guidelines/Drafts/*). Information on procedures used to evaluate these studies are described in: Standard Evaluation Protocols, the guidance document entitled the *Rejection Rate Analysis: Ecological Effects* (EPA 738–R–94–035), and in the OPP Overview Document. Public literature is accessed by OPP through EPA's ECOTOX database (*http://cfpub.epa.gov.ecotox/*). The "OPP Aquatic Benchmarks," a Web site developed by OPP, contains the aquatic toxicity endpoints used in pesticide assessments (*http://www.epa.gov/oppefed1ecorisk_ders/aquatic_life_benchmarks.htm*).

III. What type of comments does EPA want to receive?

EPA would like the public to comment on the following:

1. The data, tools, and methods presented in the white papers;

2. Alternate tools or methods that EPA should consider for extrapolating or estimating aquatic toxicity data;

3. Alternate methods EPA should consider for developing community level benchmarks or aquatic life screening values when minimum data requirements for national recommended aquatic life criteria are not met;

4. The types of values that are used by states and/or regions for protecting aquatic life in the absence of ambient water quality criteria; and

5. Approaches to establishing plant-based criteria, or methods to better incorporate plant effects data in community level benchmarks.

Dated: September 27, 2010.

Ephraim S. King,

Director, Office of Science and Technology, Office of Water.

Dated: September 29, 2010.

Steve Bradbury,

Director, Office of Pesticide Programs.

Dated: September 29, 2010.

Fred Hauchman,

Director, Office of Science Policy, Office of Research and Development.

[FR Doc. 2010–27289 Filed 10–27–10; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Federal Advisory Committee Act; Technological Advisory Council

AGENCY: Federal Communications Commission.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the Federal Communications Commission's (FCC) Technological Advisory Council will hold a meeting on Thursday, November 4, 2010 in the Commission Meeting Room, from 1 p.m. to 4 p.m. at the Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

DATES: November 4, 2010.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Walter Johnston, Chief, Electromagnetic Compatibility Division, 202–418–0807; *Walter.Johnston@FCC.gov.*

SUPPLEMENTARY INFORMATION: At this meeting, the overall objectives of the Technological Advisory Council (TAC) will be described and discussion on the working methods of the TAC will be held. The FCC will attempt to

accommodate as many people as possible. However, admittance will be limited to seating availability. Meetings are also broadcast live with open captioning over the internet from the FCC Live Web page at *http://www.fcc.gov/live/.* The public may submit written comments before the meeting to: Walter Johnston, the FCC's Designated Federal Officer for Technological Advisory Council by e-mail: *Walter.Johnston@fcc.gov* or U.S. Postal Service Mail (Walter Johnston, Federal Communications Commission, Room 2–A665, 445 12th Street, SW., Washington, DC 20554). Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via e-mail to *fcc504@fcc.gov* or by calling the Office of Engineering and Technology at 202–418–2470 (voice), (202) 418–1944 (fax). Such requests should include a detailed description of the accommodation needed. In addition, please include your contact information. Please allow at least five days advance notice; last minute requests will be accepted, but may be impossible to fill.

Exceptional Circumstances (notice): The notice of this meeting is being published on less than 15 days notice due to exceptional circumstances. It is critical that the TAC conduct this meeting to organize itself and its subgroups as soon as possible in order to develop recommendations regarding 4G and other broadband technologies that will be deployed beginning next year, as well as developing recommendations more generally for job creation in the broadband sector. However, the only date this year that all TAC members could attend, and at which sufficient meeting space is available at the agency, is November 4th. Failure to meet on this date would push this important meeting back into 2011 and jeopardize the ability of the TAC to fulfill its mission within the time frame sought by the Commission. Recognizing the late **Federal Register** publication, the agency also issued a Public Notice of this meeting on Monday, October 25th, in an effort to mitigate the late **Federal Register** publication and as an additional way of advising the public of this meeting and their right to attend.

Federal Communications Commission

Julius P. Knapp,

Chief, Office of Engineering and Technology.

[FR Doc. 2010–27618 Filed 10–29–10; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

FDIC Advisory Committee on Economic Inclusion (ComE–IN); Notice of Meeting

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of open meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, notice is hereby given of a meeting of the FDIC Advisory Committee on Economic Inclusion, which will be held in Washington, DC. The Advisory Committee will provide advice and recommendations on initiatives to expand access to banking services by underserved populations.

DATES: Tuesday, November 16, 2010, from 8:45 a.m. to 4:30 p.m.

ADDRESSES: The meeting will be held in the FDIC Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Committee Management Officer of the FDIC, at (202) 898–7043.

SUPPLEMENTARY INFORMATION:

Agenda: The agenda will be focused on children's savings, underserved studies, and policy and project updates. The agenda may be subject to change. Any changes to the agenda will be announced at the beginning of the meeting.

Type of Meeting: The meeting will be open to the public, limited only by the space available on a first-come, first-served basis. For security reasons, members of the public will be subject to security screening procedures and must present a valid photo identification to enter the building. The FDIC will provide attendees with auxiliary aids (*e.g.,* sign language interpretation) required for this meeting. Those attendees needing such assistance should call (703) 562–6067 (Voice or TTY) at least two days before the meeting to make necessary arrangements. Written statements may be filed with the committee before or after the meeting. This ComE–IN meeting will be Webcast live via the Internet at: *http://www.vodium.com/goto/fdic/advisorycommittee.asp.* This service is free and available to anyone with the following systems requirements: *http://www.vodium.com/home/sysreq.html.* Adobe Flash Player is required to view these presentations. The latest version of Adobe Flash Player can be downloaded at *http://www.adobe.com/shockwave/download/download.cgi?P1_Prod_Version=ShockwaveFlash.* Installation questions or troubleshooting help can be found at the same link. For optimal viewing, a high speed Internet connection is recommended. The ComE–IN meeting videos are made available on-demand approximately two weeks after the event.

Dated: October 27, 2010.

Robert E. Feldman,

Executive Secretary, Federal Deposit Insurance Corporation.

[FR Doc. 2010–27505 Filed 10–29–10; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 26, 2010.

A. Federal Reserve Bank of Dallas (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Community Bancorp LLC,* Houston, Texas; to become a bank holding

company by acquiring 100 percent of the voting shares of Cadence Financial Corporation, Starkville, Mississippi, and thereby indirectly acquire voting shares of Cadence Bank, N.A., Starkville, Mississippi.

Board of Governors of the Federal Reserve System, October 27, 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2010–27492 Filed 10–29–10; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60–Day–11–11AI]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Carol Walker, Acting CDC Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

Measuring Preferences for Quality of Life for Child Maltreatment—New—National Center for Injury Prevention and Control (NCIPC), Division of Violence Prevention (DVP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Child maltreatment (CM) is a major public health problem in the United States, causing substantial morbidity and mortality (DHHS, 2010), and the prevalence for any of the three major types of CM (physical abuse, sexual abuse, and neglect) is estimated at approximately 28% (Hussey *et al.,* 2006). Additionally, the annual incidence of any type of CM among children and adolescents 0–17 has been estimated at nearly 14%, while physical and sexual abuse are estimated at 3.7% and 0.6%, respectively (Finkelhor *et al.,* 2005). CM has been shown to have lifelong adverse physical and mental health consequences for survivors (Felitti *et al.,* 1998), including behavioral problems (Felitti *et al.* 1998; Repetti *et al.* 2002), mental health conditions such as post-traumatic stress disorder (PTSD) (Browne and Finkelhor, 1986; Holmes and Sammel, 2005; Moeller and Bachman, 1993), increased trouble with interpersonal relationships (Fang and Corso, 2007), increased risk of chronic diseases (Browne and Finkelhor, 1986), and lasting impacts or disability from physical injury (Dominguez *et al.* 2001). The consequences of CM have both a direct impact, through reduced health, as well as an indirect impact, through reduced health-related quality of life (HRQoL, or simply QoL), the state of "utility" or satisfaction that a person experiences as a result of their health (Drummond *et al.* 1997).

The CDC requests approval of a survey-based study to measure the Health-Related Quality-of-Life (HRQoL) impacts resulting from child maltreatment (CM) using a quantitative, preference-based approach. The US Department of Health and Human Services, among many others, has identified child maltreatment as a serious U.S. public health problem with substantial long-term physical and psychological consequences. Despite considerable research on the consequences of CM in adult survivors, few studies have utilized standard HRQoL techniques and none have quantified childhood HRQoL impacts. This gap in the literature means the full burden of CM on HRQoL has not been measured, inhibiting the evaluation and comparison of CM intervention programs. This study will improve public health knowledge and economic evaluation of the HRQoL impacts of CM, including effects specific to juvenile and adolescent survivors, through the development and fielding a preference-based survey instrument.

CDC has developed a survey instrument to quantify the HRQoL impacts of child maltreatment following standardized methods. The survey was developed based on findings from a literature review of CM outcomes, focus groups with adult CM survivors, and expert review of outcomes by clinician consultants who work with survivors of CM or who are researchers in the field of CM. The survey is designed to quantify two types of data. The main objective is the HRQoL decrement attributable to CM, measured as the difference in HRQoL scores by CM survivorship history. A secondary objective is a statistical evaluation of these decrements, based on respondent preferences over a series of comparisons that will be shown to survey respondents.

An invitation to the online survey will be fielded to a nationally-representative sample of 2,700 U.S. adults. Among the adults who receive the invitation, 1,650 are expected to complete the consent form and 1,500 are expected to complete the survey. The survey will include HRQoL questions to capture the two types of data above, as well as select items on sociodemographics. Past exposure to CM will be measured using the Child Trauma Questionnaire (CTQ), the briefest and most nonintrusive set of scientifically validated questions to identify 5 types of past child abuse and neglect.

Final results will provide an estimate of the HRQoL burden of child maltreatment in the United States. Analysis and results of the survey data will be used to inform the scientific and public health communities of the impacts of CM, and to evaluate and compare CM intervention programs. There is no cost to respondents other than their time.

Respondents (forms listed in parentheses)	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
General national sample of adults age 18+ (survey invitation)	2,700	1	2/60	90

Respondents (forms listed in parentheses)	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
General national sample of adults age 18+ (consent form)	1,650	1	2/60	55
General national sample of adults age 18+ (full survey)	1,500	1	25/60	625
Total				770

Carol Walker,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 2010–27487 Filed 10–29–10; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0001]

Joint Meeting of the Anesthetic and Life Support Drugs Advisory Committee and the Drug Safety and Risk Management Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committees: Anesthetic and Life Support Drugs Advisory Committee and the Drug Safety and Risk Management Advisory Committee.

General Function of the Committees: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on December 2, 2010, from 8 a.m. to 4:30 p.m.

Location: The Marriott Inn and Conference Center, University of Maryland University College, The Ballroom, 3501 University Blvd. East, Adelphi, MD. The hotel telephone number is 301–985–7300.

Contact Person: Kalyani Bhatt, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, e-mail: *kalyani.bhatt@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), codes 3014512529 or 3014512535. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Agenda: On December 2, 2010, the committees will begin with a closed session from 8 a.m. to 9:15 a.m. Following the closed session, from 9:15 a.m. to 4:30 p.m., the meeting will be open to the public. The committees will discuss new drug application (NDA) 201655, Oxymorphone HCl Extended-Release Tablets, Endo Pharmaceuticals, Inc., and its safety for the proposed indication of relief of moderate to severe pain in patients requiring continuous, around-the-clock opioid treatment for an extended period of time. The extended-release characteristics of this formulation are purportedly less easily defeated than other formulations of controlled-release oxymorphone.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee link.

Procedure: On December 2, 2010, from 9:15 a.m. to 4:30 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before November 17, 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 November 8, 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 November 9, 2010.

Closed Presentation of Data: On December 2, 2010, from 8 a.m. to 9:15 a.m., the meeting will be closed to permit discussion and review of trade secret and/or confidential information (5 U.S.C. 552b(c)(4)). During this session, the committee will discuss confidential protocol and methodology.

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 Kalyani Bhatt at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 26, 2010.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2010–27457 Filed 10–29–10; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–P–0517]

Iceberg Water Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Iceberg Canada Corp., to market test a product designated as "GLACE Rare Iceberg Water" that deviates from the U.S. standard of identity for bottled water. The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the product, identify mass production problems, and assess commercial feasibility.

DATES: This permit is effective for 15 months, beginning on the date the

permit holder introduces or causes the introduction of the test product into interstate commerce, but not later than February 1, 2011.

FURTHER INFORMATION CONTACT: Loretta A. Carey, Center for Food Safety and Applied Nutrition (HFS–820), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–2371.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity issued under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Iceberg Canada Corp., 5335 J. Armand Bombardier, St-Hubert (Quebec), Canada J3Z 1G4.

This permit covers limited interstate marketing tests of products identified as "GLACE Rare Iceberg Water" that deviate from the U.S. standard of identity for bottled water (§ 165.110 (21 CFR 165.110)) in that the source of the water is an iceberg. The test product meets all the requirements of the standard with the exception of the source definition. The purpose of this temporary permit is to allow the applicant to measure consumer acceptance of the product, identify mass production problems, and assess commercial feasibility.

This permit provides for the temporary marketing of 153,090 cases of the 24 x 250 milliliter bottles and 515,900 cases of the 12 x 700 milliliter bottles totaling 668,990 cases. The total fluid quantity covered by this application is 5,252,100 liters (1,387,458 gallons). The test product will be manufactured for Iceberg Canada Corp., 5335 J. Armand Bombardier, St-Hubert (Quebec), Canada J3Z 1 G4. Iceberg Canada Corp. will distribute the test products throughout the United States. The information panel of the labels will bear nutrition labeling in accordance with 21 CFR 101.9. The bottled water must be manufactured in accordance with the quality standards in § 165.110(b) and the requirements for processing and bottling of bottled drinking water in 21 CFR part 129. This permit is effective for 15 months, beginning on the date the permit holder introduces or causes the introduction of the product into interstate commerce, but not later than (*see* **DATES**).

Dated: October 26, 2010.

Barbara Schneeman,

Director, Office of Nutrition, Labeling and Dietary Supplements, Center for Food Safety and Applied Nutrition.

[FR Doc. 2010–27518 Filed 10–29–10; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection

Agency Information Collection Activities: CBP Regulations Pertaining to Customs Brokers

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 60-Day Notice and request for comments; Extension of an existing collection of information: 1651–0034.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the: CBP Regulations Pertaining to Customs Brokers (19 CFR Part 111). This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before January 3, 2011, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 799 9th Street, NW., 7th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street, NW, 7th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: CBP Regulations Pertaining to Customs Brokers (19 CFR Part 111).

OMB Number: 1651–0034.

Form Numbers: CBP Forms 3124 and 3124E.

Abstract: The information contained in part 111 of the CBP regulations governs the licensing and conduct of customs brokers. Specifically, an individual who wishes to take the broker exam would complete CBP Form 3124E, "Application for Customs Broker License Exam"; or to apply for a broker license, CBP Form 3124, "Application for Customs Broker License" must be completed. The procedures to request a local or national broker permit can be found in 19 CFR 111.19, and a triennial report is required under 19 CFR 111.30. The information collected from customs brokers is provided for by 19 U.S.C. 1641. CBP Forms 3124 and 3124E may be found at *http://www.cbp.gov/xp/cgov/toolbox/forms/.* Further information about the customs broker exam and how to apply for it may be found at *http://www.cbp.gov/xp/cgov/trade/trade_programs/broker/broker_exam/notice_of_exam.xml.*

Current Actions: This submission is being made to extend the expiration date with no change to the burden hours or to this collection of information.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals.

CBP Form 3124E, "Application for Customs Broker License Exam"

Estimated Number of Respondents: 2,300.

Total Number of Estimated Annual Responses: 2,300.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 2,300.

Estimated Total Annual Cost to the Public: $466,000.

CBP Form 3124, "Application for Customs Broker License"

Estimated Number of Respondents: 300.

Total Number of Estimated Annual Responses: 300.

Estimated time per Response: 1 hour.

Estimated Total Annual Burden Hours: 500.

Triennial Report (19 CFR 111.30)

Estimated Number of Respondents: 3,833.

Total Number of Estimated Annual Responses: 3,833.

Estimated time per Response: .5 hours.

Estimated Total Annual Burden Hours: 1,917.

Estimated Total Annual Cost to the Public: $383,300.

National Broker Permit Application (19 CFR 111.19)

Estimated Number of Respondents: 500.

Total Number of Estimated Annual Responses: 500.

Estimated time per Response: 1 hour.

Estimated Total Annual Burden Hours: 500.

Estimated Total Annual Cost to the Public: $112,500.

Dated: October 26, 2010.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2010–27489 Filed 10–29–10; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R6–R–2010–N215; 60138–1261–6CCP–S3]

Charles M. Russell National Wildlife Refuge and UL Bend National Wildlife Refuge, Montana

AGENCY: Fish and Wildlife Service, Interior (DOI).

ACTION: Notice; extension of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service, are extending the comment period for the availability of a draft comprehensive conservation plan (CCP) and environmental impact statement (EIS) for Charles M. Russell and UL Bend National Wildlife Refuges (NWRs, Refuges) in Montana for public review and comment. We extend the comment period for an additional 24 days.

DATES: We must receive any written comments on the CCP and EIS by December 10, 2010, at 5 p.m. Mountain Time.

ADDRESSES: Comments concerning the CCP and EIS can be sent by U.S. Mail, facsimile, or e-mail to Laurie Shannon, Planning Team Leader, Fish and Wildlife Service, Region 6, P.O. Box 25486, Denver, CO 80225–0486; or facsimile (303) 236–4317; or e-mail *cmrplanning@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Laurie Shannon, 303–236–4317, or Bill Berg, 406–538–8706.

SUPPLEMENTARY INFORMATION: We are extending the comment period for review of the draft CCP and EIS for Charles M. Russell NWR and UL Bend NWR. On September 7, 2010, we opened a 60-day public comment period via a **Federal Register** notice (75 FR 54381). We now extend the comment period for an additional 24 days. The comment period will now officially close on December 10, 2010, at 5 p.m. Mountain Time.

Background

For background information, *see* our September 7, 2010, notice (75 FR 54381).

Document Availability

Copies of the draft CCP and EIS are available on the Mountain-Prairie Region Web site at *http://www.fws.gov/mountain-prairie/;* or the project Web site at *http://www.fws.gov/cmr/planning.*

Individuals wishing copies of the draft CCP and EIS should contact the Service by telephone (*see* **FOR FURTHER INFORMATION CONTACT**) or by letter (*see* **ADDRESSES**).

Additionally, hardcopies of the draft CCP and EIS are available for viewing, or for partial or complete duplication, at the following locations:

Library	Address	Phone number
Garfield County	228 E. Main, Jordan, MT 59337	(406) 557–2297
Glasgow	408 3rd Avenue, Glasgow, MT 59230	(406) 228–2731
Great Falls	301 2nd Avenue, Great Falls, MT 59401	(406) 453–0349
Lewistown	701 W. Main, Lewistown, MT 59457	(406) 538–5212
McCone County	1101 C Avenue, Circle, MT 59215	(406) 485–2350
Petroleum County	205 S. Broadway, Winnett, MT 59087	(406) 429–2451
Phillips County	10 S. 4th Street E., Malta, MT 59538	(406) 542–2407
Montana State University—Billings	1500 University Drive, Billings, MT 59101	(406) 657–2011
Montana State University—Bozeman	Roland R. Renne Library, Centennial Mall, Bozeman, MT 59717.	(406) 994–3171
Montana State University—Havre	Northern Vande Bogart Library, Cowan Drive, Havre, MT 59501.	(406) 265–3706
University of Montana	Mansfield Library, 32 Campus Drive, Missoula, MT 59812	(406) 243–6860
Colorado State University	Morgan Library, 501 University Avenue, Fort Collins, CO 80523.	(970) 491–1841

Dated: October 21, 2010.

Hugh Morrison,

Acting Regional Director, Region 6.

[FR Doc. 2010–27352 Filed 10–29–10; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Rate Adjustments for Indian Irrigation Projects

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of proposed rate adjustments.

SUMMARY: The Bureau of Indian Affairs (BIA) owns or has an interest in irrigation projects located on or associated with various Indian reservations throughout the United States. We are required to establish irrigation assessment rates to recover the

costs to administer, operate, maintain, and rehabilitate these projects. We request your comments on the proposed rate adjustments.

DATES: Interested parties may submit comments on the proposed rate adjustments on or before *January 3, 2011.*

ADDRESSES: All comments on the proposed rate adjustments must be in writing and addressed to: John Anevski, Chief, Division of Irrigation, Power and Safety of Dams, Office of Trust Services, Mail Stop 4655–MIB, 1849 C Street, NW., Washington, DC 20240, Telephone (202) 208–5480.

FOR FURTHER INFORMATION CONTACT: For details about a particular irrigation project, please use the tables in **SUPPLEMENTARY INFORMATION** section to contact the regional or local office where the project is located.

SUPPLEMENTARY INFORMATION: The first table in this notice provides contact information for individuals who can give further information about the irrigation projects covered by this notice. The second table provides the current 2010 irrigation assessment rates, the proposed rates for the 2011 irrigation season, and proposed rates for subsequent years where these are available.

What is the meaning of the key terms used in this notice?

In this notice:

Administrative costs means all costs we incur to administer our irrigation projects at the local project level and is a cost factor included in calculating your operation and maintenance assessment. Costs incurred at the local project level do not normally include Agency, Region, or Central Office costs unless we state otherwise in writing.

Assessable acre means lands designated by us to be served by one of our irrigation projects, for which we collect assessments in order to recover costs for the provision of irrigation service. (*See total assessable acres.*)

BIA means the Bureau of Indian Affairs.

Bill means our statement to you of the assessment charges and/or fees you owe the United States for administration, operation, maintenance, and/or rehabilitation. The date we mail or hand-deliver your bill will be stated on it.

Costs means the costs we incur for administration, operation, maintenance, and rehabilitation to provide direct support or benefit to an irrigation facility. (*See administrative costs, operation costs, maintenance costs,* and *rehabilitation costs.*)

Customer means any person or entity to which we provide irrigation service.

Due date is the date on which your bill is due and payable. This date will be stated on your bill.

I, me, my, you and *your* means all persons or entities that are affected by this notice.

Irrigation project means a facility or portion thereof for the delivery, diversion, and storage of irrigation water that we own or have an interest in, including all appurtenant works. The term "irrigation project" is used interchangeably with irrigation facility, irrigation system, and irrigation area.

Irrigation service means the full range of services we provide customers of our irrigation projects. This includes our activities to administer, operate, maintain, and rehabilitate our projects in order to deliver water.

Maintenance costs means costs we incur to maintain and repair our irrigation projects and associated equipment and is a cost factor included in calculating your operation and maintenance assessment.

Operation and maintenance (O&M) assessment means the periodic charge you must pay us to reimburse costs of administering, operating, maintaining, and rehabilitating irrigation projects consistent with this notice and our supporting policies, manuals, and handbooks.

Operation or operating costs means costs we incur to operate our irrigation projects and equipment and is a cost factor included in calculating your O&M assessment.

Past due bill means a bill that has not been paid by the close of business on the 30th day after the due date as stated on the bill.

Rehabilitation costs means costs we incur to restore our irrigation projects or features to original operating condition or to the nearest state which can be achieved using current technology and is a cost factor included in calculating your O&M assessment.

Responsible party means an individual or entity that owns or leases land within the assessable acreage of one of our irrigation projects and is responsible for providing accurate information to our billing office and paying a bill for an annual irrigation rate assessment.

Total assessable acres means the total acres served by one of our irrigation projects.

Water delivery is an activity that is part of the irrigation service we provide our customers when water is available.

We, us, and *our* means the United States Government, the Secretary of the Interior, the BIA, and all who are authorized to represent us in matters covered under this notice.

Does this notice affect me?

This notice affects you if you own or lease land within the assessable acreage of one of our irrigation projects or if you have a carriage agreement with one of our irrigation projects.

Where can I get information on the regulatory and legal citations in this notice?

You can contact the appropriate office(s) stated in the tables for the irrigation project that serves you, or you can use the Internet site for the Government Printing Office at *http://www.gpo.gov.*

Why are you publishing this notice?

We are publishing this notice to notify you that we propose to adjust our irrigation assessment rates. This notice is published in accordance with the BIA's regulations governing its operation and maintenance of irrigation projects, found at 25 CFR part 171. This regulation provides for the establishment and publication of the rates for annual irrigation assessments as well as related information about our irrigation projects.

What authorizes you to issue this notice?

Our authority to issue this notice is vested in the Secretary of the Interior by 5 U.S.C. 301 and the Act of August 14, 1914 (38 Stat. 583; 25 U.S.C. 385). The Secretary has in turn delegated this authority to the Assistant Secretary—Indian Affairs under Part 209, Chapter 8.1A, of the Department of the Interior's Departmental Manual.

When will you put the rate adjustments into effect?

We will put the rate adjustments into effect for the 2011 irrigation season and subsequent years where applicable.

How do you calculate irrigation rates?

We calculate annual irrigation assessment rates in accordance with 25 CFR 171.500 by estimating the annual costs of operation and maintenance at each of our irrigation projects and then dividing by the total assessable acres for that particular irrigation project. The result of this calculation for each project is stated in the rate table in this notice.

What kinds of expenses do you consider in determining the estimated annual costs of operation and maintenance?

Consistent with 25 CFR 171.500, these expenses include the following:

(a) Salary and benefits for the project engineer/manager and project employees under the project engineer/manager's management or control;
(b) Materials and supplies;
(c) Vehicle and equipment repairs;
(d) Equipment costs, including lease fees;
(e) Depreciation;
(f) Acquisition costs;
(g) Maintenance of a reserve fund available for contingencies or emergency costs needed for the reliable operation of the irrigation facility infrastructure;
(h) Maintenance of a vehicle and heavy equipment replacement fund;
(i) Systematic rehabilitation and replacement of project facilities;
(j) Contingencies for unknown costs and omitted budget items; and
(k) Other expenses we determine necessary to properly perform the activities and functions characteristic of an irrigation project.

When should I pay my irrigation assessment?

We will mail or hand-deliver your bill notifying you of: (a) The amount you owe to the United States; and (b) when such amount is due. If we mail your bill, we will consider it as being delivered no later than 5 business days after the day we mail it. You should pay your bill by the due date stated on the bill.

What information must I provide for billing purposes?

All responsible parties are required to provide the following information to the billing office associated with the irrigation project where you own or lease land within the project's assessable acreage or to the billing office associated with the irrigation project with which you have a carriage agreement:
(1) The full legal name of the person or entity responsible for paying the bill;
(2) An adequate and correct address for mailing or hand delivering our bill; and
(3) The taxpayer identification number or social security number of the person or entity responsible for paying the bill.

Why are you collecting my taxpayer identification number or social security number?

Public Law 104–134, the Debt Collection Improvement Act of 1996, requires that we collect the taxpayer identification number or social security number before billing a responsible party and as a condition to servicing the account.

What happens if I am a responsible party but I fail to furnish the information required to the billing office responsible for the irrigation project within which I own or lease assessable land or for which I have a carriage agreement?

If you are late paying your bill because of your failure to furnish the required information listed above, you will be assessed interest and penalties as provided below, and your failure to provide the required information will not provide grounds for you to appeal your bill or any penalties assessed.

What can happen if I do not provide the information required for billing purposes?

We can refuse to provide you irrigation service.

If I allow my bill to become past due, could this affect my water delivery?

If we do not receive your payment before the close of business on the 30th day after the due date stated on your bill, we will send you a past due notice. This past due notice will have additional information concerning your rights. We will consider your past due notice as delivered no later than 5 business days after the day we mail it. We have the right to refuse water delivery to any irrigated land for which the bill is past due. We can continue to refuse water delivery until you pay your bill or make payment arrangements to which we agree. We follow the procedures provided in 31 CFR 901.2, "Demand for Payment," when demanding payment of your past due bill.

Are there any additional charges if I am late paying my bill?

Yes. We will assess you interest on the amount owed, using the rate of interest established annually by the Secretary of the United States Treasury (Treasury) to calculate what you will be assessed (31 CFR 901.9(b)). You will not be assessed this charge until your bill is past due. However, if you allow your bill to become past due, interest will accrue from the original due date, not the past due date. Also, you will be charged an administrative fee of $12.50 for each time we try to collect your past due bill. If your bill becomes more than 90 days past due, you will be assessed a penalty charge of six percent (6%) per year, which will accrue from the date your bill initially became past due. As a Federal agency, we are required to charge interest, penalties, and administrative costs on debts owed to us pursuant to 31 U.S.C. 3717 and 31 CFR 901.9, "Interest, penalties, and administrative costs."

What else will happen to my past due bill?

If you do not pay your bill or make payment arrangements to which we agree, we are required to send your past due bill to the Treasury for further action. Under the provisions of 31 CFR 901.1, "Aggressive agency collection activity," we must send any unpaid annual irrigation assessment bill to Treasury no later than 180 days after the original due date of the bill.

Who can I contact for further information?

The following tables are the regional and project/agency contacts for our irrigation facilities.

Project name	Project/agency contacts
Northwest Region Contacts	
Stanley Speaks, Regional Director, Bureau of Indian Affairs, Northwest Regional Office, 911 N.E. 11th Avenue, Portland, Oregon 97232–4169, Telephone: (503) 231–6702	
Fort Hall Irrigation Project	Dean Fox, Acting Superintendent, Fort Hall Agency, P.O. Box 220, Fort Hall, ID 83203–0220, Telephone: (208) 238–2301.
Wapato Irrigation Project	Edwin Lewis, Acting Project Administrator, Wapato Irrigation Project, P.O. Box 220, Wapato, WA 98951–0220, Telephone: (509) 877–3155.

Project name	Project/agency contacts
Rocky Mountain Region Contacts	
Ed Parisian, Regional Director, Bureau of Indian Affairs, Rocky Mountain Regional Office, 316 North 26th Street, Billings, Montana 59101, Telephone: (406) 247–7943.	
Blackfeet Irrigation Project	Stephen Pollock, Superintendent, Ted Hall, Irrigation Project Manager, Box 880, Browning, MT 59417, Telephones: (406) 338–7544, Superintendent, (406) 338–7519, Irrigation Project Manager.
Crow Irrigation Project	Frank Merchant, Acting Superintendent, Vacant, Irrigation Project Manager, P.O. Box 69, Crow Agency, MT 59022, Telephones: (406) 638–2672, Superintendent, (406) 638–2863, Irrigation Project Manager.
Fort Belknap Irrigation Project	Cliff Hall, Superintendent, Vacant, Irrigation Project Manager, (Project operations & management contracted Tribes), R.R.1, Box 980, Harlem, MT 59526, Telephones: (406) 353–2901, Superintendent, (406) 353–2905, Irrigation Project Manager.
Fort Peck Irrigation Project	Florence White Eagle, Superintendent, P.O. Box 637, Poplar, MT 59255, Huber Wright, Acting Irrigation Manager, 602 6th Avenue North, Wolf Point, MT 59201, Telephones: (406) 768–5312, Superintendent, (406) 653–1752, Irrigation Manager.
Wind River Irrigation Project	Ed Lone Fight, Superintendent, Sheridan Nicholas, Irrigation Project Engineer, P.O. Box 158, Fort Washakie, WY 82514, Telephones: (307) 332–7810, Superintendent, (307) 332–2596, Irrigation Project Manager.
Southwest Region Contacts	
William T. Walker, Regional Director, Bureau of Indian Affairs, Southwest Regional Office, 1001 Indian School Road, Albuquerque, New Mexico 87104, Telephone: (505) 563–3100.	
Pine River Irrigation Project	John Waconda, Superintendent, Vacant, Irrigation Engineer, P.O. Box 315, Ignacio, CO 81137–0315, Telephones: (970) 563–4511, Superintendent, (970) 563–9484, Irrigation Engineer.
Western Region Contacts	
Rodney McVey, Acting Regional Director, Bureau of Indian Affairs, Western Regional Office, 2600 N. Central Ave., 4th Floor Mailroom, Phoenix, Arizona 85004, Telephone: (602) 379–6600.	
Colorado River Irrigation Project	Janice Staudte, Superintendent, Ted Henry, Irrigation Project Manager, 12124 1st Avenue, Parker, AZ 85344, Telephone: (928) 669–7111.
Duck Valley Irrigation Project	Joseph McDade, Superintendent, 1555 Shoshone Circle, Elko, NV 89801, Telephone: (775) 738–0569.
Fort Yuma Irrigation Project	Irene Herder, Superintendent, P.O. Box 11000, Yuma, AZ 85366, Telephone: (928) 782–1202.
San Carlos Irrigation Project Joint Works.	Bryan Bowker, Project Manager, Clarence Begay, Irrigation Manager, P.O. Box 250, Coolidge, AZ 85228, Telephone: (520) 723–6215.
San Carlos Irrigation Project Indian Works.	Cecilia Martinez, Superintendent, Joe Revak, Supervisory General Engineer, Pima Agency, Land Operations, P.O. Box 8, Sacaton, AZ 85247, Telephone: (520) 562–3326, Telephone: (520) 562–3372.
Uintah Irrigation Project	Daniel Picard, Superintendent, Dale Thomas, Irrigation Manager, P.O. Box 130, Fort Duchesne, UT 84026, Telephone: (435) 722–4300, Telephone: (435) 722–4341.
Walker River Irrigation Project	Athena Brown, Superintendent, 311 E. Washington Street, Carson City, NV 89701, Telephone: (775) 887–3500.

What irrigation assessments or charges are proposed for adjustment by this notice?

The rate table below contains the current rates for all irrigation projects where we recover costs of administering, operating, maintaining, and rehabilitating them. The table also contains the proposed rates for the 2011 season and subsequent years where applicable. An asterisk immediately following the name of the project notes the irrigation project where rates are proposed for adjustment.

Project name	Rate category	Final 2010 rate	Proposed 2011 rate
Fort Hall Irrigation Project*	Basic-per acre	$40.50	$42.00
	Minimum Charge per tract	30.00	31.50
Fort Hall Irrigation Project—Minor Units*	Basic-per acre	21.00	22.50
	Minimum Charge per tract	30.00	31.50
Fort Hall Irrigation Project—Michaud*	Basic-per acre	41.50	43.00
	Pressure per acre	58.00	59.50
	Minimum Charge per tract	30.00	31.50
Wapato Irrigation Project—Toppenish/Simcoe Units*	Minimum Charge for per bill	15.00	17.00
	Basic-per acre	15.00	17.00
Wapato Irrigation Project—Ahtanum Units*	Minimum Charge per bill	15.00	17.00
	Basic-per acre	15.00	17.00
Wapato Irrigation Project—Satus Unit*	Minimum Charge for per bill	58.00	63.00
	"A" Basic-per acre	58.00	63.00
	"B" Basic-per acre	68.00	70.00
Wapato Irrigation Project—Additional Works*	Minimum Charge per bill	63.00	67.00
	Basic-per acre	63.00	67.00
Wapato Irrigation Project—Water Rental*	Minimum Charge	70.00	72.00

Project name	Rate category	Final 2010 rate	Proposed 2011 rate
	Basic-per acre	70.00	72.00
Rocky Mountain Region Rate Table			
Blackfeet Irrigation Project	Basic-per acre	19.00	19.00
Crow Irrigation Project—Willow Creek O&M (includes Agency, Lodge Grass #1, Lodge Grass #2, Reno, Upper Little Horn, and Forty Mile Units).	Basic-per acre	22.80	22.80
Crow Irrigation Project—All Others (includes Bighorn, Soap Creek, and Pryor Units)	Basic-per acre	22.50	22.50
Crow Irrigation Two Leggins Drainage District	Basic-per acre	2.00	2.00
Fort Belknap Irrigation Project	Basic-per acre	14.75	14.75
Fort Peck Irrigation Project	Basic-per acre	24.70	24.70
Wind River Irrigation Project	Basic-per acre	20.00	20.00
Wind River Irrigation Project–LeClair District* (see Note #1)	Basic-per acre	26.00	21.00
Wind River Irrigation Project—CrowHeart Unit	Basic-per acre	14.00	14.00
Wind River Irrigation Project—Riverton Valley Irrigation District	Basic-per acre	—	17.00
Southwest Region Rate Table			
Pine River Irrigation Project	Minimum Charge per tract	50.00	50.00
	Basic-per acre	15.00	15.00

Project name	Rate category	Final 2010 rate	Proposed 2011 rate	Proposed 2012 rate
Western Region Rate Table				
Colorado River Irrigation Project*	Basic-per acre up to 5.75 acre-feet	$52.50	$54.00	To be determined.
	Excess Water per acre-foot over 5.75 acre-feet.	17.00	17.00	
Duck Valley Irrigation Project	Basic-per acre	5.30	5.30	
Fort Yuma Irrigation Project (See Note #2)	Basic-per acre up to 5.0 acre-feet	86.00	86.00	
	Excess Water per acre-foot over 5.0 acre-feet.	14.00	14.00	
	Basic-per acre up to 5.0 acre-feet (Ranch 5)	86.00	86.00	
San Carlos Irrigation Project (Joint Works)* (See Note #3).	Basic-per acre	21.00	25.00	$30.00
San Carlos Irrigation Project (Indian Works) (See Note #4).	Basic-per acre	57.00	68.00	To be determined.
Uintah Irrigation Project	Basic-per acre	15.00	15.00	
	Minimum Bill	25.00	25.00	
Walker River Irrigation Project*	Indian per acre	19.00	22.00	
	non-Indian per acre	19.00	22.00	

* Notes irrigation projects where rates are proposed for adjustment.

Note #1—Upon further budget review and subsequent meetings with the water users, BIA revised the O&M rate to $26.00 per acre for FY 2010 versus the $27.00 per acre that was published in the **Federal Register** on May 26, 2010 (Vol. 75, No. 101, page 29578).

Note #2—The O&M rate for the Fort Yuma Irrigation Project has two components. The first component is the O&M rate established by the Bureau of Reclamation (BOR), the owner and operator of the Project. The BOR rate for 2011 is yet to be determined. The second component is for the O&M rate established by BIA to cover administrative costs including billing and collections for the Project. The 2011 BIA rate remains unchanged at $7.00/acre. The rates shown include the 2010 Reclamation rate and the 2011 BIA rate. The rates shown include the estimated FY 2011 rate.

Note #3—The 2011 rate was established by final notice in the **Federal Register** on August 11, 2009 (Vol. 74 No. 153, page 40227).

Note #4—The 2011 O&M rate for the San Carlos Irrigation Project—Indian Works has three components. The first component is the O&M rate established by the San Carlos Irrigation Project—Indian Works, the owner and operator of the Project; this rate is proposed to be $36 per acre. The second component is for the O&M rate established by the San Carlos Irrigation Project—Joint Works and is determined to be $25.00 per acre. The third component is the O&M rate established by the San Carlos Irrigation Project Joint Control Board and is proposed to be $7 per acre.

Consultation and Coordination With Tribal Governments (Executive Order 13175)

To fulfill its consultation responsibility to tribes and tribal organizations, BIA communicates, coordinates, and consults on a continuing basis with these entities on issues of water delivery, water availability, and costs of administration, operation, maintenance, and rehabilitation of projects that concern them. This is accomplished at the individual irrigation project by Project, Agency, and Regional representatives, as appropriate, in accordance with local protocol and procedures. This notice is one component of our overall coordination and consultation process to provide notice to, and request comments from, these entities when we adjust irrigation assessment rates.

Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (Executive Order 13211)

The rate adjustments will have no adverse effects on energy supply, distribution, or use (including a shortfall in supply, price increases, and increase use of foreign supplies) should the proposed rate adjustments be implemented. This is a notice for rate adjustments at BIA-owned and operated

irrigation projects, except for the Fort Yuma Irrigation Project. The Fort Yuma Irrigation Project is owned and operated by the Bureau of Reclamation with a portion serving the Fort Yuma Reservation.

Regulatory Planning and Review (Executive Order 12866)

These rate adjustments are not a significant regulatory action and do not need to be reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

These rate adjustments are not a rule for the purposes of the Regulatory Flexibility Act because they establish "a rule of particular applicability relating to rates." 5 U.S.C. 601(2).

Unfunded Mandates Reform Act of 1995

These rate adjustments do not impose an unfunded mandate on State, local, or tribal governments in the aggregate, or on the private sector, of more than $130 million per year. The rate adjustments do not have a significant or unique effect on State, local, or tribal governments or the private sector. Therefore, the Department is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*).

Takings (Executive Order 12630)

The Department has determined that these rate adjustments do not have significant "takings" implications. The rate adjustments do not deprive the public, State, or local governments of rights or property.

Federalism (Executive Order 13132)

The Department has determined that these rate adjustments do not have significant Federalism effects because they will not affect the States, the relationship between the national government and the States, or the distribution of power and responsibilities among various levels of government.

Civil Justice Reform (Executive Order 12988)

In issuing this rule, the Department has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988.

Paperwork Reduction Act of 1995

These rate adjustments do not affect the collections of information which have been approved by the Office of Information and Regulatory Affairs, Office of Management and Budget, under the Paperwork Reduction Act of 1995. The OMB Control Number is 1076–0141 and expires December 31, 2012.

National Environmental Policy Act

The Department has determined that these rate adjustments do not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370(d)).

Information Quality Act

In developing this notice, we did not conduct or use a study, experiment, or survey requiring peer review under the Information Quality Act (Pub. L. 106–554).

Dated: September 22, 2010.

Michael S. Black,

Director, Bureau of Indian Affairs.

[FR Doc. 2010–27311 Filed 10–29–10; 8:45 am]

BILLING CODE 4310–W7–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1090 (Review)]

Superalloy Degassed Chromium From Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on superalloy degassed chromium from Japan.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on superalloy degassed chromium from Japan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is December 1, 2010. Comments on the adequacy of responses may be filed with the Commission by January 14, 2011. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207), as most recently amended at 74 FR 2847 (January 16, 2009).

DATES: *Effective Date:* November 1, 2010.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On December 22, 2005, the Department of Commerce issued an antidumping duty order on imports of superalloy degassed chromium from Japan (70 FR 76030). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is Japan.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 11–5–233, expiration date June 30, 2011. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

characteristics and uses with, the *Subject Merchandise.* In its original determination, the Commission defined the *Domestic Like Product* as superalloy degassed chromium, coextensive with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the *Domestic Industry* as all producers of superalloy degassed chromium.

(5) The *Order Date* is the date that the antidumping duty order under review became effective. In this review, the *Order Date* is December 22, 2005.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the review and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the "same particular matter" as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b)(19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is December 1, 2010. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is January 14, 2011. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To Be Provided in Response to This Notice of Institution: As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of

imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries since the *Order Date.*

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and E-mail address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2009, except as noted (report quantity data in pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (*i.e.,* the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) The quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) The quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) The value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2009 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2009 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Subject Merchandise* in the *Subject Country* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) The quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* since the *Order Date,* and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: October 26, 2010.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010–27444 Filed 10–29–10; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–669 (Third Review)]

Cased Pencils From China

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on cased pencils from China.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on cased pencils from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is December 1, 2010. Comments on the adequacy of responses may be filed with the Commission by January 14, 2011. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207), as most recently amended at 74 FR 2847 (January 16, 2009).

DATES: *Effective Date:* November 1, 2010.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov).* The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background.—On December 28, 1994, the Department of Commerce ("Commerce") issued an antidumping duty order on imports of cased pencils from China (59 FR 66909). Following first five-year reviews by Commerce and the Commission, effective August 10, 2000, Commerce issued a continuation of the antidumping duty order on imports of cased pencils from China (65 FR 48960). Following second five-year reviews by Commerce and the Commission, effective December 20, 2005, Commerce issued a second continuation of the antidumping duty order on imports of cased pencils from China (70 FR 75450). The Commission is now conducting a third review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by Congress.

(2) The *Subject Country* in this review is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determination and its expedited first and second five-year review determinations, the Commission defined the *Domestic Like Product* as all cased pencils, coextensive with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination and its expedited first and second five-year review determinations, the Commission defined the *Domestic Industry* as all domestic producers of cased pencils. In its original determination, the Commission excluded one domestic producer, Pentech, from the *Domestic Industry* under the related parties provision.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the review and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register.** The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the "same particular matter" as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 11–5–228, expiration date June 30, 2011. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is December 1, 2010. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is January 14, 2011. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To Be Provided in Response to This Notice of Institution: As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2004.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and E-mail address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2009, except as noted (report quantity data in gross and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (*i.e.,* the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) The quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s); and

(d) The quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s).

(e) The value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2009 (report quantity data in gross and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports

and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2009 (report quantity data in gross and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production; and

(b) Capacity (quantity) of your firm to produce the *Subject Merchandise* in the *Subject Country* (*i.e.,* the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) The quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* after 2004, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: October 26, 2010.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010–27442 Filed 10–29–10; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–385 and 386 (Third Review)]

Granular Polytetrafluoroethylene Resin From Italy and Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the antidumping duty orders on granular polytetrafluoroethylene resin from Italy and Japan.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on granular polytetrafluoroethylene resin from Italy and Japan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is December 1, 2010. Comments on the adequacy of responses may be filed with the Commission by January 14, 2011. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207), as most recently amended at 74 FR 2847 (January 16, 2009).

DATES: *Effective Date:* November 1, 2010.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On August 24, 1988, the Department of Commerce ("Commerce") issued an antidumping duty order on imports of granular polytetrafluoroethylene resin from Japan (53 FR 32267). On August 30, 1988, Commerce issued an antidumping duty order on imports of granular polytetrafluoroethylene resin from Italy (53 FR 33163). Following first five-year reviews by Commerce and the Commission, effective January 3, 2000, Commerce issued a continuation of the antidumping duty orders on imports of granular polytetrafluoroethylene resin from Italy and Japan (65 FR 6147, February 8, 2000). Following second five-year reviews by Commerce and the Commission, effective December 22, 2005, Commerce issued a continuation of the antidumping duty orders on imports of granular polytetrafluoroethylene resin from Italy and Japan (70 FR 76026). The

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 11–5–231, expiration date June 30, 2011. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

Commission is now conducting third reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by Commerce.

(2) The *Subject Countries* in these reviews are Italy and Japan.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determinations, its expedited first five-year review determinations, and its full second five-year review determinations, the Commission defined the *Domestic Like Product* as granular polytetrafluoroethylene resin, coextensive with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations, its expedited first five-year review determinations, and its full second five-year review determinations, the Commission defined the *Domestic Industry* to include all U.S. producers of granular polytetrafluoroethylene resin.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the "same particular matter" as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b)(19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is December 1, 2010. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is January 14, 2011. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information To Be Provided In Response to this Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject*

Merchandise from more than one *Subject Country;* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country.* As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2004.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and E-mail address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2009, except as noted (report quantity data in pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (*i.e.,* the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) The quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s); and

(d) The quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s).

(e) The value of (i) Net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country(ies),* provide the following information on your firm's(s') operations on that product during calendar year 2009 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country;* and

(c) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country(ies),* provide the following information on your firm's(s') operations on that product during calendar year 2009 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production; and

(b) Capacity (quantity) of your firm to produce the *Subject Merchandise* in each *Subject Country* (*i.e.,* the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) The quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in each *Subject Country* after 2004, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs

into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in each *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry*; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: October 26, 2010.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010–27438 Filed 10–29–10; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–388–391 and 731–TA–817–821 (Second Review)]

Cut-To-Length Carbon Steel Plate From India, Indonesia, Italy, Japan, and Korea

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the countervailing duty orders on cut-to-length ("CTL") carbon steel plate from India, Indonesia, Italy, and Korea and the antidumping duty orders on CTL carbon steel plate from India, Indonesia, Italy, Japan, and Korea.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the countervailing duty orders on CTL carbon steel plate from India, Indonesia, Italy, and Korea and the antidumping duty orders on CTL carbon steel plate from India, Indonesia, Italy, Japan, and Korea would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is December 1, 2010. Comments on the adequacy of responses may be filed with the Commission by January 14, 2011. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207), as most recently amended at 74 FR 2847 (January 16, 2009).

DATES: *Effective Date:* November 1, 2010.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On February 10, 2000, the Department of Commerce ("Commerce") issued countervailing duty orders on imports of CTL carbon steel plate from India, Indonesia, Italy, and Korea (65 FR 6587) and antidumping duty orders on imports of CTL carbon steel plate from India, Indonesia, Italy, Japan, and Korea (65 FR 6585). Following five-year reviews by Commerce and the Commission, effective December 6, 2005, Commerce issued a continuation of the countervailing duty orders on CTL carbon steel plate from India, Indonesia, Italy, and Korea and the antidumping duty orders on CTL carbon steel plate from India, Indonesia, Italy, Japan, and Korea (70 FR 72607). The Commission is now conducting second reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by Commerce.

(2) The *Subject Countries* in these reviews are India, Indonesia, Italy, Japan, and Korea.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determinations and its full first five-year review determinations, the Commission defined the *Domestic Like Product* as all domestically produced CTL steel plate that corresponds to Commerce's scope description, including grade X–70 plate, micro-alloy steel plate, and plate cut from coils.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations and its full first five-year review determinations, the Commission defined the *Domestic Industry* as all producers of CTL steel plate, whether toll producers, integrated producers, or processors.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 11–5–229, expiration date June 30, 2011. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

days after publication of this notice in the **Federal Register.** The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the "same particular matter" as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is December 1, 2010. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is January 14, 2011. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the reviews.

Information to be Provided in Response to this Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country;* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country.* As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and e-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping and countervailing duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2004.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and e-mail address of a responsible official at each firm).

(8) A list of known sources of information on national or regional

prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2009, except as noted (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) The quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s); and

(d) The quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s).

(e) The value of (i) Net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2009 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country(ies),* provide the following information on your firm's(s') operations on that product during calendar year 2009 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production; and

(b) Capacity (quantity) of your firm to produce the *Subject Merchandise* in each *Subject Country* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) The quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country(ies)* after 2004, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country(ies),* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: October 26, 2010.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010–27441 Filed 10–29–10; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–639 and 640 (Third Review)]

Forged Stainless Steel Flanges From India and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the antidumping duty orders on forged stainless steel flanges from India and Taiwan.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on forged stainless steel flanges from India and Taiwan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of

[1] No response to this request for information is required if a currently valid Office of Management

consideration, the deadline for responses is December 1, 2010. Comments on the adequacy of responses may be filed with the Commission by January 14, 2011. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207), as most recently amended at 74 FR 2847 (January 16, 2009).

DATES: *Effective Date:* November 1, 2010.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background. On February 9, 1994, the Department of Commerce ("Commerce") issued antidumping duty orders on imports of forged stainless steel flanges from India and Taiwan (59 FR 5994). Following first five-year reviews by Commerce and the Commission, effective August 16, 2000, Commerce issued a continuation of the antidumping duty orders on imports of forged stainless steel flanges from India and Taiwan (65 FR 49964). Following second five-year reviews by Commerce and the Commission, effective December 29, 2005, Commerce issued a continuation of the antidumping duty orders on imports of forged stainless steel flanges from India and Taiwan (71 FR 3457, January 23, 2006)). The Commission is now conducting third reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions. The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by Commerce.

(2) The *Subject Countries* in these reviews are India and Taiwan.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determinations, the Commission found one *Domestic Like Product:* Stainless steel flanges, both finished and unfinished. In its expedited first and second five-year review determinations, the Commission defined the *Domestic Like Product* as stainless steel flanges, co-extensive with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations and its expedited first and second five-year review determinations, the Commission defined the *Domestic Industry* to include all domestic producers of stainless steel flanges, consisting of both integrated producers (forger/finishers) and converters. During the original investigations, the Commission excluded one domestic producer, Flow Components, from the *Domestic Industry* under the related parties provision. In addition, two Commissioners defined the *Domestic Industry* differently in the original investigations.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register.** The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the "same particular matter" as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b)(19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification. Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless

and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 11–5–230, expiration date June 30, 2011. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions. Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is December 1, 2010. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is January 14, 2011. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information. Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information To Be Provided in Response to this Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country;* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country.* As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2004.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and E-mail address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2009, except as noted (report quantity data in pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) The quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s); and

(d) The quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) The value of (i) Net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country(ies)*, provide the following information on your firm's(s') operations on that product during calendar year 2009 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for

the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country;* and

(c) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country*(ies), provide the following information on your firm's(s') operations on that product during calendar year 2009 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production; and

(b) Capacity (quantity) of your firm to produce the *Subject Merchandise* in each *Subject Country* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) The quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in each *Subject Country* after 2004, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in each *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: October 27, 2010.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010–27515 Filed 10–29–10; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–464 (Third Review)]

Sparklers From China

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on sparklers from China.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on sparklers from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;[1] to be assured of consideration, the deadline for responses is December 1, 2010. Comments on the adequacy of responses may be filed with the Commission by January 14, 2011. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207), as most recently amended at 74 FR 2847 (January 16, 2009).

DATES: *Effective Date:* November 1, 2010.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On June 18, 1991, the Department of Commerce ("Commerce") issued an antidumping duty order on imports of sparklers from China (56 FR 27946). Following first five-year reviews by Commerce and the Commission, effective July 13, 2000, Commerce issued a continuation of the antidumping duty order on imports of sparklers from China (65 FR 52985, August 31, 2000). Following second five-year reviews by Commerce and the Commission, effective December 5, 2005, Commerce issued a continuation of the antidumping duty order on imports of sparklers from China (70 FR 72425). The Commission is now conducting a third review to determine whether revocation of the order would be likely to lead to continuation or

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 11–5–232, expiration date June 30, 2011. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by Commerce.

(2) The *Subject Country* in this review is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determination, its full first five-year review determination, and its expedited second five-year review determination, the Commission defined the *Domestic Like Product* as all domestically produced sparklers, coextensive with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination and its full first five-year review determination, the Commission defined the *Domestic Industry* as all domestic producers of sparklers. In its expedited second five-year review determination, the Commission excluded domestic producer Elkton as a related party and defined the domestic industry in that review to consist only of Diamond, the remaining domestic producer of sparklers.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the review and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register.** The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the "same particular matter" as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register.** Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is December 1, 2010. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is January 14, 2011. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information to be Provided in Response to this Notice of Institution: As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web

address) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2004.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and E-mail address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2009, except as noted (report quantity data in number of sparklers and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (*i.e.,* the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) The quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s); and

(d) The quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s).

(e) The value of (i) Net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2009 (report quantity data in number of sparklers and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) The quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2009 (report quantity data in number of sparklers and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production; and

(b) Capacity (quantity) of your firm to produce the *Subject Merchandise* in the *Subject Country* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) The quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* after 2004, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject*

Merchandise produced in the *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: October 26, 2010.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 2010–27436 Filed 10–29–10; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1190–0008]

Civil Rights Division; Agency Information Collection Activities: Proposed Collection; Comments Requested: Federal Coordination and Compliance Section (FCS)

AGENCY: Civil Rights Division, United States Department of Justice.

ACTION: 60-Day Notice of Information Collection under Review: FCS Complaint Form.

The Department of Justice (DOJ), Civil Rights Division, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until January 3, 2011. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Deeana L. Jang, Chief, USDOJ–CRT–FCS, 950 Pennsylvania Avenue, NW–NWB, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Complaint Form.

(3) *Agency form number:* 1190–0008.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* General Public.

Information is used to find jurisdiction to investigate the alleged discrimination, to seek whether a referral to another agency is necessary and to provide information needed to initiate investigation of the complaint. Respondents are individuals.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 4,000 respondents will complete each form within approximately 30 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 2,000 total annual burden hours associated with this collection.

If additional information is required contact: Lynn Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, Suite 2E–502, 145 N Street, NE., Washington, DC 20530.

Dated: October 27, 2010.

Lynn Murray,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2010–27527 Filed 10–29–10; 8:45 am]

BILLING CODE 4410–13–P

DEPARTMENT OF JUSTICE

Office for Victims of Crime

[OMB Number 1121–0114]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review; Extension of a Currently Approved Collection; Victims of Crime Act, Victim Compensation Grant Program, State Performance Report.

The Department of Justice (DOJ), Office for Victims of Crime (OVC), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until January 3, 2011. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Toni Thomas, OVC, 810 7th Street, NW., Washington, DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *The title of the Form/Collection:* Victims of Crime Act, Victim Compensation Grant Program, State Performance Report.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: 1121–0114. Office for Victims of Crime, Office of Justice Programs, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State Government. The form is used by State Government to submit Annual Performance Report data about claims for victim compensation.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 53 respondents will complete the form within 2 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 106 total annual burden hours associated with this collection.

If additional information is required contact: Lynn Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street, NE., Room 2E–502, Washington, DC 20530.

Dated: October 27, 2010.

Lynn Murray,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2010–27525 Filed 10–29–10; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

[OMB Number 1140–0014]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Application For Tax Paid Transfer and Registration of Firearm.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 75, Number 167, pages 52976–52977 on August 30, 2010, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until December 1, 2010. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Application For Tax Paid Transfer and Registration of Firearm.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* ATF F 4 (5320.4). Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. *Other:* Individuals or households. *Abstract:* ATF F 4 (5320.4) is required to apply for the transfer and registration of a National Firearms Act (NFA) firearm. The information on the form is used by NFA Branch personnel to determine the legality of the application under Federal State and local law.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 11,065 respondents, who will complete the form within approximately 4 hours.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 44,260 total burden hours associated with this collection.

If additional information is required contact: Lynn Murray, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Room 2E–502, Two Constitution Square, 145 N Street, NE., Washington, DC 20530.

Dated: October 27, 2010.

Lynn Murray,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2010–27530 Filed 10–29–10; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

[OMB Number 1140–0009]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Application to Register as an Importer of U.S. Munitions Import List Articles.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously

published in the **Federal Register** Volume 75, Number 167, page 52977 on August 30, 2010, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until December 1, 2010. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Application to Register as an Importer of U.S. Munitions Import List Articles.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 4587 (5330.4). Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Other: None. Abstract: The purpose of this information collection is to allow ATF to determine if the registrant qualifies to engage in the business of importing a firearm or firearms, ammunition, and the implements of war, and to facilitate the collection of registration fees.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 300 respondents, who will complete the form within approximately 30 minutes.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 150 total burden hours associated with this collection.

If additional information is required contact: Lynn Murray, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Room 2E–502, Two Constitution Square, 145 N Street, NE., Washington, DC 20530.

Dated: October 27, 2010.

Lynn Murray,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2010–27531 Filed 10–29–10; 8:45 am]

BILLING CODE 4810–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0018]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Application for Federal Firearms License.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 75, Number 167, page 52978 on August 30, 2010, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until December 1, 2010. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Application for Federal Firearms License.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* ATF F 7 (5310.12). Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. Other: Individual or households. Abstract: Each person intending to engage in business as a firearms or ammunition importer or manufacturer, or dealer in firearms shall file an application with the required fee with ATF in accordance with the instructions on the form. The information requested on the form establishes eligibility for the

license. The duration of the license is for a 3 year period.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 13,000 respondents, who will complete the form within approximately 1 hour and 15 minutes.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 16,250 total burden hours associated with this collection.

If additional information is required contact: Lynn Murray, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Room 2E–502, Two Constitution Square, 145 N Street, NE., Washington, DC 20530.

Dated: October 27, 2010.

Lynn Murray,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2010–27529 Filed 10–29–10; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0098]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review: Prevent All Cigarette Trafficking (PACT) Act Registration Form.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for "sixty days" until January 3, 2011. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Crisanto Perez, Jr., Division Chief, Alcohol and Tobacco Diversion Division, Bureau of Alcohol, Tobacco, Firearms and Explosives, Room 7S–251, 99 New York Avenue, NE., Washington DC 20226.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information

(1) *Type of information collection:* Extension of a currently approved collection.

(2) *The title of the form/collection:* Prevent All Cigarette Trafficking (PACT) Act Registration Form.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection: Form Number:* ATF F 5070.1. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or For-Profit. *Other:* None. The purpose of the information collection is to register delivery sellers of cigarettes and/or smokeless tobacco products with the Attorney General in order to continue to sell and/or advertise these tobacco products. Respondents will register the information on ATF F 5070.1.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 3,000 respondents will take 1 hour to complete the form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated total public burden associated with this information collection is 3,000 hours.

If additional information is required contact: Lynn Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, 145 N Street, NE., Two Constitution Square, Suite 2E–502, Washington, DC 20530.

Dated: October 27, 2010.

Lynn Murray,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2010–27526 Filed 10–29–10; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

[OMB Number 1140–0040]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Application For An Amended Federal Firearms License.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 75, Number 167, pages 52977–52978 on August 30, 2010, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until December 1, 2010. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Application For An Amended Federal Firearms License.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* ATF F 5300.38. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. *Other:* Individual or households. *Abstract:* The form is used when a Federal firearms license makes application to change the location of the firearms business premises. The applicant must certify that the proposed new business premises will be in compliance with State and local law for that location.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 18,000 respondents, who will complete the form within approximately 1 hour and 15 minutes.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 22,500 total burden hours associated with this collection.

If additional information is required contact: Lynn Murray, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Room 2E–502, Two Constitution Square, 145 N Street, NE., Washington, DC 20530.

Dated: October 27, 2010.

Lynn Murray,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2010–27528 Filed 10–29–10; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Senior Community Service Employment Program Performance Measurement System

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) hereby announces submission of the Employment and Training Administration (ETA) sponsored information collection request (ICR), "Senior Community Service Employment Program (SCSEP) Performance Measurement System," to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, 44 U.S.C. chapter 35.

DATES: Submit comments on or before December 1, 2010.

ADDRESSES: A copy of this ICR, with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, *http://www.reginfo.gov/public/do/PRAMain* or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *dol_pra_public@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Department of Labor, Employment and Training Administration (ETA), Office of Management and Budget, Room 10235, Washington, DC 20503, Telephone: 202–395–6881/Fax: 202–395–5806 (these are not toll-free numbers), e-mail: *OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by e-mail at *dol_pra_public@dol.gov.*

SUPPLEMENTARY INFORMATION: The DOL is seeking OMB reauthorization of information collections related to Senior Community Service Employment Program (SCSEP) Performance Measurement System. Originally authorized by the Older Americans Act of 1965, the SCSEP is funded for approximately $759 million for Program Year (PY) 2010 and will provide over 78,000 positions in which nearly 120,000 low-income persons aged 55 or older will be placed in community service employment. At current placement rates, this should allow about 20,000 people to be exited from the program with the ultimate goal of unsubsidized placement in PY 2010.

To ensure that the SCSEP is properly administered, and to implement the performance measures and sanctions authorized by the 2006 Amendments to the OAA (OAA–2006) and the Jobs for Veterans Act of 2002, it is necessary to modify existing data collection instruments. In addition, a collection of information is required under OMB Memorandum M–02–06, which has been adopted by the DOL. This requirement necessitates a revision of data collection instruments and revisions to the overall data collection burden. The legal authority for the collection of additional information may be found at sections 503, 508, 513, and 515 of the OAA–2006.

The (SCSEP) Performance Measurement System contains information collections subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is currently approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provision of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

The DOL obtains approval for this information collection under OMB Control Number 1205–0040, and the current approval is scheduled to expire on October 31, 2010. For additional information, see the related notice published in the **Federal Register** on May 13, 2010 (75 FR 27001).

The DOL, as part of its continuing effort to reduce paperwork and respondent burden, submits information collections for OMB consideration after conducting a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection

requirements in accordance with the PRA. *See* 44 U.S.C. 3506(c)(2)(A). This program ensures that information is in the desired format, reporting burden (time and cost) is minimal, collection instruments are clearly understood, and the estimate of the information collection burden is accurate.

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to ensure appropriate consideration, comments should reference OMB Control Number 1205–0040. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: Employment and Training Administration (ETA).

Type of Review: Revision of a currently approved collection.

Title of Collection: Senior Community Service Employment Program (SCSEP) Performance Measurement System.

Form Numbers: ETA–9120, ETA–9121, ETA–9122, ETA–9123, ETA–8705.

OMB Control Number: 1205–0040.

Affected Public: Private sector, Businesses, or other for-profits, Not-for-profit institutions; State, Local, and Tribal Governments; Individuals or Households.

Total Estimated Number of Responses: 374,279.

Total Estimated Annual Burden Hours: 52,347.

Total Estimated Annual Costs Burden: $0.

Dated: October 26, 2010.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2010–27481 Filed 10–29–10; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Establishment of the Bureau of Labor Statistics Technical Advisory Committee

The Secretary of Labor is announcing the establishment of a Federal Advisory Committee. In accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, the Secretary of Labor has determined that the establishment of the Bureau of Labor Statistics Technical Advisory Committee (the "Committee") is in the public interest in connection with the performance of duties imposed upon the Commissioner of Labor Statistics by 29 U.S.C. 1 and 2. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

The Committee will present advice and make recommendations to the Bureau of Labor Statistics (BLS) on technical aspects of the collection and formulation of economic measures.

The Committee will function solely as an advisory body to the BLS, on technical topics selected by the BLS. Important aspects of the Committee's responsibilities include, but are not limited to:

a. Provide comments on papers and presentations developed by BLS research and program staff. The comments will advise BLS as to whether the academic community will regard the work as being technically sound and reflecting best practices in the relevant fields.

b. Conduct research on issues identified by BLS on which an objective technical opinion or recommendation from outside of BLS would be valuable.

c. Recommend BLS conduct internal research projects to address technical problems with BLS statistics that have been identified in the academic literature.

d. Participate in discussions of areas where the types or coverage of economic statistics could be expanded or improved and areas where statistics are no longer relevant.

e. Establish working relationships with professional associations with an interest in BLS statistics, such as the American Statistical Association and the American Economic Association.

The Committee will report to the Commissioner of Labor Statistics, agency head of the BLS.

The Committee will consist of approximately sixteen members who serve as Special Government Employees. Members are appointed by the BLS and are approved by the Secretary of Labor. Committee members are economists, statisticians, and behavioral scientists and will be chosen to achieve a balanced membership across those disciplines. They are prominent experts in their fields and recognized for their professional achievements and objectivity.

The Committee will function solely as an advisory body, in compliance with the provisions of the Federal Advisory Committee Act. The Charter will be filed under the Federal Advisory Committee Act.

For Further Information Contact: Cheryl Kerr, Office of the Commissioner, Bureau of Labor Statistics, telephone: 202–691–7808, e-mail: *kerr.cheryl@bls.gov.*

Signed at Washington, DC this 26th day of October 2010.

Kimberley D. Hill,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 2010–27482 Filed 10–29–10; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Re-Establishment of the Bureau of Labor Statistics Data Users Advisory Committee

The Secretary of Labor is announcing the re-establishment of a Federal Advisory Committee. In accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, the Secretary of Labor has determined that the re-establishment of the Bureau of Labor Statistics Data Users Advisory Committee (the "Committee") is in the public interest in connection with the performance of duties imposed upon the Commissioner of Labor Statistics by 29 U.S.C. 1 and 2. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

The Committee provides advice to the Bureau of Labor Statistics from the points of view of data users from various sectors of the U.S. economy, including the labor, business, research, academic and government communities, on technical matters related to the collection, analysis, dissemination, and use of the Bureau's statistics, on its published reports, and on the broader aspects of its overall mission and function.

The Committee will function solely as an advisory body to the BLS, on technical topics selected by the BLS.

The Committee is responsible for providing the Commissioner of Labor Statistics: (1) The priorities of data users; (2) suggestions concerning the addition of new programs, changes in the emphasis of existing programs or cessation of obsolete programs; and (3) advice on innovations in data collection, dissemination and presentation. The Committee will report to the Commissioner of Labor Statistics, agency head of the BLS.

The Committee will not exceed 25 members. Members are appointed by the BLS and approved by the Secretary of Labor. Membership of the Committee will represent a balance of expertise across a broad range of BLS programs. Members will be drawn from the labor, business, government, research and academic communities in roughly equal proportion. Committee members are economists, business analysts, labor analysts, and public policy specialists. They are prominent experts in their fields and are recognized for their professional achievements.

The Committee will function solely as an advisory body, in compliance with the provisions of the Federal Advisory Committee Act. The Charter will be filed under the Federal Advisory Committee Act.

For Further Information Contact: Cheryl Kerr, Office of the Commissioner, Bureau of Labor Statistics, telephone: 202–691–7808, e-mail: *kerr.cheryl@bls.gov.*

Signed at Washington, DC, this 26th day of October 2010.

Kimberley D. Hill,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 2010–27483 Filed 10–29–10; 8:45 am]

BILLING CODE 4510–24–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 10–14]

Notice of Entering Into a Compact With the Hashemite Kingdom of Jordan

AGENCY: Millennium Challenge Corporation.

ACTION: Notice.

SUMMARY: In accordance with Section 610(b)(2) of the Millennium Challenge Act of 2003 (Pub. L. 108–199, Division D), the Millennium Challenge Corporation (MCC) is publishing a summary and the complete text of the Millennium Challenge Compact between the United States of America, acting through the Millennium Challenge Corporation, and the Hashemite Kingdom of Jordan, acting through the Ministry of Water and Irrigation. Representatives of the United States Government and the Hashemite Kingdom of Jordan executed the Compact documents on October 25, 2010.

Dated: October 26, 2010.

Melvin F. Williams, Jr.,

VP/General Counsel and Corporate Secretary, Millennium Challenge Corporation.

Summary of Millennium Challenge Compact With the Hashemite Kingdom of Jordan

The five-year Millennium Challenge Compact with the Hashemite Kingdom of Jordan ("Compact") will provide up to $275.1 million to reduce poverty and accelerate economic growth. The Compact is intended to support: (a) Rehabilitation of the water supply network for households and businesses; (b) reinforcement of main sewer lines and expansion of the lateral sewers into neighborhoods that lack access to a proper wastewater collection network; and (c) expansion of the As-Samra Wastewater Treatment Plant, in partnership with a private sector operator that will mobilize a portion of the total cost of construction.

1. Program Overview

The Compact program consists of three tightly integrated infrastructure projects that address critical problems in water distribution, wastewater collection and wastewater treatment. The projects are focused in Zarqa Governorate, home to the country's second and fourth largest cities, Zarqa and Ruseifa, and more than half the country's small-scale industry. A history of neglect coupled with rapid population growth, particularly an influx of refugees from Iraq over the past decade, has strained critical water and wastewater infrastructure throughout the area. Residents continuously complain of sewer main overflows and water pipes made of cheap, flexible tubing that run above ground through city streets, where they are subject to considerable wear and tear.

In combination, the three projects are designed to increase the effective supply of water that reaches household and commercial users throughout Zarqa Governorate. This increase comes from two sources. First, repairs to the reservoirs, pumps, and pipes that make up the water delivery network will reduce the physical loss of water during transmission and distribution, directly increasing the amount of potable water available to end users. Second, greater collection and treatment of wastewater will create an increased supply of high-quality treated wastewater appropriate for use in irrigated agriculture. This treated wastewater is expected to become a substitute for the fresh water currently used in agriculture, allowing fresh water to be directed to higher value uses in urban areas, including Zarqa, before it is collected as wastewater and then treated and reused. This arrangement extends the use of each unit of fresh water.

2. Project Descriptions

Water Network Restructuring and Rehabilitation Project (Water Network Project) (Estimated $102.57 Million)

At present, an estimated 57 percent of the potable water supplied into the water transmission and distribution network in Zarqa Governorate is lost through physical leaks; additional losses are attributable to administrative mismanagement. The Water Network Project is designed to reduce high rates of water loss through construction and repairs to reservoirs, pump stations and up to 67 km of primary, 927 km of secondary, and 256 km of tertiary pipes, along with replacement of household connections and meters, in the two poorest, most heavily populated water service areas of Zarqa Governorate. The project is also designed to convert the system from high-pressure, periodic distribution to more frequent, gravity-fed distribution that should improve customer service, reduce wear and tear on critical infrastructure, and extend the lifespan of the network. The project includes technical and financial assistance to very poor households to improve plumbing, water storage, sewage connections, and general awareness of best practices for basic sanitation and efficient water use.

Wastewater Network Reinforcement and Expansion Project (Wastewater Network Project) (Estimated $58.22 Million)

Zarqa Governorate is served by an outdated sewer system that limits the collection of wastewater and endangers public health. The system frequently overflows into city streets and the surrounding environment, relies on pump stations that have insufficient capacity, and serves only 72 percent of the population. The Wastewater Network Project is designed to replace or rehabilitate up to 29 km of undersized trunk lines and expand lateral sewers by up to 140 km in the neighborhoods of East Zarqa and West Zarqa, both of which lack proper sewer connections. The extension of lateral sewer lines is expected to raise coverage rates from 72 percent to about 85

percent of the local population. These new customer connections should also generate additional supplies of wastewater to be treated at the As-Samra Wastewater Treatment Plant and eventually reused in agriculture downstream in the Jordan Valley.

As-Samra Wastewater Treatment Plant Expansion Project (As-Samra Expansion Project) (Estimated $93.03 Million)

Originally built with support from a USAID grant, the As-Samra wastewater treatment plant is the primary facility for treating wastewater from Amman and Zarqa Governorates. The plant became operational in 2008 and was originally designed to meet the region's treatment needs through 2015 but is already nearing its capacity. Without an expansion to properly handle the region's growing volume of wastewater, the plant could become overloaded, its ability to treat wastewater could deteriorate, and downstream agricultural areas that rely on treated water for irrigation could face serious food safety risks and the loss of markets for agricultural products. The As-Samra Expansion Project is designed to expand the plant's treatment capacity by 97,800 cubic meters per day, an increase of more than one-third, and install upgrades to handle higher suspended solid loads. These improvements should meet the region's wastewater treatment needs through 2025. The proposed expansion will be financed in partnership with the Samra Wastewater Treatment Plant Company Limited ("SPC"), a private company that built the existing plant and operates it under a concession from GOJ. Under this arrangement, an MCC grant would cover a portion of the cost of construction, while SPC would mobilize debt and equity funding to cover the remaining construction costs, along with project development and design, project management, and interest costs. In this way, the MCC grant will attract private financing, reduce construction costs to MCC, and thereby reduce the role of the public sector in financing the project. MCC's involvement will reduce the cost of capital, allowing lower water and wastewater tariffs to consumers than might otherwise have been necessary. This arrangement may also enhance operational sustainability by transferring some risks related to financing, construction, and operations to the private sector.

3. Administration

The Compact also includes program management and oversight costs estimated at $18.47 million over a five-year timeframe, including the costs of administration, management, auditing, fiscal and procurement services, and environmental and social oversight. In addition, the cost of monitoring and evaluation of the Compact is budgeted at approximately $2.81 million.

4. Economic and Beneficiary Analysis

The Compact projects are expected to have reliable and demonstrable impacts on economic growth and on incomes for residents in Zarqa Governorate and Amman through improved efficiencies in the water distribution network, as well as for a number of farmers in the lower and middle Jordan Valley, who will receive reliable supplies of high quality treated wastewater for use in irrigation.

The Compact projects reflect GOJ's priorities, are endorsed by the Ministry of Water and Irrigation that will implement them, and respond to public demands for improved public administration, investment, and service provision. These are necessary and significant conditions for sustained administrative and political support of MCC's investment and lay the groundwork for effective project implementation. Finally, consistent with MCC's results-focused approach, the Compact allows for careful monitoring of implementation progress and rigorous evaluation of the nature and magnitude of selected project impacts.

Table 1 presents a summary of the economic rates of return and the number of beneficiaries that each Compact project and the Compact program are expected to achieve.

TABLE 1—SUMMARY OF ECONOMIC IMPACTS

Project	MCC project cost ($M)	Economic rate of return (%)	Beneficiaries
Water Network Project	102.57	19	1,600,000
Wastewater Network Project	58.22	14	2,020,000
As-Samra Expansion Project	93.03		
Total Compact	253.82	16	[1] 2,020,000

[1] The total number of beneficiaries does not sum because of overlap in the beneficiary populations between projects.

Millennium Challenge Compact Between the United States of America, Acting Through the Millennium Challenge Corporation, and Hashemite Kingdom of Jordan, Acting Through the Ministry of Water and Irrigation

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Millennium Challenge Compact

Preamble

This Millennium Challenge Compact (this "Compact") is between the United States of America, acting through the Millennium Challenge Corporation, a United States government corporation ("MCC"), and the Hashemite Kingdom of Jordan ("Jordan" or the "Government"), acting through the Ministry of Water and Irrigation (individually a "Party" and collectively, the "Parties"). Capitalized terms used in this Compact will have the meanings provided in Annex V.

Recalling that the Government consulted with the private sector and civil society of Jordan to determine the priorities for the use of assistance and developed and submitted to MCC a proposal for such assistance to achieve lasting economic growth and poverty reduction; and

Recognizing that MCC wishes to help Jordan implement the program described herein to achieve the goal and objectives described herein (as such program description and objectives may be amended from time to time in accordance with the terms hereof, the "Program");

The Parties hereby agree as follows:

Article 1. Goal and Objectives

Section 1.1 Compact Goal

The goal of this Compact is to reduce poverty through economic growth in Jordan (the "Compact Goal").

Section 1.2 Program Objective

The objective of the Program (the "Program Objective") is to increase the effective supply of water available to the inhabitants of Zarqa Governorate through improvements in the efficiency of water delivery, the extent of wastewater collection and the capacity of wastewater treatment. The Program consists of the projects described in Annex I (each a "Project" and collectively, the "Projects").

Section 1.3 Project Objectives

The objectives of each of the Projects (each a "*Project Objective*" and collectively, the "*Project Objectives*") are as follows:

(a) The objectives of the Water Network Project are to (i) Improve the efficiency of network water delivery and the condition of home water systems, and (ii) decrease certain costs that households in Zarqa Governorate incur to satisfy their subsistence water needs.

(b) The objectives of the Wastewater Network Project are to (i) Increase access to the wastewater network, (ii) increase the volume of wastewater collected within Zarqa Governorate for treatment and reuse, and (iii) reduce the incidents of sewage overflow.

(c) The objectives of the As-Samra Expansion Project are to (i) Increase the capacity to treat wastewater from Amman and Zarqa Governorates, (ii) increase the volume of treated wastewater that is available as a substitute for freshwater for non-domestic use, and (iii) protect existing agriculture from the potential consequences of pollution from untreated wastewater.

Article 2. Funding and Resources

Section 2.1 Program Funding

Upon entry into force of this Compact in accordance with Section 7.3, MCC will grant to the Government, under the terms of this Compact, an amount not to exceed Two Hundred and Seventy Two Million Nine Hundred and Eighty Thousand United States Dollars (US$272,980,000.00) ("*Program Funding*") for use by the Government to implement the Program. The allocation of Program Funding is generally described in Annex II.

Section 2.2 Compact Implementation Funding

(a) Upon signing of this Compact, MCC will grant to the Government, under the terms of this Compact and in addition to the Program Funding described in Section 2.1, an amount not to exceed Two Million One Hundred and Twenty Thousand United States Dollars (US$2,120,000.00) ("*Compact Implementation Funding*") under Section 609(g) of the Millennium Challenge Act of 2003, as amended (the "*MCA Act*"), for use by the Government to facilitate implementation of the Compact, including for the following purposes:

(i) Financial management and procurement activities;

(ii) Administrative activities (including start-up costs such as staff salaries) and administrative support expenses such as rent, computers and other information technology or capital equipment;

(iii) Monitoring and evaluation activities;

(iv) Feasibility studies; and

(v) Other activities to facilitate Compact implementation as approved by MCC.

The allocation of Compact Implementation Funding is generally described in Annex II.

(b) Each Disbursement of Compact Implementation Funding is subject to satisfaction of the conditions precedent to such disbursement as set forth in Annex IV.

(c) If MCC determines that the full amount of Compact Implementation Funding available under Section 2.2(a) exceeds the amount that reasonably can be utilized for the purposes set forth in Section 2.2(a), MCC, by written notice to the Government, may withdraw the excess amount, thereby reducing the amount of the Compact Implementation Funding available under Section 2.2(a) (such excess, the "*Excess CIF Amount*"). In such event, the amount of Compact Implementation Funding granted to the Government under Section 2.2(a) will be reduced by the Excess CIF Amount, and MCC will have no further obligations with respect to such Excess CIF Amount.

(d) MCC, at its option by written notice to the Government, may elect to grant to the Government an amount equal to all or a portion of such Excess CIF Amount as an increase in the Program Funding, and such additional Program Funding will be subject to the terms and conditions of this Compact applicable to Program Funding.

Section 2.3 MCC Funding

Program Funding and Compact Implementation Funding are collectively referred to in this Compact as "*MCC Funding*," and includes any refunds or reimbursements of Program Funding or Compact Implementation Funding paid by the Government in accordance with this Compact.

Section 2.4 Disbursement

In accordance with this Compact and the Program Implementation Agreement, MCC will disburse MCC Funding for expenditures incurred in furtherance of the Program (each instance, a "*Disbursement*"). Subject to the satisfaction of all applicable conditions precedent, the proceeds of Disbursements will be made available to the Government, at MCC's sole election,

by (a) deposit to one or more bank accounts established by the Government and acceptable to MCC (each, a "*Permitted Account*") or (b) direct payment to the relevant provider of goods, works or services for the implementation of the Program. MCC Funding may be expended only for Program expenditures.

Section 2.5 Interest

The Government will pay or transfer to MCC, in accordance with the Program Implementation Agreement, any interest or other earnings that accrue on MCC Funding prior to such funding being used for a Program purpose.

Section 2.6 Government Resources; Budget

(a) Consistent with Section 609(b)(2) of the MCA Act, the Government will make a contribution towards meeting the Program Objective and Project Objectives of this Compact. Annex II describes such contribution in more detail. In addition, the Government will provide all funds and other resources and will take all actions that are necessary to carry out the Government's responsibilities under this Compact.

(b) The Government will use its best efforts to ensure that all MCC Funding it receives or is projected to receive in each of its fiscal years is fully accounted for in its annual budget on a multi-year basis.

(c) The Government will not reduce the normal and expected resources that it would otherwise receive or budget from sources other than MCC for the activities contemplated under this Compact and the Program.

(d) Unless the Government discloses otherwise to MCC in writing, MCC Funding will be in addition to the resources that the Government would otherwise receive or budget for the activities contemplated under this Compact and the Program.

Section 2.7 Limitations on the Use of MCC Funding

The Government will ensure that MCC Funding is not used for any purpose that would violate United States law or policy, as specified in this Compact or as further notified to the Government in writing or by posting from time to time on the MCC Web site at *http://www.mcc.gov* (the "*MCC Web site*"), including but not limited to the following purposes:

(a) For assistance to, or training of, the military, police, militia, national guard or other quasi-military organization or unit;

(b) For any activity that is likely to cause a substantial loss of United States jobs or a substantial displacement of United States production;

(c) To undertake, fund or otherwise support any activity that is likely to cause a significant environmental, health, or safety hazard, as further described in MCC's environmental and social assessment guidelines and any guidance documents issued in connection with the guidelines posted from time to time on the MCC Web site or otherwise made available to the Government (collectively, the "*MCC Environmental Guidelines*"); or

(d) To pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions, to pay for the performance of involuntary sterilizations as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations or to pay for any biomedical research which relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning.

Section 2.8 Taxes

(a) Unless the Parties specifically agree otherwise in writing, the Government will ensure that all MCC Funding is free from the payment or imposition of any existing or future taxes, duties, levies, contributions or other similar charges (but not fees or charges for services that are generally applicable in Jordan, reasonable in amount and imposed on a non-discriminatory basis) ("*Taxes*") of or in Jordan (including any such Taxes imposed by a national, regional, local or other governmental or taxing authority of or in Jordan). Specifically, and without limiting the generality of the foregoing, MCC Funding will be free from the payment of (i) Any tariffs, customs duties, import taxes, export taxes, and other similar charges on any goods, works or services introduced into Jordan in connection with the Program; (ii) sales tax, value added tax, excise tax, property transfer tax, and other similar charges on any transactions involving goods, works or services in connection with the Program; (iii) taxes and other similar charges on ownership, possession or use of any property in connection with the Program; and (iv) taxes and other similar charges on income, profits or gross receipts attributable to work performed in connection with the Program and related social security taxes and other similar charges on all natural or legal persons performing work in connection with the Program except (x) natural persons who are citizens or permanent residents of Jordan; and (y) legal persons formed under the laws of Jordan (but excluding MCA-Jordan and any other entity formed for the purpose of implementing the Government's obligations hereunder).

(b) The mechanisms that the Government will use to implement the tax exemption required by Section 2.8(a) are set forth in Annex VI. Such mechanisms may include exemptions from the payment of Taxes that have been granted in accordance with applicable law, refund or reimbursement of Taxes by the Government to MCC, MCA-Jordan or to the taxpayer, or payment by the Government to MCA-Jordan or MCC, for the benefit of the Program, of an agreed amount representing any collectible Taxes on the items described in Section 2.8(a).

(c) If a Tax has been paid contrary to the requirements of Section 2.8(a) or Annex VI, the Government will refund promptly to MCC (or to another party as designated by MCC) the amount of such Tax in United States Dollars or the currency of Jordan within thirty (30) days (or such other period as may be agreed in writing by the Parties) after the Government is notified in writing (whether by MCC or MCA-Jordan) that such Tax has been paid.

(d) No MCC Funding, proceeds thereof or Program Assets may be applied by the Government in satisfaction of its obligations under Section 2.8(c).

Section 2.9 Lower Middle Income Countries

Section 606(b) of the MCA Act restricts the amount of assistance that MCC may provide to "lower middle income countries," a term that is defined in the MCA Act and includes Jordan. To the extent that MCC determines, in MCC's reasonable discretion, that the amount of Program Funding granted to the Government in this Compact may result in a violation of Section 606(b) of the MCA Act, MCC, at any time and from time to time upon written notice to the Government, may reduce the amount of Program Funding, or withhold any Disbursement of Program Funding, to avoid or remedy such a violation.

Article 3. Implementation

Section 3.1 Program Implementation Agreement

The Parties will enter into an agreement providing further detail on the implementation arrangements, fiscal accountability and disbursement and use of MCC Funding, among other

matters (the "*Program Implementation Agreement*" or "*PIA*"); and the Government will implement the Program in accordance with this Compact, the PIA, any other Supplemental Agreement and any Implementation Letter.

Section 3.2 Government Responsibilities

(a) The Government has principal responsibility for overseeing and managing the implementation of the Program.

(b) The Government hereby designates Millennium Challenge Account—Jordan Limited Liability Company as the accountable entity to implement the Program and to exercise and perform the Government's right and obligation to oversee, manage and implement the Program, including without limitation, managing the implementation of Projects and their Activities, allocating resources and managing procurements. Such entity will be referred to herein as "*MCA-Jordan*," and has the authority to bind the Government with regard to all Program activities. The designation by this Section 3.2(b) will not relieve the Government of any obligations or responsibilities hereunder or under any related agreement, for which the Government remains fully responsible. MCC hereby acknowledges and consents to the designation in this Section 3.2(b).

(c) The Government will ensure that any Program Assets or services funded in whole or in part (directly or indirectly) by MCC Funding are used solely in furtherance of this Compact and the Program unless MCC agrees otherwise in writing.

(d) The Government will take all necessary or appropriate steps to achieve the Program Objective and the Project Objectives during the Compact Term (including, without limiting Section 2.6(a), funding all costs that exceed MCC Funding and are required to carry out the terms hereof and achieve such objectives, unless MCC agrees otherwise in writing).

(e) The Government will fully comply with the Program Guidelines, as applicable, in its implementation of the Program.

Section 3.3 Policy Performance

In addition to undertaking the specific policy, legal and regulatory reform commitments identified in Annex I (if any), the Government will seek to maintain and to improve its level of performance under the policy criteria identified in Section 607 of the MCA Act, and the selection criteria and methodology used by MCC.

Section 3.4 Accuracy of Information

The Government assures MCC that, as of the date this Compact is signed by the Government, the information provided to MCC by or on behalf of the Government in the course of reaching agreement with MCC on this Compact is true, correct and complete in all material respects.

Section 3.5 Implementation Letters

From time to time, MCC may provide guidance to the Government in writing on any matters relating to this Compact, MCC Funding or implementation of the Program (each, an "Implementation Letter"). The Government will use such guidance in implementing the Program. The Parties may also issue jointly agreed-upon Implementation Letters to confirm and record their mutual understanding on aspects related to the implementation of this Compact, the PIA or other related agreements.

Section 3.6 Procurement

The Government will ensure that the procurement of all goods, works and services by the Government or any Provider to implement the Program will be consistent with the "MCC Program Procurement Guidelines" posted from time to time on the MCC Web site (the "*MCC Program Procurement Guidelines*"). The MCC Program Procurement Guidelines include the following requirements, among others:

(a) Open, fair, and competitive procedures must be used in a transparent manner to solicit, award and administer contracts and to procure goods, works and services;

(b) Solicitations for goods, works, and services must be based upon a clear and accurate description of the goods, works and services to be acquired;

(c) Contracts must be awarded only to qualified contractors that have the capability and willingness to perform the contracts in accordance with their terms on a cost effective and timely basis; and

(d) No more than a commercially reasonable price, as determined, for example, by a comparison of price quotations and market prices, will be paid to procure goods, works and services.

Furthermore, any person or entity on (i) The master list of Specifically Designated Nationals and Blocked Persons maintained by the U.S. Department of Treasury's Office of Foreign Assets Control, (ii) the consolidated list of individuals and entities maintained by the "1267 Committee" of the United Nations Security Council, (iii) the list maintained on *http://www.epls.gov,* or (iv) other lists specified by MCC will be ineligible to participate in an MCC-funded procurement or to receive MCC Funding.

Section 3.7 Records; Accounting; Covered Providers; Access

(a) Government Books and Records. The Government will maintain, and will use its best efforts to ensure that all Covered Providers maintain, accounting books, records, documents and other evidence relating to the Program adequate to show, to MCC's satisfaction, the use of all MCC Funding and the implementation and results of the Program ("*Compact Records*"). In addition, the Government will furnish or cause to be furnished to MCC, upon its request, originals or copies of such Compact Records.

(b) Accounting. The Government will maintain and will use its best efforts to ensure that all Covered Providers maintain Compact Records in accordance with generally accepted accounting principles prevailing in the United States, or at the Government's option and with MCC's prior written approval, other accounting principles, such as those (i) prescribed by the International Accounting Standards Board or (ii) then prevailing in Jordan. Compact Records must be maintained for at least five (5) years after the end of the Compact Term or for such longer period, if any, required to resolve any litigation, claims or audit findings or any applicable legal requirements.

(c) Providers and Covered Providers. Unless the Parties agree otherwise in writing, a "*Provider*" is (i) any entity of the Government that receives or uses MCC Funding or any other Program Asset in carrying out activities in furtherance of this Compact or (ii) any third party that receives at least US$50,000 in the aggregate of MCC Funding (other than as salary or compensation as an employee of an entity of the Government) during the Compact Term. A "*Covered Provider*" is (1) a non-United States Provider that receives (other than pursuant to a direct contract or agreement with MCC) US$300,000 or more of MCC Funding in any Government fiscal year or any other non-United States person or entity that receives, directly or indirectly, US$300,000 or more of MCC Funding from any Provider in such fiscal year or (2) any United States Provider that receives (other than pursuant to a direct contract or agreement with MCC) US$500,000 or more of MCC Funding in any Government fiscal year or any other United States person or entity that receives, directly or indirectly,

US$500,000 or more of MCC Funding from any Provider in such fiscal year.

(d) Access. Upon MCC's request, the Government, at all reasonable times, will permit, or cause to be permitted, authorized representatives of MCC, an authorized Inspector General of MCC ("*Inspector General*"), the United States Government Accountability Office, any auditor responsible for an audit contemplated herein or otherwise conducted in furtherance of this Compact, and any agents or representatives engaged by MCC or the Government to conduct any assessment, review or evaluation of the Program, the opportunity to audit, review, evaluate or inspect facilities, assets and activities funded in whole or in part by MCC Funding.

Section 3.8 Audits; Reviews

(a) Government Audits. Except as the Parties may agree otherwise in writing, the Government will, on at least a semi-annual basis, conduct, or cause to be conducted, financial audits of all disbursements of MCC Funding covering the period from signing of this Compact until the earlier of the following December 31 or June 30 and covering each six-month period thereafter ending December 31 and June 30, through the end of the Compact Term. In addition, upon MCC's request, the Government will ensure that such audits are conducted by an independent auditor approved by MCC and named on the list of local auditors approved by the Inspector General or a United States–based certified public accounting firm selected in accordance with the "Guidelines for Financial Audits Contracted by MCA" (the "*Audit Guidelines*") issued and revised from time to time by the Inspector General, which are posted on the MCC Web site. Audits will be performed in accordance with the Audit Guidelines and be subject to quality assurance oversight by the Inspector General. Each audit must be completed and the audit report delivered to MCC no later than 90 days after the first period to be audited and no later than 90 days after each June 30 and December 31 thereafter, or such other period as the Parties may otherwise agree in writing.

(b) Audits of Other Entities. The Government will ensure that MCC-financed agreements between the Government or any Provider, on the one hand, and (i) a United States nonprofit organization, on the other hand, state that the United States nonprofit organization is subject to the applicable audit requirements contained in OMB Circular A–133, "Audits of States, Local Governments, and Non-Profit Organizations," issued by the United States Office of Management and Budget; (ii) a United States for-profit Covered Provider, on the other hand, state that the United States for-profit organization is subject to audit by the applicable United States Government agency, unless the Government and MCC agree otherwise in writing; and (iii) a non-US Covered Provider, on the other hand, state that the non-US Covered Provider is subject to audit in accordance with the Audit Guidelines.

(c) Corrective Actions. The Government will use its best efforts to ensure that each Covered Provider (i) takes, where necessary, appropriate and timely corrective actions in response to audits; (ii) considers whether the results of the Covered Provider's audit necessitates adjustment of the Government's records; and (iii) permits independent auditors to have access to its records and financial statements as necessary.

(d) Audit by MCC. MCC will have the right to arrange for audits of the Government's use of MCC Funding.

(e) Cost of Audits, Reviews or Evaluations. MCC Funding may be used to fund the costs of any audits, reviews or evaluations required under this Compact.

Article 4. Communications

Section 4.1 Communications

Any document or communication required or submitted by either Party to the other under this Compact must be in writing and, except as otherwise agreed with MCC, in English. For this purpose, the address of each Party is set forth below.

To MCC:

Millennium Challenge Corporation, Attention: Vice President, Compact Operations, (with a copy to the Vice President and General Counsel), 875 Fifteenth Street, NW., Washington, DC 20005, United States of America, Facsimile: (202) 521–3700, Telephone: (202) 521–3600, E-mail: *VPOperations@mcc.gov* (Vice President, Compact Operations), *VPGeneralCounsel@mcc.gov* (Vice President and General Counsel).

To the Government:

Ministry of Planning and International Cooperation, P.O. Box 555, Amman 11118, Jordan, Tel: +962 6 4642246, Fax: +962 6 4642247.

Section 4.2 Representatives

For all purposes of this Compact, the Government will be represented by the individual holding the position of, or acting as, the Minister of Planning and International Cooperation, and MCC will be represented by the individual holding the position of, or acting as, Vice President, Compact Operations (each of the foregoing, a "*Principal Representative*"). Each Party, by written notice to the other Party, may designate one or more additional representatives (each, an "*Additional Representative*") for all purposes other than signing amendments to this Compact. The Government hereby designates the Chairperson of the Board of MCA–Jordan as an Additional Representative. A Party may change its Principal Representative to a new representative that holds a position of equal or higher authority upon written notice to the other Party.

Section 4.3 Signatures

Signatures to this Compact and to any amendment to this Compact will be original signatures appearing on the same page or in an exchange of letters or diplomatic notes. With respect to all documents arising out of this Compact (other than the Program Implementation Agreement) and amendments thereto, signatures may, as appropriate, be delivered by facsimile or electronic mail and in counterparts and will be binding on the Party delivering such signature to the same extent as an original signature would be.

Article 5. Termination; Suspension; Expiration

Section 5.1 Termination; Suspension

(a) Either Party may terminate this Compact without cause in its entirety by giving the other Party thirty (30) days' prior written notice. MCC may also terminate this Compact or MCC Funding without cause in part by giving the Government thirty (30) days' prior written notice.

(b) MCC may, immediately, upon written notice to the Government, suspend or terminate this Compact or MCC Funding, in whole or in part, and any obligation related thereto, if MCC determines that any circumstance identified by MCC, as a basis for suspension or termination (whether in writing to the Government or by posting on the MCC Web site) has occurred, which circumstances include but are not limited to the following:

(i) The Government fails to comply with its obligations under this Compact or any other agreement or arrangement entered into by the Government in connection with this Compact or the Program;

(ii) An event or series of events has occurred that makes it probable that the Program Objective or any of the Project Objectives will not be achieved during

the Compact Term or that the Government will not be able to perform its obligations under this Compact;

(iii) A use of MCC Funding or continued implementation of this Compact or the Program violates applicable law or United States Government policy, whether now or hereafter in effect;

(iv) The Government or any other person or entity receiving MCC Funding or using Program Assets is engaged in activities that are contrary to the national security interests of the United States;

(v) An act has been committed or an omission or an event has occurred that would render Jordan ineligible to receive United States economic assistance under Part I of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2151 *et seq.*), by reason of the application of any provision of such act or any other provision of law;

(vi) The Government has engaged in a pattern of actions inconsistent with the criteria used to determine the eligibility of Jordan for assistance under the MCA Act; and

(vii) The Government or another person or entity receiving MCC Funding or using Program Assets is found to have been convicted of a narcotics offense or to have been engaged in drug trafficking.

Section 5.2 Consequences of Termination, Suspension or Expiration

(a) Upon the suspension or termination, in whole or in part, of this Compact or any MCC Funding, or upon the expiration of this Compact, the provisions of Section 4.2 of the Program Implementation Agreement will govern the post-suspension, post-termination or post-expiration treatment of MCC Funding, any related Disbursements and Program Assets. Any portion of this Compact, MCC Funding, the Program Implementation Agreement or any other Supplemental Agreement that is not suspended or terminated will remain in full force and effect.

(b) MCC may reinstate any suspended or terminated MCC Funding under this Compact if MCC determines that the Government or other relevant person or entity has committed to correct each condition for which MCC Funding was suspended or terminated.

Section 5.3 Refunds; Violation

(a) If any MCC Funding, any interest or earnings thereon, or any Program Asset is used for any purpose in violation of the terms of this Compact, then MCC may require the Government to repay to MCC in United States Dollars the value of the misused MCC Funding, interest, earnings, or asset, plus interest within thirty (30) days after the Government's receipt of MCC's request for repayment. The Government will not use MCC Funding, proceeds thereof or Program Assets to make such payment.

(b) Notwithstanding any other provision in this Compact or any other existing agreement to the contrary, MCC's right under Section 5.3(a) for a refund will continue during the Compact Term and for a period of (i) five (5) years thereafter or (ii) one (1) year after MCC receives actual knowledge of such violation, whichever is later.

(c) In addition to Section 5.3(a), MCC will be entitled to any refund of Program Funding related to the As-Samra Expansion Project to the extent such refund is contemplated by the Program Implementation Agreement.

Section 5.4 Survival

The Government's responsibilities under Sections 2.7, 3.7, 3.8, 5.2, 5.3, 5.4, and 6.4 will survive the expiration, suspension or termination of this Compact.

Article 6. Compact Annexes; Amendments; Governing Law

Section 6.1 Annexes

Each annex to this Compact constitutes an integral part hereof, and references to "Annex" mean an annex to this Compact unless otherwise expressly stated.

Section 6.2 Amendments

(a) The Parties may amend this Compact only by a written agreement signed by the Principal Representatives (or such other government official designated by the relevant Principal Representative).

(b) Notwithstanding Section 6.2(a), the Parties may agree in writing, signed by the Principal Representatives (or such other government official designated by the relevant Principal Representative) or any Additional Representative, to modify any Annex to (i) suspend, terminate or modify any Project or Activity, or to create a new project; (ii) change the allocations of funds as set forth in Annex II as of the date hereof (including to allocate funds to a new project); (iii) modify the Implementation Framework described in Annex I; or (iv) add, delete or waive any condition precedent described in Annex IV; *provided that,* in each case, any such modification (1) is consistent in all material respects with the Program Objective and Project Objectives; (2) does not cause the amount of Program Funding to exceed the aggregate amount specified in Section 2.1 (as may be modified by operation of Section 2.2(d)); (3) does not cause the amount of Compact Implementation Funding to exceed the aggregate amount specified in Section 2.2(a); (4) does not reduce the Government's responsibilities or contribution of resources required under Section 2.6(a); and (5) does not extend the Compact Term.

Section 6.3 Inconsistencies

In the event of any conflict or inconsistency between:

(a) Any Annex and any of Articles 1 through 7, such Articles 1 through 7, as applicable, will prevail; or

(b) This Compact and any other agreement between the Parties regarding the Program, this Compact will prevail.

Section 6.4 Governing Law

This Compact is an international agreement and as such will be governed by the principles of international law.

Section 6.5 Additional Instruments

Any reference to activities, obligations or rights undertaken or existing under or in furtherance of this Compact or similar language will include activities, obligations and rights undertaken by, or existing under or in furtherance of any agreement, document or instrument related to this Compact and the Program.

Section 6.6 References to MCC Web site

Any reference in this Compact, the PIA or any other agreement entered into in connection with this Compact, to a document or information available on, or notified by posting on the MCC Web site will be deemed a reference to such document or information as updated or substituted on the MCC Web site from time to time.

Section 6.7 References to Laws, Regulations, Policies and Guidelines

Each reference in this Compact, the PIA or any other agreement entered into in connection with this Compact, to a law, regulation, policy, guideline or similar document will be construed as a reference to such law, regulation, policy, guideline or similar document as it may, from time to time, be amended, revised, replaced, or extended and will include any law, regulation, policy, guideline or similar document issued under or otherwise applicable or related to such law, regulation, policy, guideline or similar document.

Section 6.8 MCC Status

MCC is a United States government corporation acting on behalf of the

United States Government in the implementation of this Compact. MCC and the United States Government assume no liability for any claims or loss arising out of activities or omissions under this Compact. The Government waives any and all claims against MCC or the United States Government or any current or former officer or employee of MCC or the United States Government for all loss, damage, injury, or death arising out of activities or omissions under this Compact, and agrees that it will not bring any claim or legal proceeding of any kind against any of the above entities or persons for any such loss, damage, injury, or death. The Government agrees that MCC and the United States Government or any current or former officer or employee of MCC or the United States Government will be immune from the jurisdiction of all courts and tribunals of Jordan for any claim or loss arising out of activities or omissions under this Compact.

Article 7. Entry Into Force

Section 7.1 International Agreements

The Parties understand that each of the Compact and the Project Implementation Agreement, upon its entry into force, will prevail over the domestic laws of Jordan.

Section 7.2 Conditions Precedent to Entry Into Force

Before this Compact enters into force:

(a) The Program Implementation Agreement must have been signed by the parties thereto;

(b) The Government must have delivered to MCC:

(i) A letter signed and dated by the Principal Representative of the Government, or such other duly authorized representative of the Government acceptable to MCC, confirming that the Government has completed its domestic requirements for this Compact to enter into force and that the other conditions precedent to entry into force in this Section 7.2 have been met;

(ii) A signed legal opinion from the Minister of Justice of Jordan (or such other legal representative of the Government acceptable to MCC), in form and substance satisfactory to MCC; and

(iii) Complete, certified copies of all decrees, legislation, regulations or other governmental documents relating to the Government's domestic requirements for this Compact to enter into force, which MCC may post on its Web site or otherwise make publicly available;

(c) MCC shall not have determined that after signature of this Compact, the Government has engaged in a pattern of actions inconsistent with the eligibility criteria for MCC Funding;

(d) The Government has delivered to MCC a plan, in form and substance satisfactory to MCC, including any necessary adjustments to wastewater tariffs in Amman and Zarqa Governorates, for fully funding the projected treatment charges payable as a result of the As-Samra Expansion Project;

(e) The Government has delivered to MCC a plan, in form and substance satisfactory to MCC, including any necessary adjustments to water and wastewater tariffs in Zarqa Governorate, to ensure projected revenues fully fund projected operations and maintenance costs of the water and wastewater network in Zarqa Governorate no later than 2015; and

(f) MCC has determined in its sole discretion, after consultation with the Government, that there has been satisfactory progress with respect to the As-Samra Expansion Project.

Section 7.3 Date of Entry Into Force

This Compact will enter into force on the date of the letter from MCC to the Government in an exchange of letters confirming that MCC has completed its domestic requirements for entry into force of this Compact and that the conditions precedent to entry into force in Section 7.2 have been met.

Section 7.4 Compact Term

This Compact will remain in force for five (5) years after its entry into force, unless terminated earlier under Section 5.1 (the "Compact Term").

Section 7.5 Provisional Application

Upon signature of this Compact and until this Compact has entered into force in accordance with Section 7.3, the Parties will provisionally apply the terms of this Compact; *provided that,* no MCC Funding, other than Compact Implementation Funding, will be made available or disbursed before this Compact enters into force.

In Witness Whereof, the undersigned, duly authorized by their respective governments, have signed this Compact.

Done at Washington, DC, this 25th day of October 2010, in the English language only.

The United States of America, acting through the Millennium Challenge Corporation,

Daniel W. Yohannes,
Chief Executive Officer.

The Hashemite Kingdom of Jordan, acting through the Ministry of Water and Irrigation,

Mohammad Najjar,
Minister of Water and Irrigation.

Annex I Program Description

This Annex I describes the Program that MCC Funding will support in Jordan during the Compact Term.

A. Program Overview

1. Background and Consultative Process

Jordan is a highly urbanized Middle Eastern country with a population of approximately six million people. With limited access to surface water or naturally recharged aquifers, Jordan ranks among the world's five most water poor countries.

Jordan was deemed eligible for MCC Compact assistance in 2006. Late in 2007, the Government established the Millennium Challenge Unit (the "*MCU*") to work directly with MCC to manage the process of developing a proposed Compact program. Following a detailed constraints analysis and sector analysis, the MCU conducted a broad consultative process that garnered feedback from private sector representatives, civil society organizations, donors, and ordinary citizens through large, town-hall style meetings in each of Jordan's twelve governorates. Throughout this process, the challenge of addressing Jordan's severe water shortages emerged as a key priority.

The MCU invited key stakeholders in the water, sewer and sanitation sector to participate in a project design workshop that focused on the objective of making more water available to households and commercial users. Stakeholders emphasized the need to (a) improve water delivery systems to reduce water losses and (b) expand capacities for collecting and treating wastewater and reusing it in agriculture, wherever appropriate.

The Government has identified specific projects related to the rehabilitation of the water distribution system and expansion of the capacity for collecting and treating wastewater in Zarqa Governorate, among the poorest and most urban areas in the country, and the expansion of the capacity of an existing wastewater treatment plant that treats the majority of wastewater from Amman and Zarqa Governorates.

2. Program Objective

The Program Objective is to increase the effective supply of water available to the inhabitants of Zarqa Governorate through improvements in the efficiency of water delivery, the extent of wastewater collection and the capacity of wastewater treatment. The Program consists of the Water Network Project, the Wastewater Network Project and the

As-Samra Expansion Project, as further described in this Annex I.

3. Environmental and Social Safeguards

All of the Projects will be implemented in compliance with the MCC Environmental Guidelines and the MCC Gender Policy, and any involuntary resettlement will be carried out in accordance with the World Bank's Operational Policy on Involuntary Resettlement in effect as of July 2007 ("*OP 4.12*") in a manner acceptable to MCC. The Government also will ensure that the Projects comply with all national environmental laws and regulations, licenses and permits, except to the extent such compliance would be inconsistent with this Compact. Specifically, the Government will (a) cooperate with or complete, as the case may be, any ongoing environmental and social impact assessments, or if necessary undertake and complete any additional environmental and social assessments, environmental and social management plans, environmental and social audits, resettlement policy frameworks, and resettlement action plans required under the laws of Jordan, the MCC Environmental Guidelines, this Compact, the Program Implementation Agreement, or any other Supplemental Agreement, or as otherwise required by MCC, each in form and substance satisfactory to MCC; (b) ensure that Project-specific environmental and social management plans are developed and all relevant measures contained in such plans are integrated into project design, the applicable procurement documents and associated finalized contracts, in each case in form and substance satisfactory to MCC; and (c) implement to MCC's satisfaction appropriate environmental and social mitigation measures identified in such assessments or plans or developed to address environmental and social issues identified during implementation. Unless MCC agrees otherwise in writing, the Government will fund all necessary costs of environmental and social mitigation measures (including, without limitation, costs of resettlement) not specifically provided for, or that exceed the MCC Funding specifically allocated for such costs, in the Detailed Financial Plan for any Project.

To maximize the positive social impacts of the Projects, address cross-cutting social and gender issues such as human trafficking, child and forced labor, and HIV/AIDS, and ensure compliance with the MCC Gender Policy, the Government will (i) develop a comprehensive social and gender integration plan which, at a minimum, incorporates the findings of a comprehensive gender analysis, identifies approaches for regular, meaningful and inclusive consultations with women and other vulnerable/underrepresented groups, consolidates the findings and recommendations of Project-specific social and gender analyses and sets forth strategies for incorporating findings of the social and gender analyses into final Project designs, as appropriate ("*Social and Gender Integration Plan*"); and (ii) ensure, through monitoring and coordination during implementation, that final Activity designs, construction tender documents, other bidding documents, and implementation plans are consistent with and incorporate the outcomes of the social and gender analyses and Social and Gender Integration Plan.

B. Description of Projects

Set forth below is a description of each of the Projects that the Government will implement, or cause to be implemented, using MCC Funding to advance the applicable Project Objectives. In addition, specific activities that will be undertaken within each Project (each, an "Activity"), including sub-activities, are also described.

1. Water Network Project

(a) Summary of Project and Activities.

The objectives of the water network restructuring and rehabilitation project (the "*Water Network Project*") are to (1) improve the efficiency of network water delivery and the condition of home water systems, and (2) decrease certain costs that households in Zarqa Governorate incur to satisfy their subsistence water needs. The Water Network Project is designed to address high rates of water loss in the water supply network in Zarqa Governorate and provide direct assistance to poor households in improving their household water and sanitation infrastructure.

The Water Network Project is comprised of two Activities: (A) The restructuring and rehabilitation of the water supply systems in key areas of Zarqa Governorate (the "*Infrastructure Investment Activity*"); and (B) assistance to households to improve the plumbing, water storage, sewage connections, and general awareness of best practices for sanitation and water efficiency (the "*Water Smart Homes Activity,*" or "*WSH Activity*").

(i) Infrastructure Investment Activity.

The Infrastructure Investment Activity is designed to restructure and rehabilitate transmission and distribution water supply systems in key areas of Zarqa Governorate. In addition to reducing physical leaks, this Activity is designed to facilitate the transition of the water supply systems from periodic distribution under high pressure to more frequent, gravity-fed distribution. The Infrastructure Investment Activity consists of the following three sub-activities:

(1) Strategic Infrastructure Works. This sub-activity is designed to install up to 65 system meters at up to 32 locations, and conduct condition assessments of the system through mapping and geographic information systems ("GIS").

(2) Zarqa Water Supply Area ("WSA") Works. This sub-activity is designed to rehabilitate, restructure, and upgrade works in the primary, secondary and tertiary water supply systems in the Zarqa WSA. Primary infrastructure works to be supported by MCC Funding include:

(A) Strategic metering in the following three distribution areas: Zarqa High, Zarqa North, and Zarqa Mid-Batrawi (other than the Al-Gweireyeh area) (collectively, the "*Zarqa Distribution Areas*");

(B) Mapping and GIS condition assessments;

(C) Construction of primary systems from Batrawi and Zarqa High Reservoirs to the Zarqa Distribution Areas;

(D) Creation of up to 63 district metering area ("*DMA*") connection points;

(E) Rehabilitation and restructuring of up to 44 km of primary systems; and

(F) Upgrading the existing reservoir at Zarqa Pump Station.

Secondary infrastructure works to be supported by MCC Funding include the rehabilitation and restructuring of up to 595 km of secondary network pipelines.

Tertiary infrastructure works to be supported by MCC Funding include:

(G) Rehabilitation and restructuring of up to 37 km of tertiary network pipelines;

(H) Replacement of up to 23,737 customer meters; and

(I) Restructuring of up to 29,371 customer connection points.

(3) Ruseifa WSA Works. This sub-activity is designed to rehabilitate, restructure, and upgrade works in the water systems in the Ruseifa WSA. Primary infrastructure works to be supported by MCC Funding include:

(A) Strategic metering for the following distribution areas: Ruseifa High and Ruseifa Low (collectively, the "*Ruseifa Distribution Areas*");

(B) Mapping and GIS condition assessments;

(C) Creation of up to 26 DMA connection points;

(D) Construction of up to 6 km of new primary network pipeline and upgrade of up to 11 km of existing primary network pipeline; and

(E) Construction of new Basateen pumping station and upgrading of the existing Basateen Reservoir.

Secondary infrastructure works to be supported by MCC Funding include the rehabilitation and restructuring of up to 332 km of secondary network pipelines.

Tertiary infrastructure works to be supported by MCC Funding include:

(F) Rehabilitation and restructuring of up to 219 km of tertiary network pipelines;

(G) Replacement of up to 9,786 customer meters; and

(H) Restructuring of up to 15,813 customer connection points.

(ii) Water Smart Homes Activity.

The WSH Activity is designed to improve the condition of home water systems and enhance the benefits that households, particularly poor households, gain from increases in the effective supply of water in Zarqa Governorate. The WSH Activity consists of the following two sub-activities:

(1) WSH Outreach Campaign. This sub-activity is designed to disseminate information on techniques for cleaning water storage tanks and properly maintaining home water systems, along with the benefits of regular maintenance, to households in the geographic areas targeted by the Infrastructure Investment Activity (the "*WSH Outreach Campaign*"), and

(2) WSH Direct Assistance Program. This sub-activity is designed to provide technical and financial assistance to poor households in Zarqa Governorate for critical improvements in their home systems for water storage, water delivery and sanitation, in exchange for certain cost-sharing fees (the "*WSH Direct Assistance Program*"). The WSH Direct Assistance Program is expected to support replacement of water storage tanks, replacement of pipes, installation of water-saving faucets and construction of proper connections to the wastewater collection system, as needed. Eligible recipients for MCC Funding under this sub-activity must first qualify for the National Aid Fund, a Ministry of Social Development program that provides financial support to the very poor.

(b) Beneficiaries.

The Water Network Project is expected to benefit approximately 302,000 households, for a total of 1,600,000 individuals, over twenty years. This figure represents the projected total population of Zarqa Governorate who may benefit from the efficiency gains anticipated in the water supply network. This figure includes an estimated 110,000 households, for a total of 600,000 people, who will benefit directly from changes in domestic expenditure or higher consumption of water provided through the water supply network. An estimated four percent of beneficiaries will be among those living on less than US$2.00 per day on a purchasing power parity basis, with those living on US$2.00–US$4.00 per day representing another quarter of the total beneficiaries.

This figure also includes 3,500 poor households, for a total of almost 19,000 individuals, who will benefit from direct assistance to rehabilitate their household water and sanitation systems.

(c) Environmental and Social Mitigation Measures.

Consultants responsible for the feasibility study of the Infrastructure Investment Activity completed a preliminary environmental and social impact assessment ("*PESIA*") in May 2010. In the PESIA provided to the Ministry of Water and Irrigation ("*MWI*"), the consultants recommended a Category B classification under the MCC Environmental Guidelines and a Category 2 classification under Jordanian regulations. MWI will submit this recommendation, along with a project overview and a copy of the PESIA, to the Ministry of Environment ("*MOE*") for its evaluation of the classification under Jordanian law. MOE has yet to issue its determination of the project category. Depending on the final categorization by MOE and MCC's assessment of the final resettlement requirements, a detailed Environmental and Social Impact Assessment ("*ESIA*") may be required. Discussions among MCC, MWI and MOE have defined a process for the detailed ESIA that meets mutual requirements for evaluating environmental and social impacts, conducting transparent and inclusive public consultations, developing detailed management plans and meeting expectations for social analysis, including gender and social issues and resettlement concerns consistent with OP 4.12. Estimates for mitigations resulting from the ESIA have been included in the Multi-Year Financial Plan Summary.

2. Wastewater Network Project

(a) Summary of Project and Activities.

The objectives of the wastewater network reinforcement and expansion project (the "*Wastewater Network Project*") are to (1) Increase access to the wastewater network, (2) increase the volume of wastewater collected within Zarqa Governorate for treatment and reuse, and (3) reduce the incidents of sewage overflow. The Wastewater Network Project is designed to increase the carrying capacity of impaired sewer main lines, reduce periodic overflows in the wastewater collection network, and extend lateral sewer lines to urban neighborhoods in which populations are not currently connected to the wastewater collection network.

The Wastewater Network Project is comprised of two Activities: (A) The reinforcement of existing networks and rehabilitation of existing sewer main lines in West Zarqa (the "*West Zarqa Pumping Station Zone Activity*"), and (B) the reinforcement of existing networks and rehabilitation of existing sewer main lines in East Zarqa (the "*East Zarqa Pumping Station Zone Activity*").

(i) West Zarqa Pumping Station Zone Activity. In the West Zarqa zone, MCC Funding will support:

(1) Expanding the lateral sewers by up to 102km of pipe for collection systems and house connections;

(2) Reinforcing the network by replacing up to 10km of main trunk lines and constructing up to 3km of new main trunk lines; and

(3) Rehabilitating existing sewer main lines by replacing up to 7km of blocked sewers.

(ii) East Zarqa Pumping Station Zone Activity. In the East Zarqa zone, MCC Funding will support:

(1) Expanding the lateral sewers by up to 38km of pipe for collection systems and house connections;

(2) Reinforcing the network by replacing up to 4km of main trunk lines; and

(3) Rehabilitating existing sewer main lines by replacing up to 8km of blocked sewers.

(b) Beneficiaries.

The Wastewater Network Project will provide direct benefits to the residents of East Zarqa and West Zarqa, where up to 19,000 households, for a total of approximately 100,000 people, will have opportunities to connect to new lateral sewer lines over the next twenty years and forego the installation, maintenance and potential health risks associated with the use of cesspits in an urban environment.

(c) Environmental and Social Mitigation Measures.

The consultant responsible for the feasibility study of the Wastewater Network Project completed a PESIA in May 2010. In the PESIA provided to MWI, the consultants recommended a Category B classification under the MCC Environmental Guidelines and a Category 2 classification under Jordanian regulations. MWI submitted this recommendation, along with a project overview and a copy of the

PESIA, to MOE for its evaluation of the classification under Jordanian law. Based on the findings from the PESIA, MOE assigned the Project a Category 1 classification under Jordanian regulations. A full, detailed ESIA is currently underway. Discussions among MCC, MWI and MOE have defined a process for the detailed ESIA that meets mutual requirements for evaluating environmental and social impacts, conducting transparent and inclusive public consultations, developing detailed management plans and meeting expectations for social analysis, including gender and social issues and resettlement concerns consistent with OP 4.12. Estimates for mitigations resulting from the ESIA have been included in the Multi-Year Financial Plan Summary.

3. As-Samra Expansion Project

(a) Summary of Project and Activities.

The objectives of the As-Samra Wastewater Treatment Plant expansion project (the "*As-Samra Expansion Project*") are to (i) Increase the capacity to treat wastewater from Amman and Zarqa Governorates, (ii) increase the volume of treated wastewater that is available as a substitute for freshwater for non-domestic use, and (iii) protect existing agriculture from the potential consequences of pollution from untreated wastewater.

MCC Funding for the As-Samra Expansion Project will support a portion of the cost associated with the construction of the expansion of the existing As-Samra Wastewater Treatment Plant. MCC Funding will also support technical assistance for the management and supervision of the construction.

The expansion is designed to increase the hydraulic capacity of the existing treatment plant and its ability to handle suspended solids and biological materials, among other critical treatment requirements. The expanded plant will use activated-sludge technology with several important characteristics: (1) Primary settling, (2) biological treatment and clarification, (3) disinfection by chlorination, (4) energy recovery from treated water, (5) primary and biological sludge thickening, (6) sludge digestion and biogas energy recovery, (7) digested sludge storage, (8) ventilation and odor control, and (9) a mechanical dewatering process that is designed to accelerate decomposition and reduce volumes of sludge. The average daily hydraulic capacity of the plant is expected to increase from 267,000 cubic meters per day to 364,800 cubic meters per day; the capacity for treating total suspended solids ("TSS") is expected to increase from 147,000 kilograms per day to 236,800 kilograms per day; and the biological oxygen demand ("BOD_5") capacity is expected to increase from 174,000 kilograms per day to 232,200 kilograms per day. The treatment, storage and disposal of sludge and the quality of the final effluent are required to comply at all times with (A) the applicable Jordanian standards for sludge and for water discharged to wadis and catchment areas, and (B) the minimum technical requirements under the As-Samra Project Agreement. The expansion is expected to meet the region's wastewater treatment needs through 2025.

(b) Beneficiaries.

Together with the Wastewater Network Project, the As-Samra Expansion Project will benefit approximately 375,000 households, for a total of 2,020,000 people, in Amman and Zarqa Governorates. These households will benefit from additional supplies of freshwater that can be transferred to these areas as these Projects make larger volumes of treated wastewater available for substitution in agricultural applications in the Jordan Valley. This includes approximately 8,500 households in the Jordan Valley, for a total of 46,000 people that are expected to benefit from consistent supplies of high-quality treated wastewater that can be used in irrigation.

(c) Environmental and Social Mitigation Measures.

The As-Samra Wastewater Treatment Plant is located on land that is owned by MWI and located approximately 2km from the nearest town, Khirbet As-Samra, and far from other large population centers, including Amman and Zarqa municipalities. Under the As-Samra Expansion Project, the plant operator will develop a detailed ESIA that will build upon the 2003 Environmental Assessment for construction of the existing plant. MCC, MWI and the plant operator will design an approach to the ESIA that meets the requirements of the MCC Environmental Guidelines, the International Finance Corporation's Performance Standards on Social & Environmental Sustainability, dated April 30, 2006 ("*IFC Performance Standards*"), and applicable Jordanian environmental protection laws.

The ESIA will define any necessary augmentations to current practices in place for monitoring odor, noise, water quality, heavy metal accumulation and disease vectors, especially those induced by sludge, as required under the existing environmental management plan.

The ESIA will also define an effective plan that clearly sets forth the roles, responsibilities and costs associated with the management and disposal of large volumes of sludge in order to improve the current practice of storing sludge in stabilization ponds that are present on the project site. These stabilization ponds are expected to be filled within eight to ten years. The sludge treatment, storage and disposal plan will accord with Jordanian law (including applicable Jordanian standards) and the MCC Environmental Guidelines.

The project site includes sufficient unused adjacent land for the proposed expansion. For this reason, there are no issues of land acquisition or resettlement and only limited social impacts associated with the construction and operation of the plant.

4. Donor Coordination.

In relation to the Water Network Project, the Government and MCC coordinated closely with Germany's Deutsche Gesellschaft für Technische Zusammenarbeit ("*GTZ*") and Kreditanstalt für Wiederaufbau ("*KfW*"). MCC leveraged the ongoing work of KfW and GTZ in Zarqa, particularly in two principal areas of Compact development: (a) Scoping and detailing specific works in Zarqa based on their experiences, and (b) undertaking preliminary financial analysis of Zarqa water and wastewater operations. KfW and GTZ are currently active in meter replacement and network rehabilitation in Al-Gweireyeh and also have a major project to develop detailed GIS tools for operations and management of the water systems in Zarqa Governorate. Early outputs from this GIS system served as useful inputs to the feasibility study for the Water Network Project.

The Program will complement other current and potential work by other donors including but not limited to (i) the Japan International Cooperation Agency's project to improving the water supply for the Zarqa WSA, which includes restructuring of the primary and secondary water supply and distribution system in the areas of Zarqa, Ruseifa, Hashmeya, Sukhna and Awajan through construction of new storage and distribution reservoirs, transmission pipelines, pumping stations and rising mains, and disinfection facilities; (ii) China's project to replace water networks within the Ruseifa Low distribution area; and (iii) the European Union's project to improve the water supply network in the areas of Zarqa, Al-Gweireyeh, Awajan, Ruseifa, Bani Hashem and Dogara.

In relation to the As-Samra Expansion Project, the Swedish International Development Agency provided technical assistance to MWI to structure and tender the financial arrangements for the original As-Samra Wastewater Treatment Plant, as well as loans and grants to assist MWI in supervising the construction of the existing plant and its initial operations period through February 2010. The Project benefits from the lessons learned in financing and constructing the existing plant.

5. USAID

The United States Agency for International Development ("USAID") has been active in the water sector in Jordan for many years and has funded and executed projects throughout the country. MCC has collaborated and coordinated closely with USAID on sector policy, particularly with respect to Jordan's National Water Strategy and tariff scenarios. USAID is funding a project to develop a comprehensive water and wastewater infrastructure master plan, and to support studies related to wastewater infrastructure improvements in several areas in Jordan, including Zarqa Governorate. MCC will continue to liaise with USAID.

For the As-Samra Expansion Project, USAID provided a grant for the construction of the existing As-Samra Wastewater Treatment Plant.

6. Sustainability

The Water Authority of Jordan ("WAJ"), through its Zarqa administrative unit, is currently responsible for the operation and maintenance of water supply and wastewater collection infrastructure in Zarqa Governorate. The Water Network Project is expected to provide additional operating revenues within the Zarqa administrative unit of WAJ by increasing collections as a result of reduced water losses and thus delivery of higher volumes of water to end-users. The Wastewater Network Project is expected to increase the number of households that subscribe to WAJ wastewater collection services, thereby increasing collection of service fees.

In addition, WAJ plans to reorganize the Zarqa administrative unit of WAJ. This is expected to increase the efficiency of operations and further improve the financial situation for the Zarqa administrative unit.

When MWI becomes responsible for additional treatment charges payable under the As-Samra Expansion Project, the burden of these treatment charges may worsen the financial position of the water companies in Amman and Zarqa Governorates, collections from which will support the payment of the treatment charges. The Government has agreed to deliver plans to (a) fully fund these treatment charges, and (b) ensure projected revenues fully fund projected operations and maintenance costs of the water and wastewater network in Zarqa Governorate no later than 2015.

C. Implementation Framework

1. Overview

The implementation framework and the plan for ensuring adequate governance, oversight, management, monitoring and evaluation, and fiscal accountability for the use of MCC Funding are summarized below. MCC and the Government will enter into the Program Implementation Agreement, and any other agreements in furtherance of this Compact, all of which, together with this Compact, set out certain rights, responsibilities, duties and other terms relating to the implementation of the Program.

2. MCC

MCC will take all appropriate actions to carry out its responsibilities in connection with this Compact and the Program Implementation Agreement, including the exercise of its approval rights in connection with the implementation of the Program.

3. MCA-Jordan

MCA-Jordan was established by the Government as the accountable entity. It is a limited liability company wholly owned by the Government and was registered on June 29, 2010, as the Millennium Challenge Account—Jordan Limited Liability Company, in accordance with the Jordanian Companies Law. This arrangement allows MCA-Jordan the independence to enter into contracts, manage its own finances, and hire staff outside of the standard civil service system. In accordance with Section 3.2(b) of this Compact and Section 1.3(a) of the Program Implementation Agreement, MCA-Jordan will act on the Government's behalf to implement the Program and to exercise and perform the Government's rights and responsibilities with respect to the oversight, management, monitoring and evaluation, and implementation of the Program, including, without limitation, managing the implementation of Projects and their Activities, allocating resources, and managing procurements. The Government will ensure that MCA-Jordan takes all appropriate actions to implement the Program, including the exercise and performance of the rights and responsibilities designated to it by the Government pursuant to this Compact and the Program Implementation Agreement. Without limiting the foregoing, the Government will also ensure that MCA-Jordan has full decision-making autonomy, including, *inter alia,* the ability, without consultation with, or the consent or approval of, any other party, to (i) Enter into contracts in its own name; (ii) sue and be sued; (iii) establish an account in a financial institution in the name of MCA-Jordan and hold MCC Funding in that account; (iv) expend MCC Funding; (v) engage a fiscal agent who will act on behalf of MCA-Jordan on terms acceptable to MCC; (vi) engage a procurement agent who will act on behalf of MCA-Jordan, on terms acceptable to MCC, to manage the acquisition of the goods, works, and services required by MCA-Jordan to implement the activities funded by this Compact; and (vii) competitively engage one or more auditors to conduct audits of its accounts. The Government will take the necessary actions to manage and operate MCA-Jordan, in accordance with the applicable conditions precedent to the disbursement of Compact Implementation Funding set forth in Annex IV to this Compact.

In accordance with Articles of Association and Memorandum of Association of MCA-Jordan, (the "*Bylaws*"), MCA-Jordan will consist of the following bodies: (1) A board of directors (the "*Board*"), (2) a management team (the "*Management Unit*"), (3) a stakeholders committee (the "*Stakeholders Committee*"), and (4) the general shareholders assembly (the "*General Assembly*"). The governance of MCA-Jordan is set forth in more detail in the Program Implementation Agreement and the Bylaws, which will, collectively, set forth the responsibilities of the Board, Management Unit and Stakeholders Committee. The Bylaws were developed and adopted in accordance with the Governance Guidelines.

(a) Board

(i) Composition. The Board is initially comprised of the following seven members, including four Government members and three representatives from civil society and private sector organizations: (1) Secretary General, Ministry of Planning and International Cooperation; (2) Secretary General, WAJ; (3) Secretary General, MOE; (4) Secretary General, Ministry of Municipalities; (5) a nominee from the General Federation of Jordanian Women; (6) a nominee from the Jordanian Hashemite Fund for Human Development; and (7) a nominee from

the Zarqa Chamber of Commerce. The Chief Executive Officer (the "*CEO*") of MCA-Jordan and an MCC representative will serve as non-voting observers.

(ii) Roles and Responsibilities. The Board is responsible for the oversight, direction, and decisions of MCA-Jordan, as well as the overall implementation of the Program. The Board will hold regular meetings, at a minimum once per quarter.

(b) Management Unit.

(i) Composition. The Management Unit will initially include eleven key officers, as follows: (1) CEO, (2) Deputy CEO for Administration, (3) Deputy CEO for Project Management, (4) Finance Director, (5) Procurement Director, (6) Legal Director, (7) Environment and Social Assessment Director, (8) Monitoring and Evaluation Director, (9) Director for the Water Network Project, (10) Director for the Wastewater Network Project, and (11) Director for the As-Samra Expansion Project. These key officers will be supported by appropriate additional staff to enable the Management Unit to execute its roles and responsibilities.

(ii) Roles and Responsibilities. With oversight from the Board, the Management Unit will have the principal responsibility for the day-to-day management of the Program, including those roles and responsibilities specifically set forth in the Program Implementation Agreement and the Bylaws. The Management Unit will serve as the principal link between MCC and the Government, and will be accountable for the successful execution of the Program, each Project, and each Activity. MCA-Jordan will be subject to the audit requirements under Jordanian Companies Law. As a recipient of MCC Funding, MCA-Jordan will also be subject to MCC audit requirements.

(c) Stakeholders Committee.

(i) Composition. The Stakeholders Committee will provide input to the Board and the Management Unit on matters that relate to the Program, promoting transparency and ongoing consultation. The size, composition, and manner of selection of members of the Stakeholders Committee are subject to ongoing discussions between the Government and MCC, and will be dictated by the project areas of the Program. Membership will at least reflect the NGOs, private sector, civil society, and local and regional governments that were consulted by the Government in developing its proposal for the Compact.

(ii) Roles and Responsibilities. Consistent with the Governance Guidelines, the Stakeholders Committee will continue the consultative process throughout implementation of the Program. While the Stakeholders Committee will not have any decision-making authority, it will, among other things, review, at the request of the Board or the Management Unit, certain reports, agreements, and documents related to the implementation of the Program in order to provide input to MCA-Jordan regarding the implementation of the Program.

(d) General Assembly.

(i) Composition. The General Assembly of MCA-Jordan will be comprised of all shareholders of MCA-Jordan. The Government is the sole shareholder of MCA-Jordan.

(ii) Roles and Responsibilities. The General Assembly will hold one annual meeting during the first four months of MCA-Jordan's fiscal year and fulfill all obligations under applicable Jordanian law.

4. Implementing Entities

Subject to the terms and conditions of this Compact, the Program Implementation Agreement, and any other related agreement entered into in connection with this Compact, the Government, through MCA-Jordan, may engage one or more entities of the Government to implement and carry out any Project or Activity (or a component thereof) in furtherance of this Compact (each, an "*Implementing Entity*"). The appointment of any Implementing Entity will be subject to review and approval by MCC. The Government will ensure that the roles and responsibilities of each Implementing Entity and other appropriate terms are set forth in an agreement, in form and substance satisfactory to MCC (each an "*Implementing Entity Agreement*").

5. Fiscal Agent

The Government, through MCA-Jordan, will appoint a fiscal agent (a "*Fiscal Agent*") which will be responsible for assisting the Government with its fiscal management and assuring appropriate fiscal accountability of MCC Funding, and whose duties will include those set forth in the Program Implementation Agreement and such agreement as MCA-Jordan enters into with the Fiscal Agent, which agreement will be in form and substance satisfactory to MCC.

6. Procurement Agent

The Government, through MCA-Jordan, will appoint a procurement agent (the "*Procurement Agent*") to carry out and certify specified procurement activities in furtherance of this Compact. The roles and responsibilities of the Procurement Agent will be set forth in the Program Implementation Agreement or such agreement as the Government enters into with the Procurement Agent, which agreement will be in form and substance satisfactory to MCC. The Procurement Agent will adhere to the procurement standards set forth in the MCC Program Procurement Guidelines and ensure procurements are consistent with the procurement plan adopted by the Government pursuant to the Program Implementation Agreement, unless MCC agrees otherwise in writing.

Annex II Multi-Year Financial Plan Summary

This Annex II summarizes the Multi-Year Financial Plan for the Program.

1. General

A multi-year financial plan summary ("*Multi-Year Financial Plan Summary*") is attached hereto as Exhibit A to this Annex II. By such time as specified in the Program Implementation Agreement, the Government will adopt, subject to MCC approval, a multi-year financial plan that includes, in addition to the multi-year summary of estimated MCC Funding and the Government's contribution of funds and resources, the annual and quarterly funding requirements for the Program (including administrative costs) and for each Project, projected both on a commitment and cash requirement basis.

2. Government LMIC Contribution

During the Compact Term, the Government will make contributions, relative to its national budget and taking into account prevailing economic conditions, as are necessary to carry out the Government's responsibilities under Section 2.6(a) of this Compact. These contributions may include in-kind and financial contributions (including obligations of Jordan on any debt incurred toward meeting these contribution obligations). In connection with this obligation the Government has developed a budget over the Compact Term to complement MCC Funding through budget allocations to water and wastewater projects, management contracts and institutional support in Zarqa Governorate. The Government anticipates making contributions from its national budget of approximately US$73,700,000 over the Compact Term. Such contribution will be in addition to the Government's spending allocated toward such Project Objectives in its budget for the year immediately preceding the establishment of this Compact. The Government's contribution will be subject to any legal requirements in Jordan for the budgeting

and appropriation of such contribution, including approval of the Government's annual budget by its legislature. The Parties may set forth in appropriate supplemental agreements certain requirements regarding this Government contribution, which requirements may be conditions precedent to the Disbursement of MCC Funding.

Exhibit A Multi-Year Financial Plan Summary

MULTI-YEAR FINANCIAL PLAN SUMMARY

[US$ millions]

Project	CIF	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Water Network Project							
Infrastructure Activity							
Water Smart Homes Activity							
Sub-Total	0	13.09	28.52	36.04	20.76	4.16	102.57
2. Wastewater Network Project							
Sub-Total	0	6.70	16.20	20.67	12.82	1.83	58.22
3. As-Samra Expansion Project							
Sub-Total	0.63	17.92	45.28	26.00	3.20	0.00	93.03
4. Monitoring and Evaluation (M&E)							
Monitoring and Evaluation							
Sub-Total	0.03	0.69	0.04	0.72	0.52	0.81	2.81
5. Program Administration and Audit							
MCA-Jordan							
Fiscal Agent							
Procurement Agent							
Audit							
Sub-Total	1.46	3.39	3.40	3.40	3.41	3.41	18.47
Grand Total	2.12	41.79	93.44	86.83	40.71	10.21	275.10

Annex III Description of Monitoring and Evaluation Plan

This Annex III generally describes the components of the monitoring and evaluation plan ("M&E Plan") for the Program. The actual content and form of the M&E Plan will be agreed to by MCC and the Government in accordance with MCC's Policy for Monitoring and Evaluation of Compacts and Threshold Programs posted from time to time on the MCC Web site (the "*MCC Policy for Monitoring and Evaluation of Compacts and Threshold Programs*"). The M&E Plan may be modified from time to time with MCC approval without requiring an amendment to this Annex III.

1. Overview

MCC and the Government will formulate and agree to, and the Government will implement or cause to be implemented, an M&E Plan that specifies (a) how progress toward the Compact Goal, Program Objective and Project Objectives will be monitored, ("*Monitoring Component*"); (b) a process and timeline for the monitoring of planned, ongoing, or completed Activities to determine their efficiency and effectiveness; and (c) a methodology for assessment and rigorous evaluation of the outcomes and impact of the Program ("*Evaluation Component*"). Information regarding the Program's performance, including the M&E Plan, and any amendments or modifications thereto, as well as progress and other reports, will be made publicly available on the Web site of MCA-Jordan and elsewhere.

2. Program Logic

The M&E Plan will be built on a logic model which illustrates how the Program, Projects and Activities contribute to the Compact Goal, the Program Objective and the Project Objectives.

3. Monitoring Component

To monitor progress toward the achievement of the impact and outcomes, the Monitoring Component of the M&E Plan will identify (i) The Indicators (as defined below), (ii) the definitions of the Indicators, (iii) the sources and methods for data collection, (iv) the frequency for data collection, (v) the party or parties responsible, and (vi) the timeline for reporting on each Indicator to MCC.

Further, the Monitoring Component will track changes in the selected Indicators for measuring progress towards the achievement of the objectives during the Compact Term. The M&E Plan will establish baselines which measure the situation prior to a development intervention, against which progress can be assessed or comparisons made (each a, "*Baseline*"). The Government will collect Baselines on the selected Indicators or verify already collected Baselines where applicable and as set forth in the M&E Plan.

(a) Indicators. The M&E Plan will measure the results of the Program using quantitative, objective and reliable data ("*Indicators*"). Each Indicator will have benchmarks that specify the expected value and the expected time by which that result will be achieved ("*Target*"). All Indicators will be disaggregated by gender, income level and age, and beneficiary types to the extent practicable. Subject to prior written approval from MCC, the Government may add Indicators or refine the definitions and Targets of existing Indicators.

(i) Compact Indicators.

(1) Goal. The M&E Plan will contain the following Indicators related to the Compact Goal and based on national statistics. The Program will contribute to progress against poverty nationwide by contributing to a reduction of the poverty rate in Zarqa Governorate, but the results are attributable to many factors in the economy:

(A) Official poverty rate nationwide: 13.3 percent in 2008; and

(B) Official poverty rate in Zarqa Governorate: 11.2 percent in 2008.[1]

[1] Poverty Baselines are from the Department of Statistics "The Status Report of Poverty in Jordan: Based on Household Income and Expenditure Survey 2008" (Arabic); July 12, 2010. As of July 2010, Jordan did not have a current poverty target using its official poverty rate.

(2) Objective and Outcome Indicators. The M&E Plan will contain the Indicators listed in the following tables.

TABLE 1—COMPACT PROGRAM OBJECTIVE INDICATORS

Result	Indicator	Definition	Baseline value	Year 5
Program Objective Level: Cross-Cutting Results				
Effective supply of water increased through improvement in water delivery, extension of waste-water collection, and expansion in waste-water treatment.	Network water consumption per capita (residential and non-residential).	For Zarqa Governorate: [Annual billed residential and non-residential (in m3)]/[population of governorate] * 1000/365 (l/c/d).	65	96
	Total residential water consumption.	Billed residential network water consumption + tankers, treatment shops, and bottled water (l/c/d).	62	89

TABLE 2—WATER NETWORK PROJECT OBJECTIVE AND OUTCOME INDICATORS

Result	Indicator	Definition	Baseline value	Year 5
Objective Level				
Decrease cost to households of meeting subsistence water needs.	Use of tanker water ..	Annual average quantity of tanker water consumed per person (l/c/d) in Water Network Project areas.[2]	4.7	1.2
	Use of treatment shop water.	Annual average quantity of treatment shop water consumed per person (l/c/d) in Water Network Project areas.[3]	0.4	0.2
	Prevalence of water-borne disease.	Percent of children under age five who had disrrhea in the two weeks preceding the survey.[4]	9%	7%
Improve efficiency of network water delivery	Dissatisfaction with supply service.	Percent of water utility customers "very dissatisfied" or "quite dissatisfied" with frequency, duration, and pressure of supply (average of the three dimensions) in Water Network Project areas[5] Dissatisfaction with water quality.	34%	26%
	Dissatisfaction with water quality.	O='xl'Percent of water utility customers "very dissatisfied" or "quite dissatisfied" with potability of network water in Water Network Project areas.[6].	60%	40%
Outcome Level				
Improve efficiency of network water delivery	Non-revenue water as % of Governorate system input.	Difference between water supplied including water imported and water sold including exported (*i.e.,* volume of water "lost") expressed as a percentage of water supplied including water imported. [(Production + Imports) − (Exports + Accounted Water)]/(Production + Imports).	47%	35%
	Continuity of supply time.	Hours of supply/week (during the summer).[7]	36	70
Condition of household water systems improved.	Households cleaning their water storage facilities.	Percent of households cleaning their domestic water storage facilities in Water Smart Homes Activity area.[8]	56%	65%

[2] The baseline figure refers to all of urban Zarqa. The target will be measured only against areas planned for assistance under the Compact. If the update to the baseline survey reveals a significant difference between the figure for all of urban Zarqa and the areas planned for assistance under the Compact, an adjustment to the baseline and target will be noted in the M&E Plan ensuring that the magnitude of the improvement by Year 5 remains consistent with that of the Compact.

[3] *Ibid.*

[4] In order to conform to MCC's Common Indicators, this indicator will be supplemented after the next baseline study with "Average number of days of work lost by adult household members in last 2 weeks due to a water borne illness + Average number of days of school lost by school-age children in past 2 weeks due to water borne illness."

[5] The baseline figure refers to all of urban Zarqa. The target will be measured only against areas planned for assistance under the Compact. If the update to the baseline survey reveals a significant difference between the figure for all of urban Zarqa and the areas planned for assistance under the Compact, an adjustment to the baseline and target will be noted in the M&E Plan ensuring that the magnitude of the improvement by Year 5 remains consistent with that of the Compact.

[6] *Ibid.*

TABLE 3—WASTEWATER NETWORK PROJECT OBJECTIVE AND OUTCOME INDICATORS

Result	Indicator	Definition	Baseline value	Year 5
Objective Level				
Incidents of sewage overflow reduced	Sewer blockage events.	Annual number of blockages that occurred in sewers network (pumping station blockages shall not be included).[9]	8,500	2,000
Outcome Level				
Quantity of wastewater collected from Zarqa Governorate increased.	Volume of wastewater collected.	Total volume of wastewater collected through the sewer system and pumped via West Zarqa and East Zarqa pumping stations (million cubic meters/year).	24	31
Access to wastewater network increased	Residential population connected to the sewer system.	Zarqa Governorate wastewater subscribers as a percent of water subscribers.	72%	82%

TABLE 4—THE AS-SAMRA EXPANSION PROJECT OBJECTIVE AND OUTCOME INDICATORS

Result	Indicator	Definition	Baseline value	Year 5
Objective Level				
Substitution of freshwater for treated wastewater increased.	Treated wastewater used in agriculture.	Treated wastewater[10] used for irrigation in Northern and Middle Jordan Valley as a percent of all water used for irrigation in Northern and Middle Jordan Valley.	61	70
Outcome Level				
Existing agriculture protected from untreated wastewater.	Quality of As-Samra effluent meets standard.	Number of days during the past quarter when effluent does not meet the applicable standard set out in the As-Samra Project Agreement.	0	0
Quantity of treated wastewater for agriculture use and substitution increased.	Volume of waste water effluent discharged from the As-Samra plant.	Annual volume of wastewater treated to at least secondary level (measured as annual volume of wastewater effluent discharged from the As-Samra plant, million cubic meters per year).	65	99
	Agriculture use of treated wastewater.	Agriculture land in the Middle and Northern Jordan Valley using treated wastewater for at least part of their irrigation water (1,000 hectares).	13.7	15.9

(b) Data Collection and Reporting. The M&E Plan will establish guidelines for data collection and reporting, and identify the responsible parties. Compliance with data collection and reporting timelines will be conditions for Disbursements for the relevant Activities as set forth in the Program Implementation Agreement. The M&E Plan will specify the data collection methodologies, procedures, and analysis required for reporting on results at all levels. The M&E Plan will describe any interim MCC approvals for data collection, analysis, and reporting plans.

(c) Data Quality Reviews. As determined in the M&E Plan or as otherwise requested by MCC, the quality of the data gathered through the M&E Plan will be reviewed to ensure that data reported are as valid, reliable, and timely as resources will allow. The objective of any data quality review will be to verify the quality and the consistency of performance data across different implementation units and reporting institutions. Such data quality reviews also will serve to identify where those levels of quality are not possible, given the realities of data collection.

(d) Management Information System. The M&E Plan will describe the information system that will be used to collect data, store, process and deliver information to relevant stakeholders in such a way that the Program information collected and verified pursuant to the M&E Plan is at all times accessible and useful to those who wish to use it. The system development will take into consideration the requirement and data needs of the components of the Program, and will be aligned with existing MCC systems, other service providers, and ministries.

(e) Role of MCA-Jordan. The monitoring and evaluation of this Compact spans three Projects and will involve a variety of governmental, nongovernmental, and private sector institutions. In accordance with the designation contemplated by Section 3.2(b) of this Compact, MCA-Jordan is responsible for implementation of the M&E Plan. MCA-Jordan will oversee all Compact-related monitoring and evaluation activities conducted for each

[7] *Ibid.*

[8] *Ibid.*

[9] If during the Compact Term sewage blockages become part of the GIS database, this indicator should be updated to better measure blockages by type and location.

[10] "Treated wastewater" includes rainwater runoff mixed with treated wastewater in King Talal Dam reservoir.

of the Projects, ensuring that data from all implementing entities is consistent, accurately reported and aggregated into regular Compact performance reports as described in the M&E Plan.

4. Evaluation Component

The Evaluation Component of the M&E Plan will contain three types of evaluations: (i) Impact evaluations, (ii) project performance evaluations, and (iii) special studies. The Evaluation Component of the M&E Plan will describe the purpose of the evaluation, methodology, timeline, required MCC approvals, and the process for collection and analysis of data for each evaluation. The results of all evaluations will be made publicly available in accordance with MCC's Policy for Monitoring and Evaluation of Compacts and Threshold Programs.

(a) Impact Evaluation. The M&E Plan will include a description of the methods to be used for impact evaluations and plans for integrating the evaluation method into Project design. Based on in-country consultation with stakeholders, the strategies outlined below were jointly determined as having the strongest potential for rigorous impact evaluation. The M&E Plan will further outline in detail these methodologies. Final impact evaluation strategies are to be included in the M&E Plan. The following is a summary of the potential impact evaluation methodologies:

(i) Water Network Project/ Infrastructure Investment Activity. The evaluation will focus on determining both household level impacts as well as benefits to the water utility. The household level impacts of interest include reduced expenditures on water scarcity coping mechanisms such as use of tanker and treatment shop water. Health outcomes will also be examined. The impact is expected to be determined through quasi-experimental techniques comparing the beneficiary households to households in similar circumstances outside the project areas. The institutional level impacts such as reduced operating costs may be determined through financial and operations modeling of with and without project scenarios. The without project assumptions would be drawn from utility performance prior to the intervention as well as concurrent performance of other comparable water utilities in Jordan.

(ii) Water Network Project/WSH Activity. The evaluation will look at the changes in (1) maintenance/cleaning of home water systems, (2) the impact on household use of expensive alternative sources of water, and (3) the incidence of certain waterborne diseases. The primary methodology expected is propensity score matching. In the case of over-subscription to the sub-component of household water system rehabilitation, an element of randomized award of benefits among eligible beneficiaries will be considered.

(iii) Wastewater Network Project. The evaluation will include an analysis of the health benefits achieved, particularly reduction in waterborne disease. The methodology is expected to employ quasi-experimental techniques comparing beneficiary households (those near rehabilitated mains or newly connected to the network) with non-beneficiary households.

(b) Final Evaluation. The M&E Plan will make provision for final Project level evaluations ("*Final Evaluations*"). With the prior written approval of MCC, the Government will engage independent evaluators to conduct the Final Evaluations at the end of each Project. The Final Evaluations will review progress during Compact implementation and provide a qualitative context for interpreting monitoring data and impact evaluation findings. They must at a minimum (1) Evaluate the efficiency and effectiveness of the Activities; (2) determine if and analyze the reasons why the Compact Goal, Program Objective and Project Objective(s), outcome(s) and output(s) were or were not achieved; (3) identify positive and negative unintended results of the Program; (4) provide lessons learned that may be applied to similar projects; and (5) assess the likelihood that results will be sustained over time.

(i) Special Studies. The M&E Plan will include a description of the methods to be used for special studies, as necessary, funded through this Compact or by MCC. Plans for conducting the special studies will be determined jointly between the Government and MCC before the approval of the M&E Plan. The M&E Plan will identify and make provision for any other special studies, *ad hoc* evaluations, and research that may be needed as part of the monitoring and evaluating of this Compact. Either MCC or the Government may request special studies or *ad hoc* evaluations of Projects, Activities, or the Program as a whole prior to the expiration of the Compact Term. When the Government engages an evaluator, the engagement will be subject to the prior written approval of MCC. Contract terms must ensure non-biased results and the publication of results.

(c) Request for Ad Hoc Evaluation or Special Study. If the Government requires an *ad hoc* independent evaluation or special study at the request of the Government for any reason, including for the purpose of contesting an MCC determination with respect to a Project or Activity or to seek funding from other donors, no MCC Funding resources may be applied to such evaluation or special study without MCC's prior written approval.

5. Other Components of the M&E Plan

In addition to the monitoring and evaluation components, the M&E Plan will include the following components for the Program, Projects and Activities, including, where appropriate, roles and responsibilities of the relevant parties and providers:

(a) Costs. A detailed cost estimate for all components of the M&E Plan; and

(b) Assumptions and Risks. Any assumption or risk external to the Program that underlies the accomplishment of the Program Objective, Project Objectives and Activity outcomes and outputs. However, such assumptions and risks will not excuse any Party's performance unless otherwise expressly agreed to in writing by the other Party.

6. Approval and Implementation of the M&E Plan

The approval and implementation of the M&E Plan, as amended from time to time, will be in accordance with the Program Implementation Agreement, any other relevant Supplemental Agreement and the MCC Policy for Monitoring and Evaluation of Compacts and Threshold Programs.

Annex IV Conditions Precedent to Disbursement of Compact Implementation Funding

This Annex IV sets forth the conditions precedent applicable to Disbursements of Compact Implementation Funding (each a "*CIF Disbursement*"). Capitalized terms used in this Annex IV and not defined in this Compact will have the respective meanings assigned thereto in the Program Implementation Agreement. Upon execution of the Program Implementation Agreement, each CIF Disbursement will be subject to the terms of the Program Implementation Agreement.

1. Conditions Precedent to Initial CIF Disbursement

Each of the following must have occurred or been satisfied prior to the initial CIF Disbursement:

(a) The Government (or MCA-Jordan) has delivered to MCC:

(i) An interim fiscal accountability plan acceptable to MCC; and

(ii) A CIF procurement plan acceptable to MCC.

2. Conditions Precedent to all CIF Disbursements (Including Initial CIF Disbursement)

Each of the following must have occurred or been satisfied prior to each CIF Disbursement:

(a) The Government (or MCA-Jordan) has delivered to MCC the following documents, in form and substance satisfactory to MCC:

(i) A completed Disbursement Request, together with the applicable Periodic Reports, for the applicable Disbursement Period, all in accordance with the Reporting Guidelines;

(ii) A certificate of MCA-Jordan, dated as of the date of the CIF Disbursement Request, in such form as provided by MCC;

(iii) If a Fiscal Agent has been engaged, a Fiscal Agent Disbursement Certificate; and

(iv) If a Procurement Agent has been engaged, a Procurement Agent Disbursement Certificate.

(b) If any proceeds of the CIF Disbursement are to be deposited in a bank account, MCC has received satisfactory evidence that (i) the Bank Agreement has been executed, and (ii) the Permitted Accounts have been established.

(c) Appointment of an entity or individual to provide fiscal agent services, as approved by MCC, until such time as the Government provides to MCC a true and complete copy of a Fiscal Agent Agreement, duly executed and in full force and effect, and the Fiscal Agent engaged thereby is mobilized.

(d) Appointment of an entity or individual to provide procurement agent services, as approved by MCC, until such time as the Government provides to MCC a true and complete copy of the Procurement Agent Agreement, duly executed and in full force and effect, and the Procurement Agent engaged thereby is mobilized.

(e) MCC is satisfied, in its sole discretion, that (i) The activities being funded with such CIF Disbursement are necessary, advisable or otherwise consistent with the goal of facilitating the implementation of the Compact and will not violate any applicable law or regulation; (ii) no material default or breach of any covenant, obligation or responsibility by the Government, MCA-Jordan or any Government entity has occurred and is continuing under this Compact or any other Supplemental Agreement; (iii) there has been no violation of, and the use of requested funds for the purposes requested will not violate, the limitations on use or treatment of MCC Funding set forth in Section 2.7 of this Compact or in any applicable law or regulation; (iv) any Taxes paid with MCC Funding through the date 90 days prior to the start of the applicable Disbursement Period have been reimbursed by the Government in full in accordance with Section 2.8(c) of this Compact; and (v) the Government has satisfied all of its payment obligations, including any insurance, indemnification, tax payments or other obligations, and contributed all resources required from it, under this Compact and any other Supplemental Agreement.

(f) For any CIF Disbursement occurring after this Compact has entered into force in accordance with Article 7: MCC is satisfied, in its sole discretion, that (i) MCC has received copies of any reports due from any technical consultants (including environmental auditors engaged by MCA-Jordan) for any Activity since the previous Disbursement Request, and all such reports are in form and substance satisfactory to MCC; (ii) the Implementation Plan Documents and Fiscal Accountability Plan are current and updated and are in form and substance satisfactory to MCC, and there has been progress satisfactory to MCC on the components of the Implementation Plan for any relevant Projects or Activities related to such CIF Disbursement; (iii) there has been progress satisfactory to MCC on the M&E Plan and Social and Gender Integration Plan for the Program or relevant Project or Activity and substantial compliance with the requirements of the M&E Plan and Social and Gender Integration Plan (including the targets set forth therein and any applicable reporting requirements set forth therein for the relevant Disbursement Period); (iv) there has been no material negative finding in any financial audit report delivered in accordance with this Compact and the Audit Plan, for the prior two quarters (or such other period as the Audit Plan may require); (v) MCC does not have grounds for concluding that any matter certified to it in the related MCA Disbursement Certificate, the Fiscal Agent Disbursement Certificate or the Procurement Agent Disbursement Certificate is not as certified; and (vi) if any of the officers or key staff of MCA-Jordan have been removed or resigned and the position remains vacant, MCA-Jordan is actively engaged in recruiting a replacement.

(g) MCC has not determined, in its sole discretion, that an act, omission, condition, or event has occurred that would be the basis for MCC to suspend or terminate, in whole or in part, the Compact or MCC Funding in accordance with Section 5.1 of this Compact.

Annex V Definitions

Activity has the meaning provided in Part B of Annex I.

Additional Representative has the meaning provided in Section 4.2.

As-Samra Expansion Project has the meaning provided in paragraph 3(a) of Part B of Annex I.

As-Samra Project Agreement means the Project Agreement between the Government, represented by MWI, and Samra Wastewater Treatment Plant Company Limited dated 28 July 2002 (as amended and restated on 10 December 2003, as further amended on June 29, 2006, November 5, 2008 and April 8, 2010, and as amended and restated after the date hereof).

Audit Guidelines has the meaning provided in Section 3.8(a).

Baseline has the meaning provided in paragraph 3 of Annex III.

Board has the meaning provided in paragraph 3 of Part C of Annex I.

BOD_5 has the meaning provided in paragraph 3(a) of Part B of Annex I.

Bylaws has the meaning provided in paragraph 3 of Part C of Annex I.

Cabinet Resolution has the meaning provided in Annex VI.

CEO has the meaning provided in paragraph 3(a)(i) of Part C of Annex I.

Certificate has the meaning provided in Schedule E to Annex VI.

CIF Disbursement has the meaning provided in Annex IV.

Compact has the meaning provided in the Preamble.

Compact Contract has the meaning provided in Schedule A to Annex VI.

Compact Goal has the meaning provided in Section 1.1.

Compact Implementation Funding has the meaning provided in Section 2.2(a).

Compact Records has the meaning provided in Section 3.7(a).

Compact Term has the meaning provided in Section 7.4.

Covered Provider has the meaning provided in Section 3.7(c).

Disbursement has the meaning provided in Section 2.4.

DMA has the meaning provided in paragraph 1(a)(i)(2)(D) of Part B of Annex I.

East Zarqa Pumping Station Zone Activity has the meaning provided in paragraph 2(a) of Part B of Annex I.

Eligible Entities has the meaning provided in Annex VI.

Eligible Individuals has the meaning provided in Annex VI.

ESIA has the meaning provided in paragraph 1(c) of Part B of Annex I.

Evaluation Component has the meaning provided in paragraph 1 of Annex III.

Excess CIF Amount has the meaning provided in Section 2.2(c).

Final Evaluations has the meaning provided in paragraph 4(b) of Annex III.

Fiscal Agent has the meaning provided in paragraph 5 of Part C of Annex I.

General Assembly has the meaning provided in paragraph 3 of Part C of Annex I.

GIS has the meaning provided in paragraph 1(a)(i)(1) of Part B of Annex I.

Governance Guidelines means MCC's Guidelines for Accountable Entities and Implementation Structures, as such may be posted on MCC's Web site from time to time.

Government has the meaning provided in the Preamble.

GTZ has the meaning provided in paragraph 4 of Part B of Annex I.

IFC Performance Standards has the meaning provided in paragraph 3(c) of Part B of Annex I.

Implementation Letter has the meaning provided in Section 3.5.

Implementing Entity has the meaning provided in paragraph 4 of Part C of Annex I.

Implementing Entity Agreement has the meaning provided in paragraph 4 of Part C of Annex I.

Indicators has the meaning provided in paragraph 3(a) of Annex III.

Infrastructure Investment Activity has the meaning provided in paragraph 1(a) of Part B of Annex I.

Inspector General has the meaning provided in Section 3.7(d).

ISTD has the meaning provided in Schedule A to Annex VI.

Jordan has the meaning provided in the Preamble.

KfW has the meaning provided in paragraph 4 of Part B of Annex I.

M&E Plan has the meaning provided in Annex III.

Management Unit has the meaning provided in paragraph 3 of Part C of Annex I.

MCA Act has the meaning provided in Section 2.2(a).

MCA-Jordan has the meaning provided in Section 3.2(b).

MCC has the meaning provided in the Preamble.

MCC Environmental Guidelines has the meaning provided in Section 2.7(c).

MCC Funding has the meaning provided in Section 2.3.

MCC Gender Policy means the MCC Gender Policy (including any guidance documents issued in connection with the guidelines) posted from time to time on the MCC Web site or otherwise made available to the Government.

MCC Policy for Monitoring and Evaluation of Compacts and Threshold Programs has the meaning provided in Annex III.

MCC Program Procurement Guidelines has the meaning provided in Section 3.6.

MCC Web site has the meaning provided in Section 2.7.

MCU has the meaning provided in paragraph 1 of Part A of Annex I.

MOE has the meaning provided in paragraph 1(c) of Part B of Annex I.

MOF has the meaning provided in Annex VI.

Monitoring Component has the meaning provided in paragraph 1 of Annex III.

MOPIC has the meaning provided in Annex VI.

Multi-Year Financial Plan Summary has the meaning provided in paragraph 1 of Annex II.

MWI has the meaning provided in paragraph 1(c) of Part B of Annex I.

OP 4.12 has the meaning provided in paragraph 3 of Part A of Annex I.

Party and *Parties* have the meaning provided in the Preamble.

PEISA has the meaning provided in paragraph 1(c) of Part B of Annex I.

Permitted Account has the meaning provided in Section 2.4.

Principal Representative has the meaning provided in Section 4.2.

Procurement Agent has the meaning provided in paragraph 6 of Part C of Annex I.

Program has the meaning provided in the Preamble.

Program Assets means any assets, goods or property (real, tangible or intangible) purchased or financed in whole or in part (directly or indirectly) by MCC Funding.

Program Funding has the meaning provided in Section 2.1.

Program Guidelines means collectively the Audit Guidelines, the MCC Environmental Guidelines, the MCC Gender Policy, the Governance Guidelines, the MCC Program Procurement Guidelines, the Reporting Guidelines, the MCC Policy for Monitoring and Evaluation of Compacts and Threshold Programs, the MCC Cost Principles for Government Affiliates Involved in Compact Implementation (including any successor to any of the foregoing) and any other guidelines, policies or guidance papers relating to the administration of MCC-funded compact programs and as from time to time published on the MCC Web site.

Program Implementation Agreement and *PIA* have the meaning provided in Section 3.1.

Program Objective has the meaning provided in Section 1.2.

Project(s) has the meaning provided in Section 1.2.

Project Objective(s) has the meaning provided in Section 1.3.

Provider has the meaning provided in Section 3.7(c).

Reporting Guidelines means the MCC "Guidance on Quarterly MCA Disbursement Request and Reporting Package" posted by MCC on the MCC Web site or otherwise publicly made available.

Ruseifa Distribution Areas has the meaning provided in paragraph 1(a)(i)(3)(A) of Part B of Annex I.

Social and Gender Integration Plan has the meaning provided in paragraph 3 of Part A of Annex I.

Stakeholders Committee has the meaning provided in paragraph 3 of Part C of Annex I.

Supplemental Agreement means any agreement between (a) the Government (or any Government affiliate, including MCA-Jordan) and MCC (including, but not limited to, the PIA) or (b) MCC and/or the Government (or any Government affiliate, including MCA-Jordan), on the one hand, and any third party, on the other hand, including any of the Providers, in each case, setting forth the details of any funding, implementing or other arrangements in furtherance of this Compact.

Target has the meaning provided in paragraph 3(a) of Annex III.

Taxes has the meaning provided in Section 2.8(a).

TSS has the meaning provided in paragraph 3(a) of Part B of Annex I.

United States Dollars or US$ means the lawful currency of the United States of America.

USAID has the meaning provided in paragraph 5 of Part B of Annex I.

VAT has the meaning provided in Schedule A to Annex VI.

WAJ has the meaning provided in paragraph 6 of Part B of Annex I.

Wastewater Network Project has the meaning provided in paragraph 2(a) of Part B of Annex I.

Water Network Project has the meaning provided in paragraph 1(a) of Part B of Annex I.

Water Smart Homes Activity or *WSH Activity* has the meaning provided in paragraph 1(a) of Part B of Annex I.

West Zarqa Pumping Station Zone Activity has the meaning provided in paragraph 2(a) of Part B of Annex I.

WSA has the meaning provided in paragraph 1(a)(i)(2) of Part B of Annex I.

WSH Direct Assistance Program has the meaning provided in paragraph 1(a)(ii)(2) of Part B of Annex I.

WSH Outreach Campaign has the meaning provided in paragraph 1(a)(ii)(1) of Part B of Annex I.

Zarqa Distribution Areas has the meaning provided in paragraph 1(a)(i)(2)(A) of Part B of Annex I.

Annex VI Tax Schedules

Introduction

The Government will ensure that MCA-Jordan and all contractors (prime contractors and subcontractors), consultants, and other entities and individuals that receive MCC Funding directly or indirectly (the "*Eligible Entities*" or "*Eligible Individuals,*" as appropriate) are exempt from Taxes in accordance with Section 2.8.

The mechanism that the Government will use to implement the exemption is as follows:

1. The Ministry of Planning and International Cooperation ("*MOPIC*"), the Ministry of Finance ("*MOF*") and MCA-Jordan will cooperate in drafting a resolution to be presented to the Council of Ministers for approval. The draft resolution will be subject to MCC approval before being presented to the Council of Ministers.

2. The draft resolution will, at a minimum, specify:

(a) The Projects that will benefit from the exemption;

(b) The expected timeframe of each Project;

(c) The expected cost of each Project; and

(d) A complete list of Taxes that will be exempted.

3. The Council of Ministers approves the blanket exemption for all Project and Activities (the "*Cabinet Resolution*").

4. The following schedules describe the basic procedures that an Eligible Entity or Eligible Individual should follow to ensure the proper implementation of the exemption.

Schedule A Value Added Tax (VAT) [11]

Procedures

1. The Council of Ministers issues the Cabinet Resolution, as described in the Introduction.

2. Any MCC-funded contract or agreement with an Eligible Entity or Eligible Individual (each, a "Compact Contract") will explicitly state that such Eligible Entity or Eligible Individual is entitled to complete exemption from Taxes in accordance with the Cabinet Resolution. In the event a Compact Contract is a contract with a subcontractor, such contract will (a) explicitly state that the subcontractor is entitled to the complete exemption from Taxes in accordance with the Cabinet Resolution, and (b) attach the contract between the prime contractor and MCA-Jordan.

3. When the Eligible Entity or Eligible Individual needs to purchase goods or services, it will provide MCA-Jordan with the following:

(a) For goods: A list of the goods needed to be purchased on a tax-exempt basis, including the total needed and the approximate cost. MCA-Jordan will indicate its approval on the list provided by the Eligible Entity or Eligible Individual. The Eligible Entity or Eligible Individual takes the MCA-Jordan approved list of goods to be purchased and a copy of the Compact Contract to the Income and Sales Tax Department ("*ISTD*"), which provides its approval for the purchase on a tax-exempt basis. The Eligible Entity or Eligible Individual provides the vendor with the above-mentioned documentation and purchases the goods net of VAT.

(b) For services: The same procedure in paragraph 3(a) above is followed. Instead of a list of items to be purchased, however, the Eligible Entity or Eligible Individual provides a description of the services needed, the approximate cost of such services and the period of performance of such services.

4. MCA-Jordan follows the same procedures for its own purchases of goods and services related to the Projects.

Schedule B Customs Duties

Procedures

Purchases of Imported Goods

1. The Council of Ministers issues the Cabinet Resolution, as described in the Introduction.

2. When MCA-Jordan signs a Compact Contract, MCA-Jordan sends to Jordan Customs an exemption request with the list of materials the Eligible Entity or Eligible Individual intends to purchase for use on the relevant Project. The letter must state the name of the Project and the Eligible Entity or Eligible Individual, and the Cabinet Resolution must be attached.

3. The Compact Contract will explicitly state that the Eligible Entity or Eligible Individual is exempt from paying customs duties in accordance with the Cabinet Resolution.

4. When the imported goods arrive, Jordan Customs compares what is in the shipment against the list it maintains and then releases them to the customs broker working for the Eligible Entity or Eligible Individual. All Eligible Entities and Eligible Individuals are required to use the services of a customs broker.

5. At the end of the Project, the MCA-Jordan construction manager performs a reconciliation between goods imported for use on the Project and goods actually used on the Project. Any goods imported for use on the Project not actually used on the Project (for example, more goods imported than used) may be subject to customs duties. Therefore, if an Eligible Entity or Eligible Individual knows that more goods will be needed than originally proposed, it must work with MCA-Jordan to ensure that Jordan Customs has been provided with a list of the additional materials.

6. The procedures set forth above also apply to MCA-Jordan except that MCA-Jordan will work directly with Jordan Customs.

Temporary Admission of Equipment, Vehicles and Household Goods, by Eligible Entities and Eligible Individuals

1. The procedures outlined in paragraphs 1, 2, and 3 above will be followed except that MCA-Jordan must specifically request that an Eligible Entity or Eligible Individual performing work for the Project be permitted to bring in, on a temporary basis, equipment for use on the Project and vehicles and household goods of such Eligible Individual or Eligible Entity's employees working on the Project.

2. Once the Cabinet Resolution has been issued, MCA-Jordan sends the exemption request to Jordan Customs with the Cabinet Resolution attached.

3. When the items to receive temporary admission arrive, the goods are released to the customs broker working for the Eligible Individual or Eligible Entity.

4. The temporary admission request must be renewed annually until the earlier of (a) the completion of the applicable contract, (b) the end of the Compact-related work, and (c) the expiration or termination of the Compact.

Schedule C Corporate Income Tax

Procedures

1. The Council of Ministers issues the Cabinet Resolution, as described in the Introduction.

2. Any Eligible Entity earning income only from MCC Funding in Jordan in any given tax year will be exempt from Tax on such income and as such will not be required to withhold Taxes on income earned during the tax year. At the end of the tax year, the Eligible Entity files a tax return indicating that the income earned on the MCC-funded

[11] To the extent that VAT is imposed at the port of entry on imported goods, together with custom duties, the applicable tax exemption procedures are described in Schedule B below.

Projects is not subject to Tax in accordance with the Cabinet Resolution and the Compact Contract.

3. Any Eligible Entity earning only a portion of its income from MCC Funding in any given fiscal year will:

(a) Maintain its books and records to segregate the financial activity related to the Projects from those financial activities that are not related to the Compact.

(b) At the end of any such fiscal year, file its Tax return on income that is not related to the Compact, as applicable, providing the documentation required in paragraph 2 above.

Schedule D Individual Income Tax

Procedures

1. The Council of Ministers issues a Cabinet Resolution, as described in the Introduction.

2. Any Eligible Individual earning income only from MCC Funding in Jordan in any given tax year will be exempt from withholding any such income Taxes during the tax year and from paying any Tax on income earned during the tax year. At the end of the tax year, the individual files a tax return indicating that the income earned on the MCC-funded Projects is not subject to Tax in accordance with the Cabinet Resolution and the Compact Contract.

3. Any Eligible Individual earning income paid with MCC Funding and non-Compact-related income in any given fiscal year will be permitted to exclude the gross amount of such Compact-related personal income for the purposes of filing his/her year-end individual income Taxes in Jordan for any such fiscal year.

Schedule E Fuel Tax

VAT is the only Tax included in petroleum products.

Procedures

1. The Council of Ministers issues the Cabinet Resolution, as described in the Introduction.

2. The Government will issue a certificate, or other documentary evidence (the "*Certificate*"), to the Eligible Entity or Eligible Individual that allows the holder of such Certificate to be exempt from VAT at the point of purchase for fuel or other petroleum products.

3. Purchases of fuel and other petroleum products will be purchased through approved wholesalers upon presentation of the Certificate.

Schedule F Social Security Tax

Procedures

1. The Council of Ministers issues the Cabinet Resolution, as described in the Introduction.

2. The Cabinet Resolution will state the following:

(a) Eligible Individuals are exempted from paying the employee portion of social security Tax to the Government.

(b) Employers of Eligible Individuals are exempted from paying the employer portion of social security Tax to the Government.

3. Neither the Eligible Individuals nor their employers will be required to file any paperwork or returns with regard to social security Taxes.

Schedule G Tax on Foreign Import Services (i.e., Foreign Consultant Services)

Procedures

1. The Council of Ministers issues the Cabinet Resolution, as described in the Introduction.

2. The Cabinet Resolution will state that MCA-Jordan will not be required to withhold VAT on each invoice submitted by any foreign consultant that is an Eligible Entity or Eligible Individual.

3. Any foreign consultant that is an Eligible Entity or Eligible Individual will not charge VAT on invoices submitted to MCA-Jordan.

4. MCA-Jordan will not be required to withhold VAT on any invoice submitted by a foreign consultant that is an Eligible Entity or Eligible Individual.

Schedule H Company Registration Fee

Procedures

1. The Council of Ministers issues the Cabinet Resolution, as described in the Introduction.

2. The Cabinet Resolution will state that Eligible Entities that are required to register in Jordan to perform Compact-related work will be exempt from paying the company registration fee imposed by the Ministry of Trade and Industry.

3. At the time of registering in Jordan to perform Compact-related work, the Eligible Entity will provide copies of (a) the Cabinet Resolution, and (b) its Compact Contract to the Ministry of Trade and Industry.

Schedule I Work Permit Fee

Procedures

1. The Council of Ministers issues the Cabinet Resolution, as described in the Introduction.

2. The Cabinet Resolution will state that Eligible Individuals who are required to obtain a work permit to perform Compact-related work will be exempt from paying the work permit fee imposed by the Ministry of Labor.

3. At the time of obtaining a work permit to perform Compact-related work, the Eligible Individual will provide copies of (a) the Cabinet Resolution, and (b) its Compact Contract to the Ministry of Labor.

[FR Doc. 2010–27459 Filed 10–29–10; 8:45 am]

BILLING CODE 9211–03–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Physics; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Site Visit to the Center for the Physics of Living Cells #1208.

Dates/Time: November 8, 2010, 9 a.m.–4 p.m.; November 9, 2010, 9 a.m.–5 p.m.

Place: University of Illinois, Urbana-Champaign.

Type of Meeting: Partially Closed.

Contact Person: Dr. C. Denise Caldwell, Program Director, Rm. 1015, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, (703) 292–7371.

Purpose of Meeting: To provide advice and recommendations concerning progress of the Center for the Physics of Living Cells (CPLC).

Agenda

Monday, November 8, 2010

9 a.m.–11:55 a.m.—Open—Directors Overview, Four Research Talks.

1:30 p.m.–4:00 p.m.—Closed—Discussions with staff and faculty, Executive Sessions.

Tuesday, November 9, 2010

9 a.m.–5 p.m.—Closed—Executive Session, review and drafting report.

Reason for Late Notice: Due to unforeseen scheduling and administrative complications and the necessity to proceed with the review.

Reason for Closing: The work being reviewed may include information of a proprietary or confidential nature, including technical information; financial data such as salaries; and personal information concerning individuals associated with the center. These matters are exempt under (4) and (6) of 5 U.S.C. 552b(c), of the Government in the Sunshine Act.

Dated: October 26, 2010.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2010–27478 Filed 10–29–10; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On September 20, 2010, the National Science Foundation published a notice in the **Federal Register** of permit application received. A permit was issued on October 21, 2010 to:

Mahlon C. Kennicutt, II, Permit No. 2011–017.

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 2010–27463 Filed 10–29–10; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On August 1, 2010, the National Science Foundation published a notice in the **Federal Register** of waste management permit application received. A permit was issued on October 20, 2010 to: David Rootes, Permit No. 2011 WM–002.

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 2010–27479 Filed 10–29–10; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On September 20, 2010, the National Science Foundation published a notice in the **Federal Register** of permit application received. A permit was issued on October 12, 2010 to:

Paul Ponganis, Permit No. 2011–016.

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 2010–27464 Filed 10–29–10; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2010–0341]

Notice of Withdrawal of Application for Amendment to Facility Operating License

In the Matter of:

Entergy Nuclear Operations, Inc., Entergy Nuclear Generation Company (Pilgrim Nuclear Power Station).	Docket No. 50–293. License No. DPR–35.
Entergy Nuclear Indian Point 2, LLC (Indian Point Nuclear Generating Unit Nos. 1 and 2).	Docket Nos. 50–003, 50–247, and 72–51. License Nos. DPR–5, DPR–26.
Entergy Nuclear Indian Point 3, LLC (Indian Point Nuclear Generating Unit No. 3)	Docket No. 50–286. License No. DPR–64.
Entergy Nuclear Fitzpatrick, LLC (James A. FitzPatrick Nuclear Power Plant)	Docket Nos. 50–333 and 72–12. License No. DPR–59.
Entergy Nuclear Vermont Yankee, LLC (Vermont Yankee Nuclear Power Station)	Docket Nos. 50–271 and 72–59. License No. DPR–28.
Entergy Nuclear Palisades, LLC	
(Palisades Nuclear Plant)	Docket Nos. 50–255 and 72–7. License No. DPR–20.
(Big Rock Point)	Docket Nos. 50–155 and 72–43. License No. DPR–6.

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Entergy Nuclear Operations, Inc. (the licensee) to withdraw its applications for proposed amendment to various Facilities as follows:

Licensee name	License type	License No(s).	Docket No(s).	Application date
Entergy Nuclear Palisades, LLC	Renewed Facility Operating License	DPR–20	50–255, 72–7	September 22, 2008.
Entergy Nuclear FitzPatrick, LLC	Renewed Facility Operating License	DPR–59	50–333, 72–12	September 30, 2008.
Entergy Nuclear Indian Point 1, LLC	Provisional Facility Operating License	DPR–5	50–003	September 30, 2008.
Entergy Nuclear Indian Point 2, LLC	Facility Operating License	DPR–26	50–247, and 72–51	September 30, 2008.
Entergy Nuclear Indian Point 3, LLC	Facility Operating License	DPR–64	50–286	September 30, 2008.

Licensee name	License type	License No(s).	Docket No(s).	Application date
Entergy Nuclear Generation Company (Pilgrim Nuclear Power Station).	Facility Operating License	DPR–35	50–293	September 30, 2008.
Entergy Nuclear Vermont Yankee, LLC	Facility Operating License	DPR–28	50–271, 72–59	September 30, 2008.
Entergy Nuclear Palisades, LLC (Big Rock Point).	Facility Operating License	DPR–6	50–155, 72–43	September 22, 2008.

The proposed amendments would have modified the respective facility operating licenses by revising the names of the plant to match the names of the new companies as follows:

Licensee name	Description of requested change
Entergy Nuclear Palisades, LLC	Revise FOL & TS Page 4.0–4 to change the names Entergy Nuclear Operations, Inc. and Entergy Nuclear Palisades, LLC to EquaGen Nuclear LLC and Enexus Nuclear Palisades, LLC, respectively.
Entergy Nuclear FitzPatrick, LLC	Revise FOL & TS Page 4.0–4 to change the names Entergy Nuclear Operations, Inc. and Entergy Nuclear FitzPatrick, LLC to EquaGen Nuclear LLC and Enexus Nuclear FitzPatrick, LLC, respectively.
Entergy Nuclear Indian Point 1, LLC.	Revise FOL and Appendix A to change the names Entergy Nuclear Operations, Inc. and Entergy Nuclear Indian Point 2, LLC to EquaGen Nuclear LLC and Enexus Nuclear Indian Point 2, LLC, respectively.
Entergy Nuclear Indian Point 2, LLC.	Revise FOL and the cover sheets for Appendix A & B to change the names Entergy Nuclear Operations, Inc. and Entergy Nuclear Indian Point 2, LLC to EquaGen Nuclear LLC and Enexus Nuclear Indian Point 2, LLC, respectively.
Entergy Nuclear Indian Point 3, LLC.	Revise FOL, the cover sheet for Appendix A, and cover sheet & Pages 3–1 through 3–4, 5–1, and 5–5 for Appendix B to change the names Entergy Nuclear Operations, Inc. and Entergy Nuclear Indian Point 3, LLC to EquaGen Nuclear LLC and Enexus Nuclear Indian Point 3, LLC, respectively.
Entergy Nuclear Generation Company (Pilgrim Nuclear Power Station).	Revise FOL & TS Pages 1, 4.0–1, and Appendix B Page 1 to change the names Entergy Nuclear Operations, Inc. and Entergy Nuclear Generation Company to EquaGen Nuclear LLC and Enexus Nuclear Pilgrim, LLC, respectively.
Entergy Nuclear Vermont Yankee, LLC.	Revise FOL & TS Pages 1 and 253 to change the names Entergy Nuclear Operations, Inc. and Entergy Nuclear Vermont Yankee, LLC to EquaGen Nuclear LLC and Enexus Nuclear Vermont Yankee, LLC, respectively.
Entergy Nuclear Palisades, LLC (Big Rock Point).	Revise FOL to change the names Entergy Nuclear Operations, Inc. and Entergy Nuclear Palisades, LLC to EquaGen Nuclear LLC and Enexus Nuclear Palisades, LLC, respectively.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** as follows:

Licensee name	**Federal Register** notice and date of publication
Entergy Nuclear Palisades, LLC	73 FR 68454, dated November 18, 2008.
Entergy Nuclear FitzPatrick, LLC	74 FR 1714, dated January 13, 2009.
Entergy Nuclear Indian Point 1, LLC	73 FR 68453, dated November 18, 2008.
Entergy Nuclear Indian Point 2, LLC	73 FR 68453, dated November 18, 2008.
Entergy Nuclear Indian Point 3, LLC	73 FR 68453, dated November 18, 2008.
Entergy Nuclear Generation Company (Pilgrim Nuclear Power Station)	73 FR 65691, dated November 4, 2008.
Entergy Nuclear Vermont Yankee, LLC	73 FR 65693, dated November 4, 2008.
Entergy Nuclear Palisades, LLC (Big Rock Point)	73 FR 68453, dated November 18, 2008.

However, by letter dated October 14, 2010, the licensee withdrew the proposed change.

For further details with respect to this action, see the applications for amendment stated in the table above, and the licensee's letter dated October 14, 2010, 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 Agencywide Documents Access and Management System (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 email to *pdr.resource@nrc.gov*.

Dated at Rockville, Maryland, this 25th day of October 2010.

For the Nuclear Regulatory Commission.

Bhalchandra K. Vaidya,

Project Manager, Plant Licensing Branch I–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2010–27509 Filed 10–29–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–443–LR; ASLBP No. 10–906–02–LR–BD01]

Nextera Energy Seabrook, LLC; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28,710 (1972), and the Commission's regulations, *see, e.g.,* 10 CFR 2.104, 2.105, 2.300, 2.309, 2.313, 2.318, and 2.321, notice is hereby given that an Atomic Safety and Licensing Board (Board) is being established to preside over the following proceeding:

Nextera Energy Seabrook, LLC (Seabrook Station, Unit 1)

This proceeding involves an application by NextEra Energy Seabrook, LLC for a twenty-year renewal of license 50–443, which authorizes NextEra Energy Seabrook, LLC to operate Seabrook Station, Unit 1 located near Portsmouth, New Hampshire. The current operating license expires on March 15, 2030. In response to a July 21, 2010 Notice of Opportunity for Hearing published in the **Federal Register** (75 FR 42,462), two petitions to intervene were submitted. One petition is a joint filing by Beyond Nuclear, Seacoast Anti-Pollution League, and New Hampshire Sierra Club; the other petition is a filing by Friends of the Coast and New England Coalition.

The Board is comprised of the following administrative judges:

Paul S. Ryerson, Chair, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Dr. Michael F. Kennedy, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Dr. Richard E. Wardwell, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

All correspondence, documents, and other materials shall be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August 2007 (72 FR 49,139).

Issued at Rockville, Maryland, this 26th day of October 2010.

E. Roy Hawkens,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 2010–27513 Filed 10–29–10; 8:45 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Sunshine Notice: Board of Directors Meeting

TIME AND DATE: Thursday, December 9, 2010, 10 a.m. (open portion); 10:15 a.m. (closed portion).

PLACE: Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue, NW., Washington, DC.

STATUS: Meeting open to the Public from 10 a.m. to 10:15 a.m. Closed portion will commence at 10:15 a.m. (approx.).

MATTERS TO BE CONSIDERED:

1. President's Report
2. Approval of September 23, 2010 Minutes (open session)
3. Confirmations: Judith D. Pryor as Vice President, External Affairs

FURTHER MATTERS TO BE CONSIDERED: (Closed to the public 10:15 a.m.)

1. Reports
2. Finance Project—Democratic Republic of Congo
3. Approval of September 23, 2010 Minutes (closed session)
4. Pending Major Projects

Written summaries of the projects to be presented will be posted on OPIC's web site on or about November 4, 2010.

CONTACT PERSON FOR INFORMATION: Information on the meeting may be obtained from Connie M. Downs at (202) 336–8438.

Dated: October 28, 2010.

Connie M. Downs,

Corporate Secretary, Overseas Private Investment Corporation.

[FR Doc. 2010–27632 Filed 10–28–10; 4:15 pm]

BILLING CODE 3210–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Sunshine Act: Public Hearing

TIME AND DATE: 2 p.m., Wednesday, November 24, 2010.

PLACE: Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue, NW., Washington, DC.

STATUS: Hearing open to the Public at 2 p.m.

PURPOSE: Public Hearing in conjunction with each meeting of OPIC's Board of Directors, to afford an opportunity for any person to present views regarding the activities of the Corporation.

PROCEDURES: Individuals wishing to address the hearing orally must provide advance notice to OPIC's Corporate Secretary no later than 5 p.m. Thursday, November 18, 2010. The notice must include the individual's name, title, organization, address, and telephone number, and a concise summary of the subject matter to be presented.

Oral presentations may not exceed ten (10) minutes. The time for individual presentations may be reduced proportionately, if necessary, to afford all participants who have submitted a timely request an opportunity to be heard.

Participants wishing to submit a written statement for the record must submit a copy of such statement to OPIC's Corporate Secretary no later than 5 p.m. Thursday, November 18, 2010. Such statement must be typewritten, double-spaced, and may not exceed twenty-five (25) pages.

Upon receipt of the required notice, OPIC will prepare an agenda, which will be available at the hearing, that identifies speakers, the subject on which each participant will speak, and the time allotted for each presentation.

A written summary of the hearing will be compiled, and such summary will be made available, upon written request to OPIC's Corporate Secretary, at the cost of reproduction.

Written summaries of the projects to be presented at the December 9, 2010 Board meeting will be posted on OPIC's Web site on or about Thursday, November 4, 2010.

CONTACT PERSON FOR INFORMATION: Information on the hearing may be obtained from Connie M. Downs at (202) 336–8438, via facsimile at (202) 218–0136, or via email at *connie.downs@opic.gov.*

Dated: October 28, 2010.

Connie M. Downs,

OPIC Corporate Secretary.

[FR Doc. 2010–27646 Filed 10–28–10; 4:15 pm]

BILLING CODE 3210–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Expiring Information Collection 3206–0182, Declaration for Federal Employment, Optional Form (OF) 306

AGENCY: U.S. Office of Personnel Management.

ACTION: 30-Day Notice and request for comments.

SUMMARY: Federal Investigative Services (FIS), U.S. Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on an information collection request (ICR), Office of Management and Budget (OMB) Control No. 3206–0182, for the

Declaration for Federal Employment, Optional Form (OF) 306. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The Office of Management and Budget (OMB) is particularly interested in comments that:

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.

DATES: Comments are encouraged and will be accepted until December 1, 2010. This process is conducted in accordance with 5 CFR 1320.1.

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, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@opm.eop.gov* or faxed to (202) 395–6974; and FIS, OPM, 1900 E Street, NW., Washington, DC 20415, Attention: Lisa Loss or sent via electronic mail to *FISFormsComments@opm.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting FIS, OPM, 1900 E Street, NW., Washington, DC 20503, Attention: Lisa Loss or sent via electronic mail to *FISFormsComments@opm.gov.*

SUPPLEMENTARY INFORMATION: This notice announces that OPM submitted OMB a request for review and clearance of the revised collection of information, Declaration for Federal Employment Optional Form (OF) 306 (OMB Control No. 3206–0182).

The OF 306 is completed by applicants who are under consideration for Federal or Federal contract employment. It collects information about an applicant's selective service registration, military service, and general background. The information collected on this form is mainly used to determine a person's acceptability for Federal and Federal contract employment. However, if necessary, and usually in conjunction with another form or forms, the information on this form may be used in conducting an investigation to determine a person's suitability or ability to hold a security clearance, and it may be disclosed to authorized officials making similar, subsequent determinations.

The OF 306 requests that the applicant provide personal identifying data, including past convictions, imprisonments, probations, paroles or military court martial, delinquency on a Federal debt, Selective Service Registration, United States military service and Federal civilian or military retirement pay or pension received or applied for. It is estimated that 178,114 individuals will respond annually. Each form takes approximately 15 minutes to complete. The annual estimated burden is 44,529 hours.

The 60-day **Federal Register** Notice was published in the **Federal Register** on April 19, 2010 (**Federal Register** Notices/Volume 75, Number 74, page 20399). Comments from the Department of Treasury (Treasury), Minerals Management Service, U.S. Department of Agriculture Office of Human Resources Management (USDA–HRM), USDA Rural Development, and General Services Administration (GSA) iterated the need for continuing this information collection to assist Federal agencies during the hiring process. Treasury, USDA–HRM, and GSA specifically commented on the public burden statement and characterized the burden as accurate and valid.

In addition, comments from Federal agencies and members of the public made recommendations for adjustments to the form. The Department of Treasury (Treasury) recommended that OPM develop an automated version of the form to include electronic signature to minimize the burden on job candidates and streamline the hiring process. OPM will take this recommendation for future consideration. OPM accepted comments from Treasury regarding formatting changes for the collection of middle names and suffixes.

OPM accepted Treasury's recommendation to collect the country of citizenship of the respondent in order to assist agencies in the hiring process for the majority of Federal positions that may be filled only by U.S. citizens. OPM did not accept Treasury's recommendation to collect information as to whether the respondent has been arrested/charged but will consider including this question in future revisions to the investigative questionnaire for non-sensitive positions. OPM intends to limit the scope of the collection for conviction, imprisonment, probation, parole, and military court-martial to the past 7 years vice 10 in order to align this collection with the collection of information on investigative questionnaires which generate collection of local law enforcement records. OPM particularly invites comment during this 30-day notice period regarding these proposed changes to the collection.

OPM rejected a comment from a member of the public to collect the lifetime criminal record from the respondent. OPM also rejected a comment from a member of the public that recommended that Federal employment and Federal contract employment be extended only to persons with at least a GED or high school diploma as the comment was outside of the scope of the request for comments on the proposed collection.

John Berry,

Director, U.S. Office of Personnel Management.

[FR Doc. 2010–27544 Filed 10–29–10; 8:45 am]

BILLING CODE 6325–53–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2011–13 Through CP2011–18; Order No. 559]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to add six Global Expedited Package Services 3 contracts to the competitive product list. This notice addresses procedural steps associated with this filing.

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 **FOR FURTHER INFORMATION CONTACT** by telephone for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel,

at *stephen.sharfman@prc.gov* or 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction

On October 8, 2010, the Postal Service filed a notice announcing that it has entered into six additional Global Expedited Package Services 3 (GEPS 3) contracts.[1] The Postal Service believes the instant contracts are functionally equivalent to previously submitted GEPS contracts, and are supported by Governors' Decision No. 08–7, attached to the Notice and originally filed in Docket No. CP2008–4. *Id.* at 1, Attachment 3. The Notice explains that Order No. 86, which established GEPS 1 as a product, also authorized functionally equivalent agreements to be included within the product, provided that they meet the requirements of 39 U.S.C. 3633. *Id.* at 2. In Order No. 290, the Commission approved the GEPS 2 product.[2] In Order No. 503, the Commission approved the GEPS 3 product. Additionally, the Postal Service requested to have the contract in Docket No. CP2010–71 serve as the baseline contract for future functional equivalence analyses of the GEPS 3 product.

The instant contracts. The Postal Service filed the instant contracts pursuant to 39 CFR 3015.5. In addition, the Postal Service contends that each contract is in accordance with Order No. 86. The term of each contract is 1 year from the date the Postal Service notifies the customer that all necessary regulatory approvals have been received. Notice at 3.

In support of its Notice, the Postal Service filed four attachments as follows:

Attachments 1A through 1F—redacted copies of the six contracts and applicable annexes;

Attachments 2A through 2F—certified statements required by 39 CFR 3015.5(c)(2) for each contract;

Attachment 3—a redacted copy of Governors' Decision No. 08–7 which establishes prices and classifications for GEPS contracts, a description of applicable GEPS contracts, formulas for prices, an analysis of the formulas, and certification of the Governors' vote; and

Attachment 4—an application for non–public treatment of materials to maintain redacted portions of the contracts and supporting documents under seal.

The Notice advances reasons why the instant GEPS 3 contracts fit within the Mail Classification Schedule language for the GEPS 3 product. The Postal Service identifies customer-specific information and general contract terms that distinguish the instant contracts from the baseline GEPS 3 agreement. *Id.* at 4–5. It states that the differences, which include price variations based on updated costing information and volume commitments, do not alter the contracts' functional equivalency. *Id.* at 3–4. The Postal Service asserts that "[b]ecause the agreements incorporate the same cost attributes and methodology, the relevant characteristics of these six GEPS contracts are similar, if not the same, as the relevant characteristics of previously filed contracts." *Id.* at 4.

The Postal Service concludes that its filings demonstrate that each of the new GEPS 3 contracts complies with the requirements of 39 U.S.C. 3633 and is functionally equivalent to the baseline GEPS 3 contract. Therefore, it requests that the instant contracts be included within the GEPS 3 product. *Id.* at 5.

II. Notice of Filing

The Commission establishes Docket Nos. CP2011–13 through CP2011–18 for consideration of matters related to the contracts identified in the Postal Service's Notice.

These dockets are addressed on a consolidated basis for purposes of this order. Filings with respect to a particular contract should be filed in that docket.

Interested persons may submit comments on whether the Postal Service's contracts are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642. Comments are due no later than October 20, 2010.[3] The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Natalie Rea to serve as Public Representative in the captioned proceedings.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. CP2011–13 through CP2011–18 for consideration of matters raised by the Postal Service's Notice.

2. Comments by interested persons in these proceedings are due no later than October 20, 2010.

3. Pursuant to 39 U.S.C. 505, Natalie Rea is appointed to serve as the officer of the Commission (Public Representative) to represent the interests 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. 2010–27474 Filed 10–29–10; 8:45 am]

BILLING CODE 7710–FW–P

[1] Notice of United States Postal Service of Filing Six Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreements and Application For Non-Public Treatment of Materials Filed Under Seal, October 8, 2010 (Notice).

[2] Docket No. CP2009–50, Order Granting Clarification and Adding Global Expedited Package Services 2 to the Competitive Product List, August 28, 2009 (Order No. 290).

[3] Those who cannot submit comments by the filing deadline should contact Mr. Sharfman.

POSTAL REGULATORY COMMISSION

[Docket No. CP2011–1; Order No. 551]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to add a Global Reseller Expedited Package Contracts (MC2010–21) contract to the competitive product list. This notice addresses procedural steps associated with this filing.

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 **FOR FURTHER INFORMATION CONTACT** 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 October 1, 2010, the Postal Service filed a notice announcing that it has entered into an additional Global Reseller Expedited Package (GREP) contract.[1] The Postal Service believes

[1] Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package Negotiated Service Agreement and Application For Non-Public Treatment of Materials Filed Under Seal, October 1, 2010 (Notice).

the instant contract is functionally equivalent to the previously submitted GREP contract, and is supported by Governors' Decision No. 10–1, attached to the Notice and originally filed in Docket No. CP2010–36. *Id.* at 1, Attachment 3. The Notice explains that Order No. 445, which established GREP Contracts 1 as a product, also authorized functionally equivalent agreements to be included within the product, provided that they meet the requirements of 39 U.S.C. 3633. *Id.* at 1–2. Additionally, the Postal Service requested to have the contract in Docket No. CP2010–36 serve as the baseline contract for future functional equivalence analyses of the GREP Contracts 1 product.

The instant contract. The Postal Service filed the instant contract pursuant to 39 CFR 3015.5. In addition, the Postal Service contends that the instant contract is in accordance with Order No. 445. The term of the contract is 3 years from the date the Postal Service notifies the customer that all necessary regulatory approvals have been received. Notice at 3. It may, however, be terminated by either party or not less than 30 days' written notice. *Id.,* Attachment 1, at 5.

In support of its Notice, the Postal Service filed four attachments as follows:

Attachment 1—a redacted copy of the contract and applicable annexes;

Attachment 2—a certified statement required by 39 CFR 3015.5(c)(2);

Attachment 3—a redacted copy of Governors' Decision No. 10–1 which establishes prices and classifications for GREP contracts, a description of applicable GREP contracts, formulas for prices, an analysis of the formulas, and certification of the Governors' vote; and

Attachment 4—an application for non–public treatment of materials to maintain redacted portions of the contract and supporting documents under seal.

The Notice advances reasons why the instant GREP contract fits within the Mail Classification Schedule language for GREP Contracts 1. The Postal Service identifies customer-specific information and general contract terms that distinguish the instant contract from the baseline GREP agreement. It states that the instant contract differs from the contract in Docket No. CP2010–36 pertaining to customer-specific information, *e.g.,* customer's name, address, representative, signatory, term, provisions for mail tender options, applicable discounts, notice of postage changes, and minimum revenue. *Id.* at 4–5. The Postal Service states that the differences, which include price variations based on updated costing information and volume commitments, do not alter the contract's functional equivalency. *Id.* at 4. The Postal Service asserts that "[b]ecause the agreement incorporates the same cost attributes and methodology, the relevant characteristics of this GREP contract are similar, if not the same, as the relevant characteristics of the contract filed in Docket No. CP2010–36." *Id.*

The Postal Service concludes that its filings demonstrate that the new GREP contract complies with the requirements of 39 U.S.C. 3633 and is functionally equivalent to the baseline GREP contract. It states that the differences do not affect the services being offered or the fundamental structure of the contract. Therefore, it requests that the instant contract be included within the GREP Contracts 1 product. *Id.* at 6.

II. Notice of Filing

The Commission establishes Docket No. CP2011–1 for consideration of matters related to the contract identified in the Postal Service's Notice.

Interested persons may submit comments on whether the Postal Service's contract is consistent with the policies of 39 U.S.C. 3632, 3633, or 3642.[2] Comments are due no later than October 12, 2010. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Paul L. Harrington to serve as Public Representative in the captioned proceedings.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2011–1 for consideration of matters raised by the Postal Service's Notice.

2. Comments by interested persons in these proceedings are due no later than October 12, 2010.

3. Pursuant to 39 U.S.C. 505, Paul L. Harrington is appointed to serve as the officer of the Commission (Public Representative) to represent the interests 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. 2010–27469 Filed 10–29–10; 8:45 am]

BILLING CODE 7710–FW–P

[2] Those who cannot submit comments by the filing deadline should contact Mr. Sharfman.

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2011–5 Through CP2011–12; Order No. 557]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to add eight Global Expedited Package Services 3 contracts to the competitive product list. This notice addresses procedural steps associated with this filing.

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 **FOR FURTHER INFORMATION CONTACT** by telephone for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at *stephen.sharfman@prc.gov* or 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

On October 6, 2010, the Postal Service filed a notice announcing that it has entered into eight additional Global Expedited Package Services 3 (GEPS 3) contracts.[1] The Postal Service believes the instant contracts are functionally equivalent to previously submitted GEPS contracts, and are supported by Governors' Decision No. 08–7, attached to the Notice and originally filed in Docket No. CP2008–4. *Id.* at 1, Attachment 3. The Notice explains that Order No. 86, which established GEPS 1 as a product, also authorized functionally equivalent agreements to be included within the product, provided that they meet the requirements of 39 U.S.C. 3633. *Id.* at 2. In Order No. 290, the Commission approved the GEPS 2 product.[2] In Order No. 503, the Commission approved the GEPS 3 product. Additionally, the Postal

[1] Notice of United States Postal Service of Filing Eight Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreements and Application For Non-Public Treatment of Materials Filed Under Seal, October 6, 2010 (Notice).

[2] Docket No. CP2009–50, Order Granting Clarification and Adding Global Expedited Package Services 2 to the Competitive Product List, August 28, 2009 (Order No. 290).

Service requested to have the contract in Docket No. CP2010–71 serve as the baseline contract for future functional equivalence analyses of the GEPS 3 product.

The instant contracts. The Postal Service filed the instant contracts pursuant to 39 CFR 3015.5. In addition, the Postal Service contends that each contract is in accordance with Order No. 86. The term of each contract is 1 year from the date the Postal Service notifies the customer that all necessary regulatory approvals have been received. Notice at 3.

In support of its Notice, the Postal Service filed four attachments as follows:

Attachments 1A through 1H—redacted copies of the eight contracts and applicable annexes;

Attachments 2A through 2H—certified statements required by 39 CFR 3015.5(c)(2) for each contract;

Attachment 3—a redacted copy of Governors' Decision No. 08–7 which establishes prices and classifications for GEPS contracts, a description of applicable GEPS contracts, formulas for prices, an analysis of the formulas, and certification of the Governors' vote; and

Attachment 4—an application for non-public treatment of materials to maintain redacted portions of the contracts and supporting documents under seal.

The Notice advances reasons why the instant GEPS 3 contracts fit within the Mail Classification Schedule language for the GEPS 3 product. The Postal Service identifies customer-specific information and general contract terms that distinguish the instant contracts from the baseline GEPS 3 agreement. *Id.* at 4–5. It states that the differences, which include price variations based on updated costing information and volume commitments, do not alter the contracts' functional equivalency. *Id.* at 3–4. The Postal Service asserts that "[b]ecause the agreements incorporate the same cost attributes and methodology, the relevant characteristics of these eight GEPS contracts are similar, if not the same, as the relevant characteristics of previously filed contracts." *Id.* at 4.

The Postal Service concludes that its filings demonstrate that each of the new GEPS 3 contracts complies with the requirements of 39 U.S.C. 3633 and is functionally equivalent to the baseline GEPS 3 contract. Therefore, it requests that the instant contracts be included within the GEPS 3 product. *Id.* at 5.

II. Notice of Filing

The Commission establishes Docket Nos. CP2011–5 through CP2011–12 for consideration of matters related to the contracts identified in the Postal Service's Notice.

These dockets are addressed on a consolidated basis for purposes of this order. Filings with respect to a particular contract should be filed in that docket.

Interested persons may submit comments on whether the Postal Service's contracts are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642.[3] Comments are due no later than October 19, 2010. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Paul L. Harrington to serve as Public Representative in the captioned proceedings.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. CP2011–5 through CP2011–12 for consideration of matters raised by the Postal Service's Notice.

2. Comments by interested persons in these proceedings are due no later than October 19, 2010.

3. Pursuant to 39 U.S.C. 505, Paul L. Harrington is appointed to serve as the officer of the Commission (Public Representative) to represent the interests 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. 2010–27467 Filed 10–29–10; 8:45 am]

BILLING CODE 7710–FW–P

[3] Those who cannot submit comments by the filing deadline should contact Mr. Sharfman.

POSTAL SERVICE

Board of Governors; Sunshine Act Meeting

DATES AND TIMES: Thursday, November 11, 2010, at 10:30 a.m.; and Friday, November 12, at 8:30 a.m. and 11:30 a.m.

PLACE: Washington, DC, at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW., in the Benjamin Franklin Room.

STATUS: Thursday, November 11 at 10:30 a.m.—Closed; Friday, November 12 at 8:30 a.m.—Open; and at 11:30 a.m.—Closed

MATTERS TO BE CONSIDERED:

Thursday, November 11 at 10:30 a.m. (Closed)

1. Strategic Issues
2. Financial Matters
3. Pricing
4. Personnel Matters and Compensation Issues
5. Governors' Executive Session—Discussion of prior agenda items and Board Governance

Friday, November 12 at 8:30 a.m. (Open)

1. Approval of Minutes of Previous Meetings
2. Remarks of the Chairman of the Board
3. Remarks of the Postmaster General and CEO
4. Committee Reports
5. Consideration of Fiscal Year 2010 10K, Financial Statements, and Postal Service Annual Report
6. Consideration of Fiscal Year 2011 Integrated Financial Plan
7. Consideration of Final Fiscal Year 2012 Appropriation Request
8. Consideration of Fiscal Year 2010 Comprehensive Statement and Annual Performance Plan
9. Quarterly Report on Service Performance
10. Tentative Agenda for the December 6–7, 2010, meeting in Washington, DC
11. Election of Chairman and Vice Chairman of the Board of Governors

Friday, November 12 at 11:30 a.m. (Closed—if needed)

1. Continuation of Thursday's closed session agenda

CONTACT PERSON FOR MORE INFORMATION: Julie S. Moore, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–1000. Telephone (202) 268–4800.

Julie S. Moore,

Secretary.

[FR Doc. 2010–27653 Filed 10–28–10; 4:15 pm]

BILLING CODE 7710–12–P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Request for Public Comment on the Draft 2010 National Nanotechnology Initiative Strategic Plan

AGENCY: White House Office of Science and Technology Policy.

ACTION: Notice: request for public comment.

SUMMARY: With this notice, the White House Office of Science and Technology Policy and the Nanoscale Science, Engineering, and Technology

Subcommittee of the National Science and Technology Council request comments from the public regarding the draft 2010 National Nanotechnology Initiative (NNI) Strategic Plan. The draft plan is posted at *http://strategy.nano.gov.* Comments of approximately one page or less in length (4,000 characters) are requested. This request will be active from November 1, 2010 to November 30, 2010.

DATES: Comments are invited beginning November 1, 2010 and must be received by 11:59 p.m. EST on November 30, 2010.

ADDRESSES: Respondents are encouraged to register online at the NNI Strategy Portal at *http://strategy.nano.gov* to post their comments (4,000 characters or less) as a response to the request for public comment. Alternatively, comments of one page in length or less may be submitted via e-mail to: *nnistrategy@ostp.gov.* Please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information.

Overview: The National Nanotechnology Initiative (NNI) Strategic Plan is the framework that underpins the nanotechnology work of the NNI member agencies. It aims to ensure that advances in nanotechnology research and development (R&D) and their applications to agency missions and the broader national interest continue unabated in this still-young field. Its purpose is to facilitate achievement of the NNI vision by laying out targeted guidance for agency leaders, program managers, and the research community regarding planning and implementation of nanotechnology R&D investments and activities.

The NNI is a U.S. Government R&D program of 25 agencies working together toward the common challenging vision of a future in which the ability to understand and control matter at the nanoscale leads to a revolution in technology and industry that benefits society. The combined, coordinated efforts of these agencies have accelerated discovery, development, and deployment of nanotechnology towards agency missions and the broader national interest. Established in 2001, the NNI involves nanotechnology-related activities by the 25 member agencies, 15 of which have budgets for nanotechnology R&D for Fiscal Year (FY) 2011.

The NNI is managed within the framework of the National Science and Technology Council (NSTC), the Cabinet-level council that coordinates science and technology across the Federal government and interfaces with other sectors. The Nanoscale Science, Engineering, and Technology (NSET) Subcommittee of the NSTC coordinates planning, budgeting, program implementation, and review of the NNI. The NSET Subcommittee is composed of senior representatives from agencies participating in the NNI (*http://www.nano.gov*).

The NSET Subcommittee has solicited multiple streams of input to inform the development of a revised NNI Strategic Plan. Independent reviews of the NNI by the President's Council of Advisors on Science and Technology and the National Research Council of the National Academies have made specific recommendations for improving the NNI. Additional input has come from the NNI Strategic Planning Stakeholders Workshop in Arlington, Virginia, on July 13–14, 2010 (details available online: *http://www.nano.gov/html/meetings/NNISPWorkshop/index.html*) as well as in responses to a Request for Information published in the **Federal Register** on July 6, 2010 and comments posted online in response to challenge questions from July 13–August 15, 2010, at the NNI Strategy Portal (*http://strategy.nano.gov*).

The NNI Strategic Plan represents the consensus of the participating agencies as to the high-level goals and priorities of the NNI and specific objectives for at least the next three years. It describes the four overarching goals of the NNI, the major Program Component Areas established in 2004 to broadly track the categories of investments needed to ensure the success of the initiative, and the near-term objectives that will be the concrete steps taken toward collectively achieving the NNI vision and goals. Finally, the plan describes collaborative interagency activities, including three Nanotechnology Signature Initiatives that are a new model of specifically targeted and closely coordinated interagency, cross-sector collaboration designed to accelerate innovation in areas of national priority.

Your comments on this draft of the plan must be received by 11:59 p.m. EST on Sunday, November 30, 2010. Please reference page and line numbers as appropriate, and keep your responses to 4,000 characters or less. You may also e-mail your responses, no more than one page in length, to *nnistrategy@ostp.gov.*

Responses to this notice are not offers and cannot be accepted by the Federal Government to form a binding contract or issue a grant. Information obtained as a result of this notice may be used by the Federal Government for program planning on a non-attribution basis. Do not include any information that might be considered proprietary or confidential. Please be aware that your comments may be posted online.

FOR FURTHER INFORMATION CONTACT: Any questions about the content of this notice should be sent to *NNIStrategy@ostp.gov.* Questions and responses may also be sent by mail (please allow additional time for processing) to the address: Office of Science and Technology Policy, ATTN: NNI Strategic Plan Comments, Executive Office of the President, 725 17th Street, Room 5228, Washington, DC 20502. Phone: (202) 456–7116, Fax: (202) 456–6021.

Ted Wackler,

Deputy Chief of Staff.

[FR Doc. 2010–27358 Filed 10–29–10; 8:45 am]

BILLING CODE 3170–W0–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 301 and Forms ATS and ATS–R; SEC File No. 270–451; OMB Control No. 3235–0509.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Regulation ATS provides a regulatory structure for alternative trading systems. Regulation ATS allows an alternative trading system to choose between registering as a broker-dealer and complying with Regulation ATS, or registering as a national securities exchange. Regulation ATS provides the regulatory framework for those alternative trading systems that choose to be regulated as broker-dealers. Rule 301 of Regulation ATS contains certain notice and reporting requirements, as well as additional obligations that apply only to alternative trading systems with significant volume. Rule 301 describes the conditions with which an alternative trading system must comply to be registered as a broker-dealer. The

Rule requires all alternative trading systems that wish to comply with Regulation ATS to file an initial operation report on Form ATS. The initial operation report requires information regarding operation of the system including the method of operation, access criteria and the types of securities traded. Alternative trading systems are also required to supply updates on Form ATS to the Commission, describing material changes to the system, and quarterly transaction reports on Form ATS–R. Alternative trading systems are also required to file cessation of operations reports on Form ATS.

An alternative trading system with significant volume is required to comply with requirements for fair access and systems capacity, integrity and security. Under Rule 301, such alternative trading system is also required to establish standards for granting access to trading on its system. In addition, upon a decision to deny or limit an investor's access to the system, an alternative trading system is required to provide notice to a user of the denial or limitation and its right to an appeal to the Commission. Regulation ATS requires alternative trading systems to preserve any records made in the process of complying with the systems' capacity, integrity and security requirements. In addition, such alternative trading systems are required to notify Commission staff of material systems outages and significant systems changes.

The Commission uses the information provided pursuant to the Rule to monitor the growth and development of alternative trading systems, and to monitor whether the systems promote fair and orderly securities markets and operate in a manner that is consistent with the federal securities laws. In particular, the information collected and reported to the Commission by alternative trading systems enables the Commission to evaluate the operation of alternative trading systems with regard to national market system goals, and monitor the competitive effects of these systems to ascertain whether the regulatory framework remains appropriate to the operation of such systems. Without the information provided on Forms ATS and ATS–R, the Commission would not have readily available information on a regular basis in a format that would allow it to determine whether such systems have adequate safeguards.

Respondents consist of alternative trading systems that choose to register as broker-dealers and comply with the requirements of Regulation ATS. The Commission estimates that there are currently approximately 80 respondents.

An estimated 80 respondents will file an average total of 552 responses per year, which corresponds to an estimated aggregated annual response burden of 1,792.5 hours (comprised of 1,356 hours professional labor and 436.5 hours para-professional labor). At an average cost per burden hour of approximately $316 for professional labor and $59 for para-professional labor, with an additional 35% of labor costs added to account for overhead costs such as printing, copying, and postage, the resultant total related cost of compliance for these respondents is $613,236.82 per year ((1,356 professional burden hours multiplied by $316) plus (436.5 para-professional burden hours multiplied by $59) equals $454,249.50; plus 35% for overhead costs ($158,987.32) equals $613,236.82; figures may vary slightly due to arithmetic rounding).

An estimated 5 respondents will commence operations as an ATS each year, necessitating the filing of an initial operation report on Form ATS. The Commission estimates that the average compliance burden for each respondent would be 20 hours, comprising 13 hours of in-house professional work and 7 hours of clerical work. Thus, the total compliance burden per year is 100 hours (5 responses × 20 hours = 100 hours). The total cost of compliance for the annual burden is $22,605 ($316 × 13 hours per response + $59 × 7 hours per response = $4,521 per response; $4,521 × 5 responses = $22,605). In addition, estimated overhead costs for printing, copying, and postage equal to 35% of the value of labor costs amount to $1,582.35 per respondent ($4,521 times 35%). Thus, the Commission estimates the total annualized cost burden would be $7,911.75 ($1,582.35 × 5 respondents).

An estimated 80 respondents will file an estimated two periodic amendments to their initial operation report on Form ATS each year, an estimated total of 160 responses. The Commission estimates that the average compliance burden for each response would be 2 hours, comprising 1.5 hours of in-house professional work and 0.5 hours of clerical work. Thus, the total compliance burden per year is 320 hours (160 responses × 2 hours = 320 hours). The total cost of compliance for the annual burden is $1,007 ($316 × 1.5 hours per response + $59 × 0.5 hours per response = $503.50 per response; $503.50 × 160 responses = $80,560). In addition, estimated overhead costs for printing, copying, and postage equal to 35% of the value of labor costs amount to $176.23 per response ($503.50 times 35%). Thus, the Commission estimates the annualized cost burden for each respondent would be $352.46 ($176.23 × 2 responses per respondent) and the total annualized cost burden for all respondents would be $28,196.80 ($176.23 × 80 respondents × 2 responses per respondent).

An estimated 80 respondents will file four quarterly reports on Form ATS–R each year for an estimated total of 320 responses. The Commission estimates that that the average compliance burden for each response would be 4 hours, comprising 3 hours of in-house professional work and 1 hour of clerical work. Thus, the total compliance burden per year is 1,280 hours (320 responses × 4 hours = 1,280 hours). The total cost of compliance for the annual burden is $322,240 ($316 × 3 hours per response + $59 × 1 hours per response = $1,007 per response; $1,007 × 320 responses = $322,240). In addition, estimated overhead costs for printing, copying, and postage equal to 35% of the value of labor costs amount to $352.45 per response ($1,007 times 35%). Thus, the Commission estimates the annualized cost burden for each respondent would be $1409.80 ($352.45 × 4 responses per respondent) and the total annualized cost burden for all respondents would be $112,784 ($352.45 × 80 respondents × 4 responses per respondent).

An estimated three respondents will be required to file a cessation of operations report on Form ATS each year. The Commission estimates that the average compliance burden for each response would be 2 hours, comprising 1.5 hours of in-house professional work and 0.5 hours of clerical work. Thus, the total compliance burden per year is 6 hours (3 responses × 2 hours = 6 hours). The total cost of compliance for the annual burden is $1,510.50 ($316 × 1.5 hours per response + $59 × 0.5 hours per response = $503.50 per response; $503.50 × 3 responses = $1,510.50). In addition, estimated overhead costs for printing, copying, and postage equal to 35% of the value of labor costs amount to $176.23 per respondent ($503.5 × 35%). Thus, the Commission estimates the total annualized cost burden would be $528.69 ($176.23 × 3 respondents).

An estimated two respondents will meet certain volume thresholds requiring them to establish standards for granting access on its trading system. The Commission estimates that the average compliance burden for each response would be 5 hours of in-house professional work at $316 per hour. Thus, the total compliance burden per year is 10 hours (2 responses × 5 hours

= 10 hours). The total cost of compliance for the annual burden is $3,160 ($316 × 5 hours per response × 2 responses = $3,160). In addition, estimated overhead costs for printing, copying, and postage equal to 35% of the value of labor costs amount to $553 per response ($1,580 × 35%). Thus, the Commission estimates the total annualized cost burden would be $1,106 ($553 × 2 respondents).

An estimated two respondents will meet certain volume thresholds requiring them to provide notice to any user upon any decision to deny or limit that user's access to the system, and these notice obligations will be triggered an estimated 27 × per year for each respondent. The Commission estimates that the average compliance burden for each response would be 1 hour of in-house professional work at $316 per hour. Thus, the total compliance burden per year is 54 hours (2 respondents × 27 responses each × 1 hour = 54 hours). The total cost of compliance for the annual burden is $17,064 ($316 × 1 hour per response × 54 responses = $17,064). In addition, estimated overhead costs for printing, copying, and postage equal to 35% of the value of labor costs amount to $110.60 per response ($316 × 35%). Thus, the Commission estimates the annualized cost burden for each respondent would be $2986.20 ($110.60 × 27 responses per respondent) and the total annualized cost burden for all respondents would be $5972.40 ($110.60 × 2 respondents × 27 responses per respondent).

An estimated two respondents will meet certain volume thresholds requiring them to keep records relating to any steps taken to comply with systems capacity, integrity, and security requirements under Rule 301. The Commission estimates that the average compliance burden for each response would be 10 hours of in-house professional work at $316 per hour. Thus, the total compliance burden per year is 20 hours (2 respondents × 10 hours = 20 hours). The total cost of compliance for the annual burden is $6,320 ($316 × 20 hours = $6,320). In addition, estimated overhead costs for printing, copying, and postage equal to 35% of the value of labor costs amount to $1,106 per response ($3,160 × 35%). Thus, the Commission estimates the total annualized cost burden would be $2,212 ($1,106 × 2 respondents).

An estimated two respondents will meet certain volume thresholds requiring them to provide a notice to the Commission to report any systems outages, and these notice obligations will be triggered an estimated 5 times per year for each respondent. The Commission estimates that the average compliance burden for each response would be .25 hours of in-house professional work at $316 per hour. Thus, the total compliance burden per year is 2.5 hours (2 respondents × 5 responses each × .25 hours = 2.5 hours). The total cost of compliance for the annual burden is $790 ($316 × .25 hours per response × 10 responses = $790). In addition, estimated overhead costs for printing, copying, and postage equal to 35% of the value of labor costs amount to $27.65 per response ($79 × 35%). Thus, the Commission estimates the annualized cost burden for each respondent would be $138.25 ($27.65 × 5 responses per respondent) and the total annualized cost burden for all respondents would be $276.50 ($27.65 × 2 respondents × 5 responses per respondent).

Written comments are invited on (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to: Jeffrey Heslop, Acting Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, Virginia 22312 or send an e-mail to: *PRA_Mailbox@sec.gov.*

Dated: October 25,2010.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–27468 Filed 10–29–10; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law–409, that the Securities and Exchange Commission will hold a closed meeting on Thursday, November 4, 2010 at 1:30 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Paredes, as duty officer, voted to consider the items listed for the closed meeting in a closed session, and determined that no earlier notice thereof was possible.

The subject matter of the closed meeting scheduled for Thursday, November 4, 2010 will be: Institution and settlement of injunctive actions; institution and settlement of administrative proceedings; and other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 551–5400.

Dated: October 28, 2010.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2010–27640 Filed 10–28–10; 4:15 pm]

BILLING CODE P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63179; File No. SR–ISE–2010–104]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Schedule of Fees

October 26, 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 October 19, 2010, International Securities Exchange, LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its fee schedule by eliminating all fees related to its equity market. The text of the proposed rule change is available on the Exchange's Web site *http://www.ise.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

The Exchange has ceased trading equity securities in its market. Therefore, the Exchange is now proposing to eliminate all fees related to the trading of equity securities and its equity membership from its Schedule of Fees. The Exchange believes that eliminating the fees related to equities will simplify and clarify its Schedule of Fees, and thereby avoid investor confusion by only publishing fees for products that are traded on its market.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[3] in general, and furthers the objectives of Section 6(b)(4),[4] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. Since the Exchange no longer trades equities in its market, the proposed rule change will simply its Schedule of Fees by eliminating the fees related to equities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Act[5] and Rule 19b–4(f)(2)[6] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–ISE–2010–104 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2010–104. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro/shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–ISE–2010–104 and should be submitted on or before November 22, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–27494 Filed 10–29–10; 8:45 am]

BILLING CODE 8011–01–P

[3] 15 U.S.C. 78f.

[4] 15 U.S.C. 78f(b)(4).

[5] 15 U.S.C. 78s(b)(3).

[6] 17 CFR 240.19b–4(f)(2).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63177; File No. SR–ISE–2010–105]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to a Date for the Additional Expiration Months Pilot Program

October 25, 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 October 20, 2010, the International Securities Exchange, Inc. (the "Exchange" or "ISE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Exchange has designated the proposed rule change as one constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule under Section 19(b)(3)(A)(i) of the Act [3] and Rule 19b–4(f)(1) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE is proposing to make technical amendments to its rules to insert the specific date for a pilot program. The text of the proposed rule change is available on the Exchange's Web site (*http://www.ise.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 self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to make technical amendments to its rules to insert a specific date for a pilot program.

The Commission recently approved the Exchange's proposal to establish a pilot program that would permit the Exchange to list up to an additional two expiration months, for a total of six expiration months for each class of options open for trading on the Exchange.[5] This rule change proposes to amend the text of Supplementary Material .08 to Rule 504 to insert the specific conclusion date of the pilot program, which is October 31, 2011.[6]

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) [7] of the Securities Exchange Act of 1934 (the "Act"), in general, and furthers the objectives of Section 6(b)(5) [8] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system in a manner consistent with the protection of investors and the public interest. In particular, the proposed rule change seeks to update rule text to insert specific dates for a pilot program in a manner that is consistent with the original approval order of the pilot program.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change will take effect upon filing with the Commission pursuant to Section 19(b)(3)(A)(i) of the Act [9] and Rule 19b–4(f)(1) thereunder,[10] because it constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule.

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–ISE–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–ISE–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 the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2010–105 and should be submitted on or before November 22, 2010.

[3] 15 U.S.C. 78s(b)(3)(A)(i).

[4] 17 CFR 240.19b–4(f)(1).

[5] *See* Securities Exchange Act Release No. 63104 (October 14, 2010), 75 FR 64773 (October 20, 2010) (Approving SR–ISE–2010–91).

[6] Previously the rule text indicated that the Exchange would insert the date 12 months from the next full month from approval, which approval occurred on October 14, 2010. *Id.*

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A)(i).

[10] 17 CFR 240.19b–4(f)(1).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–27465 Filed 10–29–10; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–63181; File No. SR–FINRA–2010–052]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change To Adopt FINRA Rules Regarding Books and Records in the Consolidated FINRA Rulebook

October 26, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "SEA") [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 20, 2010, Financial Industry Regulatory Authority, Inc. ("FINRA") (f/k/a National Association of Securities Dealers, Inc. ("NASD")) filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to adopt certain paragraphs, as specified below, of NASD Rule 3110 (Books and Records), subject to certain amendments, as FINRA Rules in the consolidated FINRA rulebook and to adopt Incorporated NYSE Rule Interpretations 410/01 (Pre-Time Stamping) and 410/02 (Allocations of Block Orders), subject to certain amendments, as FINRA Rules in the consolidated FINRA rulebook.

The proposed rule change would delete NASD IM–3110 (Customer Account Information) and Incorporated NYSE Rule 410 (Records of Orders). In addition, the proposed rule change would delete Incorporated NYSE Rule 440 (Books and Records), with the exception of Incorporated NYSE Rules 440.10 (Periodic Security Counts, Verifications, Comparisons, *etc.*) and 440.20 (Identification of Suspense Accounts and Assignment of Responsibility for General Ledger Accounts) and NYSE Rule Interpretation 440.20/01 (Suspense Accounts).

The proposed rule change would renumber NASD Rule 3110(a) (Requirements) as FINRA Rule 4511 (General Requirements), NASD Rule 3110(c) (Customer Account Information) as FINRA Rule 4512 (Customer Account Information), NASD Rules 3110(d) (Record of Written Complaints) and 3110(e) ("Complaint" Defined) as FINRA Rule 4513 (Records of Written Customer Complaints), NASD Rule 3110(f) (Requirements When Using Predispute Arbitration Agreements for Customers Accounts) as FINRA Rule 2268 (Requirements When Using Predispute Arbitration Agreements for Customer Accounts), NASD Rule 3110(g) (Negotiable Instruments Drawn From A Customer's Account) as FINRA Rule 4514 (Authorization Records for Negotiable Instruments Drawn From a Customer's Account), NASD Rule 3110(h) (Order Audit Trail System Record Keeping Requirements) as paragraph (a)(4) of FINRA Rule 7440 (Recording of Order Information) and NASD Rule 3110(j) (Changes in Account Name or Designation) as FINRA Rule 4515 (Approval and Documentation of Changes in Account Name or Designation) in the consolidated FINRA rulebook. The proposed rule change also would renumber NYSE Rule Interpretation 410/01 as FINRA Rule 5340 (Pre-Time Stamping) and NYSE Rule Interpretation 410/02 as FINRA Rule 4515.01 (Allocations of Orders Made by Investment Advisers).

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

As part of the process of developing a new consolidated rulebook ("Consolidated FINRA Rulebook"),[3] FINRA is proposing to adopt NASD Rules 3110(a), 3110(c), 3110(d) and (e), 3110(f), 3110(g), 3110(h) and 3110(j) as FINRA Rules 4511, 4512, 4513, 2268, 4514, 7440(a)(4) and 4515, respectively, in the Consolidated FINRA Rulebook, with certain changes as described below.[4] FINRA also is proposing to adopt Incorporated NYSE Rule Interpretations 410/01 and 410/02 as FINRA Rules 5340 and 4515.01,[5] respectively, in the Consolidated FINRA Rulebook.[6] FINRA is proposing to delete NASD IM–3110 and NYSE Rules 410 and 440, provided, however, NYSE Rules 440.10 and 440.20 and NYSE Rule Interpretation 440.20/01 are being

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The current FINRA rulebook consists of (1) FINRA Rules; (2) NASD Rules; and (3) rules incorporated from NYSE ("Incorporated NYSE Rules") (together, the NASD Rules and Incorporated NYSE Rules are referred to as the "Transitional Rulebook"). While the NASD Rules generally apply to all FINRA members, the Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE ("Dual Members"). The FINRA Rules apply to all FINRA members, unless such rules have a more limited application by their terms. For more information about the rulebook consolidation process, *see Information Notice,* March 12, 2008 (Rulebook Consolidation Process).

[4] NASD Rule 3110(b) (Marking of Customer Order Tickets) requires that members indicate on the order ticket for each transaction in a non-exchange-listed security the name of each dealer contacted and the quotations received to determine the best inter-dealer market as required by NASD Rule 2320(g) (commonly referred to as the "Three Quote Rule"), unless the member can establish and document its reliance on the exclusions to the Three Quote Rule. FINRA is proposing to replace NASD Rule 3110(b) with a more general documentation requirement in the supplementary material to proposed FINRA Rule 5310. *See Regulatory Notice* 08–80 (December 2008) (Proposed FINRA Rule Addressing Best Execution). NASD Rule 3110(i) (Holding of Customer Mail) specifies the circumstances under which members may hold mail for a customer. FINRA is proposing that NASD Rule 3110(i) be rewritten as a standalone rule and relocated to the supervision section of the Consolidated FINRA Rulebook. *See Regulatory Notice* 08–24 (May 2008) (Proposed Consolidated FINRA Rules Governing Supervision and Supervisory Controls).

[5] For convenience, the Incorporated NYSE Rules are referred to as the NYSE Rules.

[6] NYSE Rule Interpretation 410(a)(ii)(5)/01 was deleted as part of a prior rule change. *See* Securities Exchange Act Release No. 61473 (February 2, 2010), 75 FR 6422 (February 9, 2010) (Order Approving File No. SR–FINRA–2009–087).

addressed as part of a separate proposal.[7]

Current NASD Rules and NYSE Rules require members to make and preserve certain books and records to evidence compliance with Federal securities laws and FINRA and SEC rules, as well as to enable FINRA and SEC staffs to conduct effective examinations. Based in large part on the current rules, the proposed rule change would rewrite the FINRA books and records rules with three goals in view:

- To streamline the rules to make them as clear as possible;
- To group the requirements along similar subject matter lines to make finding them a more intuitive process and to provide members with a better understanding of the regulatory scheme; and
- To eliminate those requirements contained in the current rules that have become obsolete or otherwise duplicative.

Proposed Amendments

FINRA proposes the following amendments to the books and records rules.

a. General Requirements (Proposed FINRA Rule 4511)

Currently, there are two general recordkeeping rules in effect under NASD Rules and NYSE Rules. NASD Rule 3110(a) addresses the general obligation of members under all applicable laws, rules, regulations, statements of policy, NASD Rules and SEA Rule 17a–3 to make and preserve books and records, including the obligation to preserve such books and records in formats and media and for retention periods that comply with SEA Rule 17a–4. NYSE Rule 440 also sets forth the general obligation of members to make and preserve books and records.[8]

NYSE Rule 410 is a separate NYSE recordkeeping rule for which there is no comparable NASD Rule.[9] NYSE Rule 410, in main part, requires members to make and preserve specific records for every order received (either orally or in writing) and every order entered into the NYSE's Off-Hours Trading Facility.[10] NYSE Rule 410 also permits the NYSE to waive the rule's recordkeeping requirements under exceptional circumstances upon written request.

FINRA Rule 4511 streamlines, and replaces, the language of NASD Rule 3110(a) to clarify that members are obligated to make and preserve books and records as required under the FINRA rules, the Act and the applicable SEA rules.[11] Additionally, the proposed rule requires members to preserve for a period of at least six years those FINRA books and records for which there is no specified retention period under the FINRA Rules or applicable SEA rules. The proposed rule also clarifies that members are required to preserve the books and records required to be made pursuant to the FINRA Rules in a format and media that complies with SEA Rule 17a–4.

FINRA proposes to delete the general recordkeeping provisions of NYSE Rule 440 because its provisions are substantially similar to FINRA Rule 4511. As noted above, NYSE Rules 440.10 and 440.20 and NYSE Rule Interpretation 440.20/01 are being addressed as part of a separate proposal.

In addition, the proposed rule change would delete NYSE Rules 410(a)(1)–(3) and (b) as the provisions' requirements are largely duplicative of the SEA recordkeeping requirements that are incorporated by reference into FINRA Rule 4511 [12] or, in some instances, are directed at orders on an exchange facility. FINRA Rule 7440 (Recording of Order Information) also mandates recordkeeping requirements that are substantially similar to those in SEA Rules 17a–3 and 17a–4 for members that must report order information via FINRA's Order Audit Trail System ("OATS") for over-the-counter ("OTC") and Nasdaq equity securities.[13]

b. Customer Account Information (Proposed FINRA Rule 4512)

NASD Rule 3110(c)(1) requires that members maintain certain information relating to customer accounts, including, among other things, the signature of the registered representative introducing the account and signature of the member, partner, officer or manager who accepts the account. FINRA proposes to simplify this provision by instead requiring members to maintain the name of the associated person, if any, responsible for the account.[14] As discussed in more detail below, the proposed rule change would require that where a member designates multiple individuals as being responsible for an account, the member maintain each of their names and a record indicating the scope of their responsibilities with respect to the account. The proposed rule change also would clarify that members maintain the signature of the partner, officer or manager denoting that the account has been accepted in accordance with the member's policies and procedures for acceptance of accounts.

NASD Rule 3110(c)(3) requires that for discretionary accounts, in addition to the requirements set forth in NASD Rules 3110(c)(1) and (2), members must: Obtain the signature of each person authorized to exercise discretion in the account; record the date such discretion is granted; and, in connection with exempted securities (other than municipals), record the age or approximate age of the customer. FINRA

[7] *See Regulatory Notice* 09–03 (January 2009) (Proposed Consolidated FINRA Rules Governing Financial Responsibility and Operational Requirements).

[8] In addition, NYSE Rules 440.10 and 440.20 and NYSE Rule Interpretation 440.20/01 set forth financial and operational recordkeeping requirements for which there are no equivalent NASD Rules.

[9] Previously, NYSE Rule 410 applied only to orders transmitted or carried to the NYSE Trading Floor ("Floor"), but was amended in 2004 to apply to all orders sent to any marketplace, not just those carried or transmitted to the Floor. *See NYSE Information Memo* 04–38 (July 26, 2004) (Amendments to NYSE Rules 342, 401, 408 and 410 Relating to Supervision and Internal Controls).

[10] The "Off-Hours Trading Facility" is the NYSE facility that permits members to effect securities transactions on the NYSE pursuant to the NYSE Rule 900 Series. *See* NYSE Rule 900(e)(v).

[11] As proposed in *Regulatory Notice* 08–25 (discussed in Item 5 of this filing), FINRA Rule 4511 would have required members to make and preserve books and records as required under FINRA rules, Section 17(a) of the Act and the applicable associated SEA rules; however, FINRA has modified proposed FINRA Rule 4511 to eliminate the specific reference to Section 17(a) of the Act given that certain SEA recordkeeping requirements are located outside of Section 17(a).

[12] Specifically, SEA Rule 17a–3(a) sets forth detailed recordkeeping requirements for brokerage orders that include, among other required information, the order record information required by NYSE Rule 410. *See* SEA Rule 17a–3(a)(6)–(a)(8). Information required pursuant to SEA Rule 17a–3(a)(6) that goes beyond the recordkeeping requirements of NYSE Rule 410 includes, among other things, recording the price at which the order was executed, the account for which the order was entered, and the identity of each associated person, if any, responsible for the account. Additionally, SEA Rule 17a–4(b)(1) prescribes the same record retention requirements as NYSE Rule 410.

[13] The FINRA Rule 7400 Series (Order Audit Trail System) requires members to capture, record, and report via OATS specific data elements related to the handling or execution of orders in OTC and Nasdaq equity securities, including recording all times of these events in hours, minutes, and seconds, and to synchronize their business clocks. FINRA is proposing to extend the recording and reporting requirements in the OATS rules to include all NMS stocks. *See* Securities Exchange Act Release No. 62739 (August 18, 2010), 75 FR 52380 (August 25, 2010) (Notice of Filing of SR–FINRA–2010–044).

[14] Members would continue to be subject to any additional requirements imposed by SEA Rule 17a–3. For example, SEA Rule 17a–3(a)(17) requires that for each account with a natural person, the account record must indicate whether it has been signed by the associated person (if any) responsible for the account. However, this requirement only applies to accounts for which the member is, or within the past 36 months has been, required to make a suitability determination under the Federal securities laws or the requirements of a self-regulatory organization of which it is a member.

proposes to simplify and clarify NASD Rule 3110(c)(3) in the following ways:

• Consistent with the SEA recordkeeping requirements, the rule would be amended to require members to maintain a record of the dated signature of each named, natural person authorized to exercise discretion in the account;

• The proposed rule change would delete the requirement to record the date discretion was granted [15] and the requirement to record the age or approximate age of the customer in connection with exempted securities; [16]

• The rule would be amended to provide that its requirements do not apply to investment discretion granted by a customer as to the price at which or the time to execute an order given by the customer for the purchase or sale of a definite dollar amount or quantity of a specified security; and

• The proposed rule change would clarify that nothing in the rule shall be construed as allowing members to maintain discretionary accounts or exercise discretion in such accounts except to the extent permitted under the Federal securities laws.[17]

In addition, as discussed in more detail below, the proposed rule change would require that members obtain a "manual" dated signature of each named, natural person authorized to exercise discretion in the account.

NASD Rule 3110(c)(4) sets forth the definition of "institutional account" for purposes of NASD Rule 3110 as well as for NASD Rules 2310 (Recommendations to Customers (Suitability)) and 2510. FINRA proposes to amend this definition of "institutional account" to delete the cross-references to NASD Rules 2310 and 2510 because these rules already include cross-references to this definition.

FINRA also proposes to amend NASD Rule 3110(c) to provide that with respect to accounts opened pursuant to prior NASD Rules (*e.g.,* the January 1991 cut-off specified in NASD Rule 3110(c)), members will be permitted to continue maintaining the information required by those prior NASD Rules until such time as they update the account information in the course of their routine and customary business or as required by other applicable laws or rules.

In addition, the proposed rule change would add supplementary material to:

• Clarify that required customer account records are subject to a six-year retention period;

• Remind members that they may be subject to additional recordkeeping requirements under the SEA (*e.g.,* SEA Rule 17a–3(a)(17));

• Remind members of their obligation to comply with the requirements of FINRA Rule 2070 (Transactions Involving FINRA Employees); [18] and

• Provide general explanations of the terms "maintain" and "preserve" for purposes of Rule 4512 only.

The proposed rule change would renumber NASD Rule 3110(c) as FINRA Rule 4512. The remaining provisions of NASD Rule 3110(c) would be incorporated into FINRA Rule 4512 without material change.

NASD IM–3110 includes cross-references to the requirements of certain other rules that may apply to customer accounts (such as SEA Rules 15g–1 through 15g–9 (the Penny Stock Rules)), and it includes a historical reference relating to accounts opened prior to January 1991. FINRA proposes to delete NASD IM–3110 because certain provisions are redundant and others are outdated.

c. Records of Written Customer Complaints (Proposed FINRA Rule 4513)

NASD Rule 3110(d) addresses a member's obligation to preserve records of written customer complaints at each office of supervisory jurisdiction ("OSJ"). NASD Rule 3110(e) defines the term "complaint." Because the definition of "complaint" in NASD Rule 3110(e) relates directly to the requirements of NASD Rule 3110(d), FINRA proposes to merge the two provisions into one rule for simplification. The proposed rule change would renumber NASD Rules 3110(d) and (e) as FINRA Rule 4513.

The proposed rule change also would clarify that the obligation to keep customer complaint records in each OSJ applies only to complaints that relate to that office, including complaints that relate to activities supervised from that office and would provide that members may maintain the required records at the OSJ or make them promptly available at such office upon FINRA's request.

Currently, members are required to preserve customer complaint records for a period of at least three years.[19] To take into account FINRA's four-year routine examination cycle for certain members, the proposed rule change would require that members preserve the customer complaint records for a period of at least four years.

d. Requirements When Using Predispute Arbitration Agreements for Customer Accounts (Proposed FINRA Rule 2268)

To ensure that customers are advised about what they are agreeing to when they sign predispute arbitration agreements, NASD Rule 3110(f) requires, among other things, that such agreements contain certain highlighted disclosures. FINRA proposes to incorporate the requirements of the rule with minor changes into the Consolidated FINRA Rulebook. Specifically, FINRA proposes to update the disclosure language to reflect amendments to FINRA Rule 12904 requiring arbitrators to provide an explained decision to the parties in eligible cases [20] if there is a joint request by all parties at least 20 days before the first scheduled hearing date.[21]

The proposed rule change would renumber NASD Rule 3110(f) as FINRA Rule 2268 and would move it to the disclosure section of the Consolidated FINRA Rulebook as a standalone rule.

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[15] Pursuant to NASD Rule 2510 (Discretionary Accounts), members would still be required to obtain the customer's prior written authorization. As part of the proposed changes to NASD Rule 2510, FINRA is proposing to require members to obtain the customer's dated prior written authorization. *See Regulatory Notice* 09–63 (November 2009) (Proposed Consolidated FINRA Rule Governing Discretionary Accounts and Transactions).

[16] This would be a conforming revision. The requirement that for discretionary accounts generally members must record the age or approximate age of the customer was eliminated effective in 1991. *See Notice to Members* 90–52 (August 1990) (SEC Approval of Amendments to Article III, Sections 2 and 21 (c) of the Rules of Fair Practice Re: Customer Account Information).

[17] In 2005, the SEC adopted Rule 202(a)(11)–1 under the Investment Advisers Act of 1940 ("Advisers Act"), a principal purpose of which was to deem broker-dealers offering "fee-based brokerage accounts" not subject to the Advisers Act. Rule 202(a)(11)–1 also included several interpretive positions regarding Advisers Act Section 202(a)(11)(C), including a provision that any account over which a broker-dealer exercises investment discretion (other than on a temporary or limited basis) is subject to the Advisers Act. In March 2007, Rule 202(a)(11)–1 was vacated. *See Financial Planning Association* v. *SEC,* 482 F.3d 481 (DC Cir. 2007). In September 2007, the SEC re-proposed its interpretive positions for comment, including the provision regarding the application of the Advisers Act to discretionary accounts. *See* Investment Advisers Act Release No. 2652 (September 24, 2007), 72 FR 55126 (September 28, 2007) (Interpretive Rule Under the Advisers Act Affecting Broker-Dealers).

[18] FINRA Rule 2070 plays a vital role in helping FINRA monitor whether employees are abiding by trading restrictions imposed by the FINRA Code of Conduct.

[19] *See* SEA Rules 17a–3(a)(18) and 17a–4(b)(4).

[20] Pursuant to FINRA Rule 12904(g)(6), the requirement does not apply to simplified cases decided without a hearing under FINRA Rule 12800 or to default cases conducted under FINRA Rule 12801.

[21] *See* Securities Exchange Act Release No. 59358 (February 4, 2009), 74 FR 6928 (February 11, 2009) (Order Approving File No. SR–FINRA–2008–051).

e. Authorization Records for Negotiable Instruments Drawn From a Customer's Account (Proposed FINRA Rule 4514)

NASD Rule 3110(g) provides that members shall not obtain from a customer or submit for payment a check, draft or other form of negotiable paper drawn on the customer's checking, savings, share or similar account, without that person's express written authorization, which may include the customer's signature on the negotiable instrument. The rule requires members to maintain the required written authorization (other than a copy of a negotiable instrument signed by the customer) for a period of three years. FINRA proposes to amend this provision to clarify that where the required authorization is separate from the negotiable instrument, members must preserve the authorization for a period of three years following the date it expires. The proposed rule change would renumber NASD Rule 3110(g) as FINRA Rule 4514.

f. OATS Recordkeeping Requirements (Proposed FINRA Rule 7440(a)(4))

NASD Rule 3110(h) sets forth the OATS recordkeeping requirements for members that are "Reporting Members," as defined in the OATS rules, for orders received or executed at their trading departments. FINRA proposes to relocate this recordkeeping provision without material change into the OATS rules. The proposed rule change would renumber NASD Rule 3110(h) as paragraph (a)(4) of FINRA Rule 7440.

g. Approval and Documentation of Changes in Account Name or Designation (Proposed FINRA Rule 4515)

NASD Rule 3110(j) requires that, before a customer order is executed, the account name or designation must be placed upon the memorandum for each transaction.[22] The rule also addresses the approval and documentation procedures for changes in such account name or designation.

As discussed in more detail below, FINRA proposes to amend this provision to clarify that with respect to any change in account name or designation that takes place prior to execution of the trade, the essential facts the principal relied on in approving such change must be documented in writing prior to execution. The proposed rule change would renumber NASD Rule 3110(j) as FINRA Rule 4515. NYSE Rules 410 and 410.10 also include provisions regarding approval and documentation of changes in account name or designation. FINRA proposes to delete the corresponding provisions in NYSE Rules 410 and 410.10 because these provisions are substantially similar to FINRA Rule 4515. As stated earlier, FINRA also proposes to delete the recordkeeping provisions of NYSE Rule 410.

The proposed rule change, however, would transfer NYSE Rule Interpretation 410/02 as FINRA Rule 4515.01, with certain changes as described below. NYSE Rule Interpretation 410/02 outlines an exception to the order entry requirements of NYSE Rule 410 by permitting a member to accept block orders and allowing investment advisers to make allocations on such orders to customers (*i.e.,* allocations among sub-accounts), provided that the member obtains specific account designations or customer names for the order records by the end of the business day. Although the SEA recordkeeping rules do not specifically provide for this exception, SEC staff has previously indicated that the exception also applies to the SEA recordkeeping rules relating to orders.[23] There is no direct NASD equivalent.

The proposed rule change would adopt NYSE Rule Interpretation 410/02 as FINRA Rule 4515.01 with the following changes. FINRA proposes to amend the provision so that the exception applies not only to block orders, but to all orders submitted by an investment adviser on behalf of multiple customers. Additionally, members have indicated that in some cases they are unable to obtain the required information by the end of the business day on which the order is executed. Therefore, as a clerical accommodation to members, FINRA proposes to amend the provision and give members until noon of the next business day following the trading session to obtain the required information. The proposal also clarifies that the exception only applies where there is more than one customer for any particular order. Further, the current exception only applies to investment advisers that are either registered under the Investment Advisers Act or subject to state regulation pursuant to Section 203A of the Investment Advisers Act. To cover all investment advisers, FINRA proposes to expand the category of investment advisers subject to the exception to also include investment advisers that qualify for an exception from the Investment Advisers Act's registration requirements pursuant to Section 203(b) of the Investment Advisers Act. FINRA also proposes to clarify that the exception does not apply to accounts handled by registered representatives who otherwise exercise discretionary authority over accounts pursuant to NASD Rule 2510.

Moreover, FINRA proposes to clarify that nothing in the rule or supplementary material may be construed as allowing a member knowingly to facilitate the allocation of orders from investment advisers in a manner other than in compliance with both (i) the investment adviser's intent at the time of trade execution to allocate shares on a percentage basis to the participating accounts and (ii) the investment adviser's fiduciary duty with respect to allocations for such participating accounts, including but not limited to allocations based on the performance of a transaction between the time of execution and the time of allocation.

h. Pre-Time Stamping (Proposed FINRA Rule 5340)

NYSE Rule Interpretation 410/01 notes that pre-time stamping of order tickets in connection with block positioning is contrary to NYSE Rule 410. The proposed rule change would adopt this NYSE Rule Interpretation as FINRA Rule 5340 without material change, except for replacing the reference to NYSE Rule 410 with FINRA Rule 4511. FINRA believes that retaining this requirement is appropriate as it expressly prohibits violative conduct for which there are no direct NASD rule equivalents. FINRA Rule 5340 would be new to legacy NASD-only members.

FINRA will announce the implementation date of the proposed rule change in a *Regulatory Notice* to be published no later than 90 days following Commission approval. The implementation date will be no later than 240 days following publication of the *Regulatory Notice* announcing Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[24] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the

[22] *See also* SEA Rule 17a–3(a)(6).

[23] *See* NYSE *Information Memo* 00–19, note 2 (July 21, 2000) (Timely Designation and Allocation of Account Information—Records of Orders) (noting that pursuant to discussions with the SEC staff, NYSE Rule Interpretation 410/02 applies to the requirements of SEA Rules 17a–3(a)(6) and 17a–3(a)(7)).

[24] 15 U.S.C. 78*o*–3(b)(6).

public interest. FINRA believes that the proposed rule change will further the purposes of the Act by streamlining the FINRA books and records rules to make them as clear as possible, grouping the requirements along similar subject matter lines to make finding them a more intuitive process and to provide members with a better understanding of the regulatory scheme, and eliminating those requirements contained in the current rules that have become obsolete or otherwise duplicative.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

In May 2008, FINRA published *Regulatory Notice* 08–25 soliciting comment on proposals relating to the FINRA books and records rules.[25] FINRA received eight comment letters in response to the *Notice,*[26] which are discussed below. A copy of the *Notice* is attached as Exhibit 2a.[27] A list of the comment letters received in response to the *Notice* is attached as Exhibit 2b.[28] Copies of the comment letters received in response to the *Notice* are attached as Exhibit 2c.[29]

1. General Comments

Two commenters believe that the requirements in SEA Rules 17a–3 and 17a–4 are sufficiently inclusive to satisfy investor protection interests.[30] One of these commenters requests that FINRA refrain from considering recordkeeping requirements that are in addition to the SEA rules.[31]

SEA Rules 17a–3 and 17a–4 impose minimum recordkeeping requirements.[32] These rules are not intended to be the only recordkeeping requirements applicable to members. As noted above, FINRA requires members to make and preserve certain books and records to evidence compliance with FINRA Rules and to enable FINRA staff to conduct effective examinations. Accordingly, where necessary, FINRA will consider recordkeeping requirements beyond the minimum requirements of the SEA rules. For instance, as described above, to take into account FINRA's four-year routine examination cycle for certain members, FINRA proposes to increase the retention period for customer complaint records to at least four years.

2. Customer Account Information (Proposed FINRA Rule 4512)

In *Regulatory Notice* 08–25, FINRA specifically requested comment on whether the registered representative signature requirement in NASD Rule 3110(c)(1)(C) should be retained. As noted above, FINRA proposes to instead require members to maintain the name of the associated person, if any, responsible for the account. One commenter expressly supports eliminating the registered representative signature requirement.[33] Another commenter argues that the signatures of both the registered representative and the responsible manager are necessary to assure the authenticity of account documents and information, which may be at issue in arbitration.[34] For regulatory purposes, FINRA believes that it is sufficient for a member to maintain the name of the associated person (if any) responsible for the account together with the signature of the partner, officer or manager denoting that the account has been accepted in accordance with the member's policies and procedures for acceptance of accounts. In addition, as noted above, members would continue to be subject to the associated person signature requirement of SEA Rule 17a–3(a)(17).[35]

Two commenters suggest that the proposed rule be amended to require members to maintain the name of the registered representative responsible for the account because the individual "responsible" for an account generally has to be a registered representative.[36] The proposed language "the associated person, if any, responsible for the account" is intended to provide consistency with the terminology used in SEA Rule 17a–3(a)(17). Nothing contained in the proposed recordkeeping rule would obviate the requirement that where a member designates a person as being responsible for a customer's account, the person charged with such responsibility be a qualified and registered person. One commenter notes that the designation of a single individual as "responsible" for an account is not practical in cases where a group of individuals may be assigned responsibility for an account.[37] In response, FINRA has revised the proposed rule to clarify that where a member designates multiple individuals as being responsible for an account, the member is required to maintain each of their names and a record indicating the scope of their responsibilities with respect to the account.

Two commenters request that the requirement to maintain the signature of the partner, officer or manager denoting acceptance of the account be amended to allow members the flexibility to designate an appropriate person other than a "partner, officer or manager."[38] FINRA believes that the appropriate person for this purpose is a partner, officer or manager of the member. Three commenters believe that the term "signature" may be interpreted to require the "manual" signature of a partner, officer or manager.[39] These commenters suggest that the phrase "evidence of approval" be used instead, so as to permit the use of an "electronic" signature. The staff previously has issued guidance regarding the permissibility of "electronic" signatures

[25] Some of the proposed changes discussed in this filing were not part of the proposals set forth in *Regulatory Notice* 08–25, including the requirement to preserve for six years those FINRA books and records for which there is no specified retention period, revisions to the disclosure language in proposed FINRA Rule 2268 to reflect amendments to FINRA's Code of Arbitration Procedure for Customer Disputes and Code of Arbitration Procedure for Industry Disputes, the adoption of NYSE Rule Interpretation 410/01 as FINRA Rule 5340, and the adoption of NYSE Rule Interpretation 410/02 as FINRA Rule 4515.01.

[26] *See* Letter from Jerry Hamlin, dated May 18, 2008 ("Hamlin"); letter from MuniVest Financial Group, dated May 29, 2008; letter from Sanderlin Securities, LLC, dated June 11, 2008 ("Sanderlin"); letter from the Securities Industry and Financial Markets Association, dated June 11, 2008 ("SIFMA"); letter from the Financial Services Institute, Inc., dated June 13, 2008 ("FSI"); letter from ING Advisors Network, dated June 13, 2008 ("ING"); letter from the Public Investors Arbitration Bar Association, dated June 13, 2008 ("PIABA"); and letter from Wachovia Securities, LLC, dated June 13, 2008.

[27] The Commission notes that while provided in Exhibit 2a to FINRA's filing with the Commission, the Notice is not attached hereto. The Notice can be accessed online at *http://www.finra.org/web/groups/industry/@ip/@reg/@notice/documents/notices/p038507.pdf.*

[28] The Commission notes that while provided in Exhibit 2b to the filing, the list of the commenters and comment letters received by FINRA are not attached hereto. Those comment letters can be accessed online at *http://www.finra.org/Industry/Regulation/Notices/2008/p038503.* As stated previously, all references to "commenters" are to the commenters to the Notice, which are listed in Exhibit 2b.

[29] *Id.*

[30] SIFMA and ING.

[31] ING.

[32] *See* Commission Guidance to Broker-Dealers on the Use of Electronic Storage Media under the Electronic Signatures in Global and National Commerce Act of 2000 with Respect to Rule 17a–4(f), Securities Exchange Act Release No. 44238 (May 1, 2001), 66 FR 22916 (May 7, 2001).

[33] SIFMA.

[34] PIABA.

[35] *See supra* note 14.

[36] SIFMA and FSI.

[37] SIFMA.

[38] SIFMA and ING.

[39] SIFMA, FSI and ING.

under NASD Rule 3110(c)(1)(C).[40] This guidance will remain in effect.

One commenter believes that the requirement to denote that the account has been accepted in accordance with the member's policies and procedures is unnecessary since members are required to follow their policies and procedures in all instances.[41] This commenter also believes that the proposed rule may be interpreted to require a partner, officer or manager to provide a representation stating that he or she has accepted the account in accordance with the member's policies and procedures. The proposed rule change simply clarifies that the purpose of the signature of the partner, officer or manager is to signify that the account has been accepted in accordance with the member's policies and procedures for acceptance of accounts. The proposed rule would not require a partner, officer or manager to provide any representations.

One commenter recommends that the requirement to maintain the names of any persons authorized to transact business on behalf of a customer that is an entity be eliminated.[42] The commenter argues that the requirement (which is currently in NASD Rule 3110(c)(1)(D)) has caused significant operational burden on members and may put them at regulatory risk. The commenter also states that some institutional customers use this provision to attempt to shift the burden of enforcing compliance with the customer's internal policies and controls from the customer to the member. FINRA is not proposing any changes to this provision. Moreover, FINRA believes that when a customer is an entity, it is important that the member maintain a record that identifies the person(s) authorized to transact business on behalf of that entity.

One commenter seeks clarification regarding the impact of pending SEC rulemaking proposals relating to discretionary accounts, including whether members would need to develop additional policies and procedures with respect to such accounts.[43] Members have always had an obligation to establish, maintain and enforce written procedures to supervise the types of business in which they engage that are reasonably designed to achieve compliance with applicable securities laws and regulations.[44] As noted above, the proposed rule change simply clarifies that nothing in the rule shall be construed as allowing members to maintain discretionary accounts or exercise discretion in such accounts except to the extent permitted under the Federal securities laws.

One commenter suggests that the requirement to maintain a record of the dated signature of each named, natural person authorized to exercise discretion in an account be amended so as to permit "electronic" signatures.[45] Given the nature of discretionary accounts and FINRA's concern for potential abuse, members are required to obtain a "manual" dated signature. FINRA has revised the proposed rule to reflect this requirement. However, members may choose to maintain and preserve such records on electronic storage media consistent with the requirements of SEA Rule 17a–4(f).

Two commenters believe that the requirement that members update the account information in compliance with the proposed rule whenever they update the account information in the course of their routine and customary business or as required by other applicable laws or rules is too burdensome.[46] Alternatively, they argue that the updating requirements in the proposed rule should be based on the account updating requirements under SEA Rule 17a–3. FINRA believes that to promote greater consistency and uniformity of account record information, it is necessary that members update the account information in compliance with the proposed rule whenever they update the information in the course of their routine and customary business or as required by other applicable laws or rules. In addition, FINRA does not believe that limiting the updating requirements in the proposed rule to the account updating requirements under SEA Rule 17a–3 would achieve this purpose.

One commenter argues that it may not be possible to obtain the required signatures, where retained in the proposed rule, when the account record information is updated years after the account has been opened.[47] FINRA disagrees. With respect to all existing customer accounts, members currently are required to maintain the signature of the member, partner, officer or manager who accepted the account and, for discretionary accounts, the signature of each person authorized to exercise discretion in the account.

Two commenters request that supplementary materials be used sparingly, or not at all, in the proposed books and records rules and that any supplementary material be incorporated into the main part of the proposed rule wherever possible.[48] The use of supplementary materials is intended to, among other things, enhance the utility of the Consolidated FINRA Rulebook. The supplementary materials provide clarifications, explanations, interpretations and greater depth. The proposed supplementary materials are placed at the end of the proposed rule for purposes of clarity and readability, but the materials are in fact part of the rule. Further, these commenters seek clarification regarding whether the explanation in the supplementary materials regarding the terms "maintain" and "preserve" would be applied to other FINRA Rules. As stated in the supplementary materials, the explanation regarding these terms is only for purposes of the proposed rule.

3. Records of Written Customer Complaints (Proposed FINRA Rule 4513)

One commenter suggests that the proposed rule be amended to further clarify that the requirement to keep and preserve complaints that relate to activities supervised from the OSJ is limited to a "customer complaint" as defined in the rule.[49] This commenter also recommends that the definition of "customer complaint" precede the other provisions in the proposed rule. Another commenter suggests that the proposed rule be amended to clarify that it applies only to "written customer complaints that relate to activities subject to regulation by FINRA" so that it excludes complaints related to outside business activities.[50] Additionally, one commenter suggests that use of the term "written customer complaints" in the proposed rule is not sufficiently clear and recommends that the definition of a "customer complaint" expressly include only a "written grievance."[51] FINRA, however, believes that the scope of the proposed rule and the definition of "customer complaint" are both appropriate and sufficiently clear. Moreover, as discussed above, the proposed rule change would clarify that the obligation to keep customer

[40] *See* Letter to Selwyn Notelovitz, Charles Schwab & Co., Inc., from Eric Moss, NASD, dated June 4, 2002 (*available at: http://www.finra.org/Industry/Regulation/Guidance/InterpretiveLetters/P002556*), and Letter to Jeffrey W. Kilduff, O'Melveny & Myers, LLP, from Nancy Libin, NASD, dated July 5, 2001 (*available at: http://www.finra.org/Industry/Regulation/Guidance/InterpretiveLetters/P005336*).

[41] SIFMA.

[42] SIFMA.

[43] Sanderlin.

[44] *See* NASD Rule 3010(b)(1).

[45] FSI.

[46] ING and FSI.

[47] ING.

[48] SIFMA and ING.

[49] ING.

[50] FSI.

[51] SIFMA.

complaint records in each OSJ applies only to complaints that relate to that office, including complaints that relate to activities supervised from that office.

With respect to the proposed four-year retention period for customer complaint records, one commenter recommends maintaining the current three-year retention period for customer complaint records.[52] The commenter does not believe that FINRA's four-year routine examination cycle for certain members is a sufficient or persuasive reason to increase the retention period to four years. The commenter also argues that a four-year retention period would be impractical and burdensome for members since the majority of retention periods under the securities laws are three or six years, and members have already established policies and procedures relating to these retention periods. Two commenters favor a three or six year retention period for customer complaint records.[53] One commenter supports the proposed four-year retention period for customer complaint records, but suggests that the retention period be increased to six years consistent with the eligibility provisions for customer disputes under FINRA Rule 12206 (Time Limits) and the six-year retention period for account record information.[54] As discussed above, the proposed four-year retention period is tailored to address a specific regulatory need. FINRA does not believe that it is necessary to impose a six-year retention period to achieve this goal.

One commenter requests that the definition of "customer complaint" be consistent across all FINRA Rules, particularly when considering NASD Rule 3070 (Reporting Requirements) in the context of the Consolidated FINRA Rulebook.[55] FINRA disagrees with this comment. NASD Rule 3070 serves a different regulatory purpose than FINRA Rule 4513, which is why the definitions under these rules are different.

4. Authorization Records for Negotiable Instruments Drawn From a Customer's Account (Proposed FINRA Rule 4514)

One commenter believes that the proposed rule should provide members the flexibility to develop reasonable policies and procedures.[56] For example, the commenter suggests that members could establish a threshold where check requests over a certain dollar amount would require written authorization, whereas requests for checks in smaller amounts would require only verbal authorization with a follow-up telephone call or e-mail. In addition, the commenter does not believe that members should be required to preserve the written authorization for a period of three years following the date it expires as it is difficult for them to track an end date. Rather, the commenter argues that the written authorization should be preserved for a period of three years from the date of the request.

FINRA believes that the written authorization requirement in FINRA Rule 4514 (current NASD Rule 3110(g)) is an effective means of deterring the fraudulent misuse of negotiable instruments. With respect to the retention period, FINRA believes that it is imperative that the required written authorization be preserved for a period of three years following the date it expires since a customer authorization may remain in effect beyond three years from the date of the request.

6. Approval and Documentation of Changes in Account Name or Designation (Proposed FINRA Rule 4515)

One commenter asserts that the requirement in FINRA Rule 4515 to document in writing prior to execution of the trade the essential facts relied upon by the principal approving any changes in account names or designations could have a potentially adverse impact on investors, including institutional accounts, by affecting the timing and price of orders that were executed or booked erroneously.[57] The commenter believes that to prove compliance with the rule, members would have to implement a time-stamp or similar system at considerable expense. The commenter recommends that the proposed rule be revised to permit approval and documentation after execution of the trade for all accounts, but, at a minimum, for institutional accounts. The commenter also seeks additional clarification regarding whether "electronic" approval by a principal would comply with the proposed rule.

As FINRA (then known as NASD) stated in its response to comments to proposed NASD Rule 3110(j), account names and designations are material information that must be protected from possible fraudulent activity. Requiring a principal to authorize the change and be aware of the surrounding facts for the change is a relatively low-cost method of protecting this information. Moreover, FINRA believes that where the account name or designation is changed prior to execution of the trade, the required approval and documentation must take place prior to execution. FINRA has revised the proposed rule to further clarify this requirement.

With respect to the permissibility of "electronic" approval, FINRA believes that the standards set forth in the staff's guidance regarding the permissibility of "electronic" signatures under NASD Rule 3110(c)(1)(C)[58] are equally applicable to the approval and documentation requirements of FINRA Rule 4515.

7. Miscellaneous Comments

One commenter suggests that members be required to tape record outgoing telephone calls by registered persons to customers regarding their accounts and that members be required to maintain a log of the full name of the registered person who made the call.[59] A second commenter recommends that the proposed rules include a provision requiring members to provide current and former customers, upon the customer's written request, free duplicate records within a reasonable time.[60] The changes recommended by these commenters are outside the scope of the proposed changes to the books and records rules. Therefore, FINRA is not responding to their recommendations specifically herein.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

[52] SIFMA.

[53] ING and FSI.

[54] PIABA.

[55] SIFMA.

[56] SIFMA.

[57] SIFMA.

[58] *See supra* note 37.

[59] Hamlin.

[60] PIABA.

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–FINRA–2010–052 on the subject line.

Paper Comments

• Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2010–052. 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 Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2010–052 and should be submitted on or before November 22, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[61]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–27495 Filed 10–29–10; 8:45 am]

BILLING CODE 8011–01–P

[61] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12362 and #12363]

Nebraska Disaster #NE–00040

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 Nebraska (FEMA–1945–DR), dated 10/21/2010.

Incident: Severe Storms, Flooding, Tornado, and Straight-line Winds.

Incident Period: 09/13/2010 through 09/14/2010.

DATES: *Effective Date:* 10/21/2010.

Physical Loan Application Deadline Date: 12/20/2010.

Economic Injury (EIDL) Loan Application Deadline Date: 07/21/2011.

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 10/21/2010, 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: Cass, Johnson, Nemaha, Otoe, Pawnee, Richardson, Saunders.

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 12362B and for economic injury is 12363B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2010–27535 Filed 10–29–10; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12360 and #12361]

Wisconsin Disaster #WI–00028

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 Wisconsin (FEMA–1944–DR), dated 10/21/2010.

Incident: Severe Storms and Flooding.

Incident Period: 09/22/2010 through 10/09/2010.

DATES: *Effective Date:* 10/21/2010.

Physical Loan Application Deadline Date: 12/20/2010.

Economic Injury (EIDL) Loan Application Deadline Date: 07/21/2011.

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 10/21/2010, 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: Buffalo, Clark, Jackson, Juneau, Marathon, Portage, Taylor, Trempealeau, Wood.

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 12360B and for economic injury is 12361B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2010–27537 Filed 10–29–10; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

[DOT Docket No. DOT–OST–2010–0074]

The Future of Aviation Advisory Committee (FAAC) Subcommittee on Competitiveness and Viability; Notice of meeting

AGENCY: U.S. Department of Transportation, Office of the Secretary of Transportation.

ACTION: Notice of meeting.

SUMMARY: The Department of Transportation (DOT), Office of the Secretary of Transportation, announces a meeting of the FAAC Subcommittee on Competitiveness and Viability, which will be held in Washington, DC on November 18, 2010. This notice provides details on the date, time, and location of the meeting, which will be open to the public. The purpose of the FAAC is to provide advice and recommendations to the Secretary of Transportation to ensure the competitiveness of the U.S. aviation industry and its capability to manage effectively the evolving transportation needs, challenges, and opportunities of the global economy. The Subcommittee on Competitiveness and Viability is charged with examining changes in the operating and competitive structures of the U.S. airline industry; considering innovative strategies to open up new international markets and expand commercial opportunities in existing markets; investigating strategies to encourage the development of cost-effective, cutting-edge technologies and equipment that are critical for a competitive industry coping with increasing economic and environmental challenges; and examining the adequacy of current Federal programs to address the availability of intermodal transportation options and alternatives, small and rural community access to the aviation transportation system, the role of State and local governments in contributing to such access, and how the changing competitive structure of the U.S. airline industry is likely to transform travel habits of small and rural communities.

DATES: The meeting will be held on November 18, 2010 from 10 a.m. to 2:30 p.m. Eastern Standard Time.

ADDRESSES: The meeting will be held on the 12th floor of the Covington and Burling LLC Conference Center, 1201 Pennsylvania Avenue, NW., Washington, DC 20004.

Public Access: The meeting is open to the public. (*See* below for registration instructions.)

Public Comments: Persons wishing to offer written comments and suggestions concerning the activities of the advisory committee or competition subcommittee should file comments in the Public Docket (Docket Number DOT–OST–2010–0074 at *http://www.regulations.gov*) or alternatively through e-mail at *FAAC@dot.gov.* If comments and suggestions are intended specifically for the Competition and Viability Subcommittee, the term "Competition" should be listed in the subject line of the message. In order to ensure that such comments can be considered by the subcommittee before its November 18, 2010 meeting, public comments must be filed by 5 p.m. Eastern Standard Time on Monday, November 8, 2010.

SUPPLEMENTARY INFORMATION:

Agenda

Under section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), we are giving notice of a meeting of the Subcommittee on Competitiveness and Viability of the Future of Aviation Advisory Committee taking place on November 18, 2010 at 10 a.m., at 1201 Pennsylvania Avenue, NW., Washington, DC 20004. The agenda includes further consideration and finalization of recommendations for referral to the full FAAC concerning global competitiveness, the aviation tax burden, jet fuel price volatility, and air passenger and community access challenges.

Registration

The meeting room can accommodate up to 25 members of the public. Persons desiring to attend must pre-register by November 8, 2010 through e-mail to *FAAC@dot.gov*. The term "Registration: Competition" should be listed in the subject line of the message and admission will be limited to the first 25 persons to pre-register and receive a confirmation of their pre-registration. No arrangements are being made for audio or video transmission or for oral statements or questions from the public at the meeting. Minutes of the meeting will be taken and will be made available to the public.

Request for Special Accommodation

The DOT is committed to providing equal access to this meeting for all participants. If you need alternative formats or services because of a disability, please send a request to *FAAC@dot.gov* with the term "Special Accommodations" listed in the subject line of the message by close of business on November 8, 2010.

FOR FURTHER INFORMATION CONTACT: Todd Homan, Director, Office of Aviation Analysis, U.S. Department of Transportation; Room 86W–312, 1200 New Jersey Avenue, SE., Washington, DC 20590; (202) 366–5903.

Issued in Washington, DC, on October 27, 2010.

Pamela Hamilton-Powell,

Designated Federal Official, Future of Aviation Advisory Committee.

[FR Doc. 2010–27484 Filed 10–29–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8955–SSA

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8955–SSA, Annual Registration Statement Identifying Separated Participants With Deferred Vested Benefits.

DATES: Written comments should be received on or before January 3, 2011 to be assured of consideration.

ADDRESSES: Direct all written comments to Gerald Shields, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Ralph Terry, (202)

622–8144, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *Ralph.M.Terry@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Annual Registration Statement Identifying Separated Participants With Deferred Vested Benefits.

OMB Number: 1545–2187.

Form Number: Form 8955–SSA.

Abstract: The information provided by plan sponsors on Form 8955–SSA will be transmitted to the Social Security Administration (SSA) who will provide it to separated participants when those participants file for social security benefits.

Current Actions: There is no change in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 200,000.

Estimated Time per Respondent: 0 hours 49 minutes.

Estimated Total Annual Burden Hours: 166,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 22, 2010.

Gerald Shields,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–27471 Filed 10–29–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2001–42

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2001–42, Modified Endowment Contract Correction Program Extension.

DATES: Written comments should be received on or before January 3, 2011 to be assured of consideration.

ADDRESSES: Direct all written comments to Gerald Shields, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Allan Hopkins, (202) 622–6665, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224 or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Modified Endowment Contract Correction Program Extension.

OMB Number: 1545–1752.

Revenue Procedure Number: Revenue Procedure 2001–42.

Abstract: Revenue Procedure 2001–42 allows issuers of life insurance contracts whose contracts have failed to meet the tests provided in section 7702A of the Internal Revenue Code to cure these contracts that have inadvertently become modified endowment contracts.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 10.

Estimated Average Time per Respondent: 100 hours.

Estimated Total Annual Reporting Hours: 1,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 25, 2010.

Allan Hopkins,

IRS Tax Analyst.

[FR Doc. 2010–27472 Filed 10–29–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8886–T

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent

burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8886–T, Disclosure by Tax-Exempt Entity Regarding Prohibited Tax Shelter Transaction.

DATES: Written comments should be received on or before January 3, 2011 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, (202) 622–6665, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Disclosure by Tax-Exempt Entity Regarding Prohibited Tax Shelter Transaction.

OMB Number: 1545–2078.

Form Number: Form 8886–T.

Abstract: Certain tax-exempt entities are required to file Form 8886–T to disclose information for each prohibited tax shelter transaction to which the entity was a party.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations, State, Local or Tribal Government.

Estimated Number of Respondents: 6,500.

Estimated Time per Respondent: 8 hours, 36 minutes.

Estimated Total Annual Burden Hours: 55,900.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 25, 2010.

Allan Hopkins,

IRS Tax Analyst.

[FR Doc. 2010–27475 Filed 10–29–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2007–XX (RP–155430–05)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2007–XX (RP–155430–05), Section 6707/6707A Accelerated Appeals Procedure.

DATES: Written comments should be received on or before January 3, 2011 to be assured of consideration.

ADDRESSES: Direct all written comments to Gerald Shields, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of revenue procedure should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Section 6707–6707A Accelerated Appeals Procedure.

OMB Number: 1545–2094.

Revenue Procedure Number: Revenue Procedure 2007–XX (RP–155430–05).

Abstract: The collection of information this revenue procedure requires is necessary to administer the provisions of section 6707(c) and 6707A(d) and to conduct Appeals procedures for those provisions.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 860.

Estimated Average Time per Respondent: 30 min.

Estimated Total Annual Burden Hours: 430.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital

or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 25, 2010.

Allan Hopkins,

IRS Tax Analyst.

[FR Doc. 2010–27476 Filed 10–29–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8938

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8938, Statement of Foreign Financial Assets.

DATES: Written comments should be received on or before January 3, 2011 to be assured of consideration.

ADDRESSES: Direct all written comments to Gerald Shields, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Ralph Terry, (202) 622–8144, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet at *Ralph.M.Terry@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Statement of Foreign Financial Assets.

OMB Number: 1545–2195.

Form Number: Form 8938.

Abstract: The collection of information in new Form 8938 will be the means by which taxpayers will comply with self-reporting obligations imposed under section 6038D with respect to foreign financial assets. The IRS will use the information to determine whether to audit this taxpayer or transaction, including whether to impose penalties. The information is also required to begin the running of the statute of limitations under section 6501.

Current Actions: There is no change in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 350,000.

Estimated Time per Respondent: 1 hour, 05 minutes.

Estimated Total Annual Burden Hours: 378,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 25, 2010.

Gerald Shields,

IRS Supervisory Tax Analyst.

[FR Doc. 2010–27477 Filed 10–29–10; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Designation of Two Individuals Pursuant to Executive Order 13224; Correction

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice; correction.

SUMMARY: The Department of the Treasury published a document in the **Federal Register** of October 25, 2010, concerning the designation of two individuals pursuant to Executive Order 13224 of September 23, 2001, "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism." The document contained incorrect dates.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*http://www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Correction

In the **Federal Register** of October 25, 2010, in FR Doc. 2010–26809, on page 65556, in the second column, correct the **DATES** caption to read:

DATES: The designation by the Director of OFAC of the two individuals identified in this notice, pursuant to Executive Order 13224, is effective on October 26, 2010.

On page 65556, in the third column, correct the second paragraph to read:

On October 26, 2010 the Director of OFAC, in consultation with the Departments of State, Homeland Security, Justice and other relevant agencies, designated, pursuant to one or more of the criteria set forth in subsections 1(b), 1(c) or 1(d) of the Order, two individuals whose property and interests in property are blocked pursuant to Executive Order 13224.

On page 65557, in the first column, correct the "Dated" caption to read:

Dated: October 26, 2010.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2010–27511 Filed 10–29–10; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Unblocking of Two Specially Designated Nationals Pursuant to Executive Order 13224

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control ("OFAC") is removing the names of two individuals from the list of Specially Designated Nationals and Blocked Persons whose property and interests in property have been blocked pursuant to Executive Order 13224 of September 23, 2001, *Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism.*

DATES: The removal of the two individuals from the list of Specially Designated Nationals and Blocked Persons whose property and interests in property have been blocked pursuant to Executive Order 13224 is effective as of Tuesday, October 19, 2010.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2490.

SUPPLENTARY IMFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*http://www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Background

On September 23, 2001, the President issued Executive Order 13224 (the "Order") pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701–1706, and the United Nations Participation Act of 1945, 22 U.S.C. 287c, imposing economic sanctions on persons who commit, threaten to commit, or support acts of terrorism. The President identified in the Annex to the Order various individuals and entities as subject to the economic sanctions. The Order authorizes the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and (pursuant to Executive Order 13284) the Secretary of the Department of Homeland Security, to designate additional persons or entities determined to meet certain criteria set forth in Executive Order 13224.

On September 5, 2003 and on November 10, 2003, two additional individuals were designated by the Secretary of the Treasury. The Department of the Treasury's Office of Foreign Assets Control has determined that these two individuals no longer meet the criteria for designation under the Order and are appropriate for removal from the list of Specially Designated Nationals and Blocked Persons.

The following designations are removed from the list of Specially Designated Nationals and Blocked Persons:

AL SAADI, Faraj Farj Hassan (a.k.a. AL SA'IDI, Faraj Faraj Hussein; a.k.a. IMAD MOUHAMED ABDELLAH; a.k.a. MOHAMDED ABDULLA IMAD; a.k.a. MUHAMAD ABDULLAH IMAD; a.k.a. "HAMZA AL LIBI"), Viale Bligny 42, Milan, Italy; DOB 28 Nov 1980; POB Libya; alt. POB Palestine; alt. POB Jordan; alt. POB Gaza; nationality Libya; alt. nationality Jordan; alt. nationality Palestinian; arrested United Kingdom (individual) [SDGT]

TOP, Noordin Mohamed (a.k.a. MAT TOP, Noordin; a.k.a. THOB, Noordin Mohammad; a.k.a. TOP, Noor Din bin Mohamed; a.k.a. TOP, Nordin Mohd); DOB 11 Aug 1968; POB Malaysia; nationality Malaysia (individual) [SDGT]

The removal of these two individuals' names from the list of Specially Designated Nationals and Blocked Persons is effective as of Tuesday, October 19, 2010. All property and interests in property of the two individuals that are in or hereafter come within the United States or the possession or control of United States persons are now unblocked.

Dated: October 26, 2010.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2010–27512 Filed 10–29–10; 8:45 am]

BILLING CODE 4810–AL–P

Federal Register

Monday,
November 1, 2010

Part II

Department of Education

34 CFR Parts 600, 668, 682, et al.
Foreign Institutions—Federal Student Aid Programs; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 600, 668, 682 and 685

[Docket ID ED—2010—OPE—0009]

RIN 1840–AD03

Foreign Institutions—Federal Student Aid Programs

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations for Institutional Eligibility Under the Higher Education Act of 1965, the Student Assistance General Provisions, the Federal Family Education Loan (FFEL) Program, and the William D. Ford Federal Direct Loan (Direct Loan) Program to implement provisions related to the eligibility of foreign institutions for participation in the Federal student aid programs that were added to the Higher Education Act of 1965, as amended (HEA), by the Higher Education Opportunity Act of 2008 (Pub. L. 110–315) (HEOA), as well as other provisions related to the eligibility of foreign institutions.

DATES: *Effective Date:* These regulations are effective July 1, 2011, except as follows: The amendments to § 600.20, § 600.21, and § 600.55 become effective July 20, 2011; § 600.56(a)(4) becomes effective July 1, 2015. For § 668.23, these final regulations are applicable for compliance audits and audited financial statements due on or after July 1, 2011. However, affected parties do not have to comply with the information collection requirements in §§ 600.20, 600.21, 600.54, 600.55, 600.56, 600.57, 668.13, 668.23, 668.171 until the Department of Education publishes in the **Federal Register** the control number assigned by the Office of Management and Budget (OMB) to these information collection requirements. Publication of the control number notifies the public that OMB has approved these information collection requirements under the Paperwork Reduction Act of 1995.

Implementation date: The Secretary has determined, in accordance with section 482(c)(2)(A) of the HEA, that institutions may, at their discretion, choose to implement the new and amended provisions of these regulations on or after November 1, 2010, except § 600.55(f)(1)(i)(B), with respect to a foreign graduate medical school having a clinical training program that was not approved by a State until after January 1, 1992. For further information, see the section entitled Implementation Date of These Regulations in the **SUPPLEMENTARY INFORMATION** section of this preamble.

FOR FURTHER INFORMATION CONTACT: For general information or information related to nonprofit status for foreign institutions, public foreign institutions and financial responsibility, eligibility of training programs at foreign institutions, and foreign graduate medical schools, Wendy Macias. Telephone: (202) 502–7526 or via the Internet at: *Wendy.Macias@ed.gov*.

For information related to audited financial statements and compliance audits, Anthony Gargano. Telephone: (202) 502–7519, or via the Internet at: *Anthony.Gargano@ed.gov*.

For information related to the definition of a foreign institution, Gail McLarnon. Telephone: (202) 219–7048, or via the Internet at: *Gail.McLarnon@ed.gov*.

For information related to single legal authorization for groups of foreign institutions, foreign veterinary schools, foreign nursing schools, and certification of foreign institutions, Brian Smith. Telephone: (202) 502–7551, or via the Internet at *Brian.Smith@ed.gov*.

If you use a telecommunications device for the deaf, call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or computer diskette) on request to one of the contact persons listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION: On July 20, 2010, the Secretary published a notice of proposed rulemaking (NPRM) for issues related to foreign institutions in the **Federal Register** (75 FR 42190).

In the preamble to the NPRM, the Secretary discussed on pages 42191 through 42213 the major changes proposed in that document, including the following:

- Amending § 668.23 to establish submission requirements for compliance audits and audited financial statements specific to foreign institutions;
- Amending §§ 600.51, 600.52, 600.54, 682.200, and 682.611 to clarify and revise the definition of a foreign institution;
- Amending § 600.2 to establish a definition of nonprofit status specific to foreign institutions;
- Amending § 668.171 to establish a financial responsibility standard for foreign public institutions that is comparable to the financial responsibility standard for domestic public institutions;
- Amending § 600.54 to permit a single legal authorization for groups of foreign institutions under the purview of a single government entity;
- Amending § 600.54 to establish eligibility of training programs at foreign institutions;
- Amending §§ 600.52 and 668.13 to establish institutional eligibility criteria specific to foreign graduate medical schools;
- Amending § 600.56 to establish institutional eligibility criteria specific to foreign veterinary schools;
- Amending § 600.57 to establish institutional eligibility criteria specific to foreign nursing schools; and
- Amending §§ 600.52 and 668.13 to revise the maximum certification period for some foreign institutions.

Implementation Date of These Regulations

Section 482(c) of the HEA requires that regulations affecting programs under Title IV of the HEA be published in final form by November 1 prior to the start of the award year (July 1) to which they apply. However, that section also permits the Secretary to designate a regulation as one that an entity subject to the regulation may choose to implement earlier and the conditions under which the entity may implement the provisions early.

Consistent with the intent of this regulatory effort to strengthen and improve the administration of the Title IV, HEA programs, the Secretary is using the authority granted him under section 482(c) of the HEA to designate the regulations included in this document as permissible for implementation before July 1, 2011 at the discretion of each institution, except that foreign graduate medical schools having training programs continuously approved by a State or States beginning only after January 1, 1992, may not apply § 600.56(f)(1)(i)(B) until July 20, 2011, as a result of a statutory effective date provision in HEA Section 102(a)(2)(B)(iii)(IV)(bb) that does not leave the Secretary discretion under HEA section 482(c) to designate provisions conferring eligibility on that group of foreign medical schools for implementation before July 20, 2011.

Analysis of Comments and Changes

The regulations in this document were developed through the use of negotiated rulemaking. Under section 492 of the HEA, before publishing most proposed regulations to implement programs under Title IV of the HEA, the Secretary must obtain public involvement in the development of the proposed regulations. In such cases,

after obtaining advice and recommendations, the Secretary must conduct a negotiated rulemaking process to develop the proposed regulations. All proposed regulations must conform to agreements resulting from the negotiated rulemaking process unless the Secretary reopens that process or explains any departure from the agreements to the negotiated rulemaking participants.

These regulations were published in proposed form on July 20, 2010, in conformance with the consensus of the negotiated rulemaking committee. Under the committee's protocols, consensus means that no member of the committee dissented from the agreed-upon language. The Secretary invited comments on the proposed regulations by August 19, 2010, and 60 parties submitted comments. The Department received many comments from entities that were represented by individuals serving as non-Federal negotiators in the negotiated rulemaking sessions. The negotiated rulemaking protocols, unanimously agreed to by the negotiating committee, provided that if the committee reached a final consensus on all issues, the Department would use the consensus-based language in its proposed regulations, and committee members and the organizations whom they represented would refrain from commenting negatively on the consensus-based regulatory language. Final consensus was reached, and the Department used the consensus-based language in its NPRM; as a result, the obligation of the non-Federal negotiators and the entities they represented to refrain from commenting negatively applies. As a result, the Department will not discuss in this preamble negative comments received from entities represented on the committee. The Department notes that many such comments are duplicative of comments received from individuals or entities not bound by the protocols, and that the comments of those individuals or entities are addressed here. In addition, the Department reviewed and considered all comments received, regardless of their source. An analysis of the comments and the changes in the regulations since publication of the NPRM follows.

We group major issues according to subject, with appropriate sections of the regulations referenced in parentheses. We discuss other substantive issues under the sections of the regulations to which they pertain. Generally, we do not address minor, non-substantive changes, recommended changes that the law does not authorize the Secretary to make, or comments pertaining to operational processes. We also do not address comments pertaining to issues that were not within the scope of the NPRM.

Until amended effective July 1, 2010, section 102(a)(1)(C) of the HEA provided that foreign institutions may participate in the Title IV, HEA programs "only for purposes of part B of Title IV." Part B of Title IV contains the statutory requirements for the FFEL Program. With the enactment of the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152) (HCERA) on March 30, 2010, as of July 1, 2010, there are no new originations of FFEL Program loans. All new originations with a first disbursement on or after July 1, 2010, are made via the Direct Loan Program, including loans for students attending foreign institutions. At the time the proposed regulations were negotiated, it was unclear whether the proposed legislation that would end the FFEL Program would be enacted. As a result, with a few exceptions, the proposed regulations referenced participation in the FFEL Program. These final regulations correct those references in the proposed regulations to indicate participation in the Direct Loan Program, rather than the FFEL Program. In addition, these final regulations make technical corrections to the Direct Loan Program regulations in response to statutory directives addressed specifically to foreign institutions. These corrections reflect changes made by the Higher Education Reconciliation Act of 2005 (Pub. L. 109–17) which (1) eliminated the option for foreign institutions to make single disbursements of Title IV, HEA program loan funds; and (2) eliminated the exemption for foreign institutions from the "30-day delayed disbursement requirement" which prohibits institutions from disbursing the first installment of a Direct Subsidized or Direct Unsubsidized Loan until a student has completed 30 calendar days of the student's program of study, if the student is in the first year of an undergraduate program and is a first-time FFEL Stafford loan, Direct Subsidized or Direct Unsubsidized borrower. These changes have been made to § 685.301 and § 685.303, respectively.

Substantive and technical changes to the Title IV, HEA program regulations resulting from the HCERA will be addressed through future rulemaking efforts. For more information about the transition of foreign institutions to the Direct Loan Program, contact the Office of Federal Student Aid's Foreign Schools Team at *fsa.foreign.schools@ed.gov* or (202) 377–3168.

Part 600 Institutional Eligibility Under the Higher Education Act of 1965, as Amended

Definition of a Foreign Institution (§§ 600.51, 600.52, 600.54, 682.200 and 682.611)

Comments: Several commenters had concerns with paragraph (1)(ii)(B) of the definition of *foreign institution* in § 600.52, which states that a foreign institution cannot have written arrangements, within the meaning of § 668.5, with institutions or organizations located in the United States under which students enrolling at the foreign institution would take courses from institutions located in the United States. One commenter asked that we add language to paragraph (1)(ii)(B) specifying that this paragraph applies only to U.S. students receiving Title IV, HEA program funds. Another commenter asked the Department to explain what "written arrangements, within the meaning of § 668.5" means. One commenter asked for clarification as to whether study abroad and student exchange agreements would be permitted under paragraph (1)(ii)(B). The commenter also asked if paragraph (1)(ii)(B) would prohibit foreign institutions from stair-casing students under articulation agreements from partial programs in the United States into full degree programs with credit recognition in foreign institutions. Stair-casing is a process that allows a student to earn a degree by completing educational programs and earning credentials with each completed program of study acceptable for full credit toward the next program and each credential earned subsumed into the subsequent credential upon successful completion of each program.

Discussion: We do not agree that it is necessary to add language specifying that paragraph (1)(ii)(B) of the definition of *foreign institution* applies only to U.S. students receiving Title IV, HEA program funds is necessary. Lead-in paragraph (1) of the definition, which applies to all of the subsequent paragraphs, already specifies that the definition applies to foreign institutions "for the purposes of students who receive Title IV aid."

For clarification regarding "written arrangements, within the meaning of § 668.5," a "written arrangement" under § 668.5(a) means a consortium or contractual agreement entered into by two or more institutions to allow a student to receive Title IV, HEA program funds even though part of the

student's program is being provided by an institution other than the one at which the student is enrolled. Section 668.5(a) provides that, if an eligible institution enters into a written arrangement with another eligible institution or with a consortium of eligible institutions under which the other eligible institution or consortium provides all or part of the educational program for the former institution, the Secretary considers that educational program to be an eligible program if the program otherwise satisfies the requirements of program eligibility found in § 668.8.

However, these final regulations modify § 668.5(a) for foreign institutions in that, under paragraph (1)(ii)(B) of the definition of *foreign institution* in § 600.52, a foreign institution cannot have written arrangements, within the meaning of § 668.5, with institutions or organizations located in the United States, for students who receive Title IV, HEA program funds who enroll at the foreign institution to take courses from institutions located in the United States. We note that § 668.5(a) may undergo further revisions applicable to all institutions. In an NPRM published on June 18, 2010 in the **Federal Register** (75 FR 34806), the Department proposed to amend § 668.5(a) to specify that if a written arrangement is between two or more eligible institutions that are owned or controlled by the same individual, partnership, or corporation, the institution that grants the degree or certificate must provide more than 50 percent of the educational program.

Section 668.5(c) addresses written arrangements between an *eligible* institution (an institution that meets the requirements of participation in the Title IV, HEA programs in 34 CFR 600) and an *ineligible* institution or organization (an institution or organization that does not participate in the Title IV, HEA programs), under which the ineligible institution or organization provides part of the educational program of students enrolled at the eligible institution. Although under § 668.5(c) the Secretary considers such an educational program to be an eligible program in certain circumstances, under these final regulations, § 600.54(c)(1) provides that an eligible foreign institution may not enter into a written arrangement under which an ineligible institution or organization provides any portion of one or more of the eligible foreign institution's programs. Thus, foreign institutions are not permitted to enter into the written arrangements described in § 668.5(c).

Further, with respect to "written arrangements under 668.5," written arrangements do not include affiliation agreements for the provision of clinical training for foreign medical, veterinary, and nursing schools; these affiliation agreements are addressed separately in § 600.55(h)(1), § 600.56(b), § 600.57(a)(2). In addition, and pertinent to all written arrangements under § 668.5, in the NPRM published on June 18, 2010 in the **Federal Register** (75 FR 34806), the Department proposed to add a new paragraph § 668.5(e), which would require an institution that enters into a written arrangement under § 668.5 to provide the consumer information described in § 668.43(a)(12) to enrolled and prospective students.

In response to the request for clarification as to whether study abroad and student exchange agreements would be permitted under paragraph (1)(ii)(B) of the definition of *foreign institution,* these agreements are discussed generally in section 668.5(b), which provides that under a study abroad program, if an eligible institution enters into a written arrangement with a "foreign institution" or an organization acting on behalf of a foreign institution under which a foreign institution provides part of the educational program of students enrolled in the eligible institution, the Secretary considers that educational program to be an eligible program if it meets the limitations in § 668.5(c). The Department notes that the use of "foreign institution" in § 668.5(b) pre-dates these regulations and, in contrast to the meaning of that term as defined in these regulations, refers more generally to an agreement between an eligible institution and an institution or organization in another country. The Department is therefore making a technical change to § 668.5(b) to replace the phrase "foreign institution" with language to reflect the more general meaning that paragraph has always had.

With that clarification made, under paragraph (1)(ii)(B) of the definition of "foreign institution," for the purposes of students who receive Title IV, HEA program aid, a foreign institution may enter into a consortium agreement for study abroad and student exchange purposes, but only with another eligible institution located and offering eligible programs outside the United States. Moreover, the study abroad and student exchange provisions of § 668.5 do not apply to foreign medical, veterinary, and nursing schools, because such schools are generally prohibited under the regulations from offering portions of their programs in third countries, and from offering the non-clinical portions of their program in the United States.

In response to the comment about whether paragraph (1)(ii)(B) of the definition of *foreign institution* would prohibit foreign institutions from stair-casing students under articulation agreements, because paragraph (1)(ii)(B) prohibits a foreign institution from having written arrangements with institutions or organizations located in the United States for students enrolling at the foreign institution to take courses from institutions located in the United States, a foreign institution would not be permitted to stair-case students under articulation agreements that required students taking the beginning of their programs in the United States to complete their programs through credit recognition in foreign institutions. However, a foreign institution would be permitted to accept transfer credits earned by individual students in eligible programs offered by eligible U.S. institutions, and generally to stair-case students under articulation agreements offered by an eligible institution outside the United States into full degree programs with credit recognition in the foreign institution, as long as both eligible foreign institutions each provided all Title IV, HEA program recipients with an eligible program leading to a recognized credential. As stated earlier in this discussion, § 600.54(c)(1) would prohibit an *ineligible institution* from providing any portion of one or more of the eligible foreign institution's programs, and this prohibition would extend to articulation agreements.

Changes: We have made a technical amendment to § 668.5(b), to remove the reference to "foreign institution" and replace it with "institution in another country."

Comments: One commenter asked why the Department added paragraph (1)(ii)(C) to the definition of *foreign institution* in § 600.52. Under paragraph (1)(ii)(C), a foreign institution cannot permit students who receive Title IV, HEA program funds to enroll in any course offered by the foreign institution in the United States, including research, work, internship, externship, or special studies with the United States, except that independent research done by an individual student in the United States for not more than one academic year is permitted, if it is conducted during the dissertation phase of a doctoral program under the guidance of faculty, and the research can only be performed in a facility in the United States.

Discussion: The general intent of paragraph (1)(ii)(C) in the definition of *foreign institution* is to address abuses

that the Department has seen whereby a U.S. institution sets up an offshore campus to claim foreign institution status and thus avoid domestic requirements even though the institution is, for all intents and purposes, a domestic institution. In addition, the Department does not want a foreign institution to send its U.S. students to a U.S. location of a foreign institution, because the Department wants U.S. students attending a U.S. institution to be eligible for the full range of Title IV, HEA program funds, rather than limited to Direct Loan Program funds, as, by statute, students attending foreign institutions are. The Department was persuaded, however, at the request of several non-Federal negotiators, to carve out a narrow exception for independent research done by an individual student in the United States for not more than one academic year, if it is conducted during the dissertation phase of a doctoral program under the guidance of faculty, and the research can only be performed in a facility in the United States.

Changes: None.

Comments: One commenter requested clarification of paragraphs (1)(v)(A) and (B) of the definition of *foreign institution* in proposed § 600.52, which, for the purposes of students who receive Title IV, HEA program funds, requires a foreign institution that offers any program designed to prepare a student for employment in a recognized occupation, with or without licensure, to provide a credential or degree that satisfies both the educational requirements, including requirements for licensure, for entry into that occupation in the country in which the institution is located and the United States. The commenter noted that, unless there is a mutual recognition agreement in place among the relevant professional authorities, meeting the requirements for professional licensure in the United States is not guaranteed by the successful completion of many otherwise eligible programs offered by foreign institutions. The commenter requested clarification as to what types of foreign institutions and what types of programs would be covered by both paragraphs (1)(v)(A) and (B) of the definition of *foreign institution,* and if there were any foreign institutions that could offer programs that satisfied either paragraph (A) or (B) and still meet the definition's requirements.

Discussion: After further consideration and in light of the comment received, we believe that our original concern, that students attending a foreign institution would not be able to enter a recognized occupation without further study, is addressed in other areas of the regulations, and we have therefore eliminated paragraphs (1)(v)(A) and (B) of the definition of *foreign institution* in § 600.52 of these final regulations. In particular, the Department's concerns are addressed in paragraph (1)(iv) of the definition of *foreign institution,* which requires a foreign institution to award degrees, certificates, or other recognized educational credentials in accordance with § 600.54(e) that are officially recognized by the country in which the institution is located. Other applicable provisions of the Student Assistance General Provisions (34 CFR part 668) which address our concerns include, but are not limited to, subpart F, which prohibits any substantial misrepresentation made by an institution regarding the nature of its educational program, its financial charges or the employability of its graduates.

Changes: We have removed paragraphs (1)(v)(A) and (B) of the definition of *foreign institution* in § 600.52.

Comment: None.

Discussion: Section 600.51(c)(1), as proposed in the NPRM, specified that foreign institutions must comply with all of the requirements that apply to eligible and participating domestic institutions unless provisions regarding foreign institutions in the HEA or the Department's regulations were inconsistent. In addition, proposed § 600.52(c)(2) provided that a foreign institution would not be required to comply with Title IV, HEA program requirements that the Secretary, through a notice in the **Federal Register**, identifies as inapplicable to foreign institutions.

To more clearly set forth existing law specifically regarding foreign institutions' regulatory responsibilities with regard to their participation in the Title IV, HEA programs, we are making several technical changes. We are consolidating proposed paragraphs § 600.51(c)(1) and (2) to state that foreign institutions must comply with all requirements for eligible and participating institutions except where made inapplicable by the HEA, or when the Secretary, through regulations or a notice in the **Federal Register**, indentifies specific provisions as inapplicable to foreign institutions. In addition, because many requirements pertaining to institutions that are participating, or seeking to participate, in the Title IV, HEA programs are framed as requirements applicable to public and non-profit "institutions of higher education," as defined in § 600.4, or to for-profit "proprietary institutions of higher education," as defined in § 600.5, we are adding new paragraph § 600.51(c)(2), to make clear that, to be considered an "institution of higher education" in order to be eligible to participate in the Title IV, HEA programs, public or nonprofit foreign institutions must meet both the applicable requirements of § 600.4 and the applicable requirements of subpart E, and that, to be considered a "proprietary institution" in order to be eligible to participate in the Title IV, HEA programs, a for-profit foreign institution must meet both the applicable requirements of § 600.5 and the applicable requirements of subpart E. These changes reflect the Department's past and current interpretation of the law.

In addition, we are revising § 600.54(a) to specify which requirements in § 600.4 and § 600.5 foreign institutions must meet and which they need not. The provisions of § 600.4 and § 600.5 that are not applicable to public or private nonprofit foreign institutions, and for-profit foreign institutions, respectively are: (1) The requirement that an institution be in a State (§ 600.4(a)(1), and § 600.5(a)(2)) because, by definition, a foreign institution is an institution that is not located in a State (see paragraph (1) of the definition of *foreign institution* in § 600.52); (2) the requirement that an institution admit as regular students only persons who have a high school diploma, have the recognized equivalent of a high school diploma, or are beyond the age of compulsory school attendance in the State in which the institution is physically located (§ 600.4(a)(2) and § 600.5(a)(3)) because, as reflected by § 600.54(b), most students enrolling in foreign institutions will have a secondary school completion credential or its equivalent, rather than a high school diploma and, as foreign institutions are not located in a State, the provision allowing the admission of students without a high school diploma or its equivalent if the student is beyond the age of compulsory school attendance in the State in which the institution is physically located is inapplicable; (3) the requirement that an institution be legally authorized by the State in which it is located (§ 600.4 (a)(3), and § 600.5(a)(4)) again, because, by definition, a foreign institution is an institution that is not located in a State, and paragraph (1)(iii) of the definition of *foreign institution* in § 600.52 instead requires a foreign institution to be legally authorized by the education ministry, council or equivalent agency

of the country in which the institution is located; (4) the requirement that an institution may provide a comprehensive transition and postsecondary program, as described in 34 CFR part 668, subpart O (§ 600.4(a)(4)(ii) and § 600.5(a)(5)(ii)), because under the HEA these programs are not available to Direct Loan borrowers, and because foreign institutions are not eligible for programs other than Direct Loans; (5) accreditation requirements (§ 600.4(a)(5), and § 600.5(a)(6)) because the Secretary does not recognize accrediting agencies for the purpose of accrediting foreign institutions; (6) the conditions under which an institution is considered to be located in a State (§ 600.4(b), and § 600.5(c)) again, because, by definition, a foreign institution is an institution that is not located in a State; and (7) the conditions under which the Secretary recognizes an institution's accreditation (§ 600.4(c), and § 600.5(d)) again, because the Secretary does not recognize accrediting agencies for the purpose of accrediting foreign institutions. In addition, for a for-profit foreign institution, § 600.5(a)(5)(i)(B), which allows an institution to meet the definition of a for-profit institution by providing a program leading to a baccalaureate degree in liberal arts, is not applicable because the Secretary does not recognize accrediting agencies for the purpose of accrediting foreign institutions and, in order to meet this provision, an institution must be accredited by a recognized regional accrediting agency or association, and have continuously held such accreditation since October 1, 2007, or earlier.

Changes: We have revised § 600.51(c) to more explicitly set forth current law by stating that foreign institutions must comply with all requirements for eligible and participating institutions except where provided for in the HEA, and when the Secretary, through regulations or a notice in the **Federal Register**, indentifies specific provisions as inapplicable to foreign institutions, and to make clear that requirements applicable to "institutions of higher education" apply to foreign public and non-profit institutions, and that requirements applicable to "proprietary institutions of higher education" apply to foreign for-profit institutions, for purposes of determining eligibility to participate in the Title IV, HEA programs, as well as for determining applicability of other Title IV requirements not related to institutional eligibility. Finally, in § 600.54, we are revising paragraph (a) to specify which requirements in § 600.4 and § 600.5 foreign institutions must meet and which they need not.

Foreign Graduate Medical Schools (§§ 600.20, 600.21, 600.52, and 600.55)

General

Comments: One commenter, the Federation of State Medical Boards, applauded the Department's initiative to strengthen the eligibility criteria specific to foreign graduate medical schools, but was concerned about the requirement in § 600.55(a)(2)(ii) that requires that a foreign graduate medical school program offered by a foreign graduate medical school be approved by all medical licensing boards and evaluating bodies whose views are considered relevant by the Secretary. The commenter believed that the regulatory provision was unclear. The commenter noted that the Federation of State Medical Boards and its member licensing boards require U.S. medical students attending U.S. and Canadian medical schools to graduate from medical schools accredited by the Liaison Committee on Medical Education (LCME) or the American Osteopathic Association (AOA). The commenter asserted that, if the intent of the proposed regulations was to extend the approval of foreign graduate medical schools to State medical boards, it may not be administratively feasible. The commenter noted that there are currently no mechanisms or resources available for the majority of State medical boards to approve individual foreign graduate medical school programs and establishing and implementing such a mechanism could be a complex, costly, time consuming, and burdensome process.

Discussion: The provision in § 600.55(a)(2)(ii), requiring that a foreign graduate medical school program offered by a foreign graduate medical school be approved by all medical licensing boards and evaluating bodies whose views are considered relevant by the Secretary, does not require State medical boards to approve programs from foreign graduate medical schools. Rather, the provision gives the Secretary discretion to take into account the views of relevant medical licensing boards and evaluating bodies if they are available. We note that this provision has been in the regulations for some time and no changes to it were proposed in the NPRM.

Changes: None.

Location of a Graduate Medical Education Program, Affiliation Agreements, and Application and Notification Procedures for Foreign Graduate Medical Schools

Comments: One commenter believed that an exception to the provisions in the regulations that limit the location of foreign graduate medical school clinical training should be made for locations included in the accreditation of the AOA, as was proposed for locations included in the accreditation of the LCME.

One commenter asked the Department to remove the sections of the proposed regulations that place limitations on the location of graduate medical education programs, as Recommendation 12(a) of the National Committee on Foreign Medical Education and Accreditation's (NCFMEA) 2009 *Report to the U.S. Congress by the National Committee on Foreign Medical Education and Accreditation Recommending Institutional Eligibility Criteria for Participation by Certain Foreign Medical Schools in the Federal Family Education Loan Program* (NCFMEA report), on which those regulations were based, was outside the scope of the charge provided by Congress to the NCFMEA. (The NCFMEA report is available at *http://www2.ed.gov/about/bdscomm/list/ncfmea-dir/reporttocongress2009.pdf*.) The commenter felt that limitations to pre-clinical coursework are inconsistent with section 484(o) of the HEA, § 668.5(b) of the regulations, and guidance in the *Federal Student Aid Handbook* addressing study abroad, which permit eligible institutions to enter into written arrangements with institutions in other countries to offer part of a program. The commenter believed the proposed limitations to be arbitrary, as they are only applicable to foreign graduate medical schools. The commenter also believed that the limitations prohibit cooperative international medical education efforts without any statutory basis, and are inconsistent with the standard of comparability that the HEA attempts to establish between foreign and U.S. institutions. The commenter also felt the proposed limitations to be discriminatory to foreign graduate medical schools located in small countries, many of which have a long history of multi-lateral and regional cooperation in the areas of health care and education. The commenter felt that the limitations on clinical training would prevent efforts to expand medical services in developing countries and discourage cooperative efforts in

international education. The commenter asked that the Department modify the proposed limitations in the regulations that are applicable only to foreign graduate medical schools to allow students at such schools to take coursework outside of the country in which the school is located as long as the requirements for written agreements between schools to provide educational programs in § 668.5, or comparable standards for foreign graduate medical schools, are met.

One commenter, an organization representing all twenty universities in Australia and New Zealand that confer professional, entry-level medical degrees, stated that the proposed requirements addressing affiliation agreements between foreign graduate medical schools and hospitals or clinics for clinical training would impose a significant administrative burden on their schools, as some of the proposed requirements are not normally included in most affiliation agreements between their schools and health services, particularly agreements covering long-term, general-practice placements. Another commenter, representing a foreign graduate medical school in Australia, felt it was unnecessarily bureaucratic to impose detailed reporting requirements, such as the information that would have to be included in an affiliation agreement, and the requirement that a foreign graduate medical school notify its accrediting body within one year of any material changes in the program. The commenter felt that, despite Australia's stringent accreditation processes, this approach fails to reflect that the commenter's school is a professional institution of high standing, teaching to standards recognized as comparable to U.S. standards.

Discussion: We agree that an exception to the provisions in the regulations that limit the location of foreign graduate medical school clinical training should be made for locations included in the accreditation of the AOA. The Department's rationale for making an exception for locations included in the accreditation of the LCME was because LCME is an accrediting agency that accredits U.S. medical schools. As the Federation of State Medical Boards recognizes both the LCME and the AOA for accreditation of domestic medical schools, the Department agrees that locations accredited by the AOA should also be exempt from the provisions in the regulations that limit the location of foreign graduate medical school clinical training.

Although the majority of the regulations addressing the location of medical education programs offered by foreign graduate medical schools are supported by Recommendation 12(a) of the NCFMEA report, the regulations also represent, with some variation, the Department's current policy. The Department continues to believe that many of the reasons for that current policy are sound and support the positions taken in these final regulations. That is, because of the lack of direct authority of an accrediting body over educational sites located outside the country in which the main campus is located, the basic science portion of a medical program offered by a foreign graduate medical school must be located in the same country as the school's main campus to ensure that the majority of classroom instruction will be under the direct authority of the school's accrediting body. Also, it is acceptable for the Department to balance the benefits of closer oversight by the school's accrediting agency of the clinical training parts of the program with the benefits to students of exposure to other medical environments, and to craft its regulations to permit clinical sites to be located in countries other than the country in which the main campus is located in specified circumstances. Whereas foreign institutions other than foreign graduate medical schools (and, by July 1, 2015, foreign veterinary schools) are not required to be accredited to be eligible to participate in the Title IV, HEA programs, foreign graduate medical schools are required to be accredited (section 102(a)(2)(B) of the HEA). Thus, the Secretary believes it is appropriate to place restrictions on foreign graduate medical schools when the authority of the school's accrediting agency to provide oversight is in question.

In accordance with the *Guidelines* of the NCFMEA, the entity that determines whether the medical school accrediting standards used in other countries are comparable to those applied to medical schools in the United States for purposes of evaluating the eligibility of accredited foreign graduate medical schools to participate in the Title IV, HEA programs, a foreign medical school's accrediting body must have standards comparable to LCME standards, including the standard that a medical school must have approved affiliation agreements with each teaching hospital or clinical facility it uses that define the responsibilities of each party. The Department believes that the responsibilities that the regulations require a foreign graduate medical school to include in affiliation agreements with hospitals or clinics at which all or a portion of the school's clinical training is provided are essential responsibilities that must be addressed in order to ensure the quality of the clinical training portion of the program. NCFMEA *Guidelines* also require foreign medical school accrediting bodies to demonstrate that their accreditation/approval processes require medical schools to notify the appropriate authorities of any substantive changes to the educational program, student body, or resources, and to review the substantive changes to determine if the accredited schools remain in compliance with the standards. The Secretary believes that requiring a foreign graduate medical school to notify its accrediting body within one year of any material changes in educational programs is a reasonable minimum standard. The NCFMEA *Guidelines* can be accessed at *http://www2.ed.gov/about/bdscomm/list/ncfmea.html#review.*

Changes: We have revised §§ 600.20(c)(5), 600.21(a)(10), 600.55(a)(2)(iii), and 600.55(h)(3)(ii)(A) to provide an exception to the provisions limiting the location of foreign graduate medical school clinical training sites. The new exception applies to locations included in accreditation granted by the AOA.

Admission Criteria and Collection and Submission of Data

Comments: A few commenters objected to the proposed regulations addressing admission criteria and the collection and submission of data. One commenter also felt that obtaining information about residency placements when students have left the school and the country would be extremely challenging.

One commenter, representing a school in Australia, believed it was unreasonable to require a foreign graduate medical school to require U.S. students accepted for admission to have taken the Medical College Admission Test (MCAT) and to have reported their scores for each time they took the test. The commenter felt that some form of equivalency should be granted the test it requires for admission, the International Student Admissions Test (ISAT). One commenter, an organization representing all twenty universities in Australia and New Zealand that confer professional, entry-level medical degrees, stated that requiring foreign graduate medical schools to collect and submit data on MCAT scores, United States Medical Licensing Examination (USMLE) pass rates, and U.S. medical

residency placements would be administratively onerous for their institutions. The commenter noted that Australian universities are subject to stringent privacy legislation, which precludes institutions from supplying individual data on students to third parties without the student's written permission. The commenter stated that the economics of compliance as well as the complexity of the proposed regulations would discourage participation of their schools in the Title IV, HEA programs. Another commenter representing an institution in Australia recommended that foreign graduate medical schools with small numbers of Title IV, HEA program recipients be exempt from collecting and submitting data on MCAT scores and U.S. medical residency placements. The commenter stated that the MCAT is not an admission requirement for entry into its medical program and, therefore, the results are not provided to the school.

Discussion: The Department continues to believe that analysis of the submitted data is essential for the development of future statutory and regulatory provisions, as well as strengthening of the accreditation process, resulting in a more accurate assessment of the quality of education being provided to students attending foreign graduate medical schools. As such, the Department believes it is beneficial to have data on all foreign graduate medical schools that participate in the Title IV, HEA programs, regardless of the number of Title IV, HEA program fund recipients. Although obtaining information about residency placements will require foreign graduate medical schools that do not already track this information to now do so, we believe the added burden is justified in light of these long-term benefits. In order for the comparison of data on entry tests to be useful, it must be for results on a common test. As the Department's interest in this area is in U.S. students, the test given to U.S. students to determine entry to U.S. medical schools, the MCAT, is the most appropriate test for this purpose. We note that a foreign graduate medical school is required to have U.S. students report only one MCAT score; they are not required to collect scores for each time a student took the MCAT.

To the extent that a foreign country has privacy laws requiring student consent to release the required data, § 600.55(c)(2) requires a foreign graduate medical school to determine those consent requirements and require the necessary consents of all students accepted for admission for whom the school must report to enable the school to comply with the required collection and submission of data. If a foreign country's privacy laws preclude obtaining the information and materials necessary for establishing compliance, the institutions located in those countries will not qualify for participation in the Title IV, HEA programs.

Changes: None.

Citizenship and USMLE Pass Rate Percentages

Comments: One commenter supported the provisions in the proposed regulations that address institutions with small numbers of USMLE test-takers.

A few commenters asserted that the proposed calculation of the USMLE pass rate was likely to restrict American students' ability to enroll in or complete their education at select, prestigious foreign graduate medical schools because it would make institutions ineligible for participation in the Direct Loan Program. More specifically, some of the commenters felt that an aggregate USMLE pass rate, rather than one that requires a foreign graduate medical school to have a 75-percent pass rate on each step/test, would give the Department a better assessment of the quality of a foreign graduate medical school education. One of these commenters felt that an evaluation of the combined scores would reduce the variance in test scores based on student variability—a concern expressed by the NCFMEA in their report and by the U.S. Government Accountability Office (GAO) in their report entitled, "Foreign Medical Schools: Education Should Improve Monitoring of Schools That Participate in the Federal Student Loan Program" (GAO–10–412) (GAO report), available at *http://www.gao.gov/new.items/d10412.pdf.* One commenter noted that, while USMLE pass rates can be useful for determining the quality of education offered to American students at foreign graduate medical schools, the data must be properly interpreted to ensure that it accounts for the differences in medical education curricula, the sequencing of curricula, and different methods of student assessment in different countries. The commenter, who represented an institution in Ireland, stated that the medical education in Ireland is provided in a different sequence and uses different types of examination and assessment. More specifically, the commenter noted that although Irish medical schools may use multiple choice question (MCQ) examinations, which are similar to the USMLE, other methods of assessment—including continuous assessment, modified essay questions (MEQs), essays, and Objective Structured Clinical Exams (OSCEs)—are given greater weight, so their students have significantly less experience with a USMLE-type examination and, therefore, are disadvantaged, particularly on Step 1, the pre-clinical exam, which is entirely MCQ. The commenter noted that their school's pass rates on Step 2–Clinical Knowledge (Step 2–CK) and Step 2–Clinical Skills (Step 2–CS) are comparable to U.S. universities. Thus, an aggregate pass rate would better reflect the quality of the education provided. The commenter felt that this position was supported by the GAO report, which states that many factors contribute to a graduate medical education program's USMLE pass rate, including "the extent to which foreign schools may or may not focus on preparing students for the exam." In addition, the commenter pointed out that the report notes the burden these requirements place on schools with a small proportion of the American students who study medicine abroad. The commenter also noted that the GAO report analysis states "that the new pass rate requirement may dissuade or even disqualify many schools from participating in the loan program," thus reducing the foreign graduate medical school options available to U.S. students. The commenter asked the Department to seriously consider the GAO report in the development of these final regulations. One commenter, a member of the Committee that negotiated and came to consensus on the NPRM, supported the proposal to require a foreign graduate medical school to have a 75 percent pass rate on each step/test, and felt it and the other proposed regulations were critical toward ensuring the availability of high-quality international programs of medical education.

A couple of commenters objected to the proposal to include only first-time test takers in the calculation of USMLE pass rates. The commenters stated that, in contrast to the assertions made by non-Federal negotiators that the pass rates of students in subsequent attempts are typically quite low, the commenter's school has had many high-performing students and graduates who have passed the exam only on the second or third attempts. The commenters believed that the non-Federal negotiators' assertion was also in conflict with the National Board of Medical Examiners (NBME) Annual Report on USMLE Performance. The commenter recommended that the Department adopt Recommendation 4(b) of the NCFMEA report—that each

student or graduate who repeats a step in a particular year only be counted once in the denominator for that year for that step, and be counted once in the numerator if he/she passes. The commenter felt that, at a minimum, the Department should examine the validity of using such a method to determine the effectiveness of the testing procedure as a means of defining eligibility for foreign graduate medical schools.

One commenter supported the proposed change to limit the USMLE pass rates calculation to U.S. citizens, nationals, and eligible permanent residents. Two commenters opposed the proposed change to limit the USMLE pass rate calculation to U.S. citizens, nationals, and eligible permanent residents, arguing that it goes beyond the plain language of the statute. These commenters felt that the exclusion of other students creates an administrative burden on foreign graduate medical schools and excludes from the calculation a true representative sample of a school's students and graduates, creating an incomplete picture of a school's level of training. The commenters felt that the calculation of the USMLE pass rate should include all students, with data for U.S. citizens, nationals, and eligible permanent residents treated as supplementary information.

One commenter felt that the USMLE pass rate was not an appropriate measure of the quality of foreign medical schools, and that 75 percent is not an appropriate benchmark for Title IV, HEA program eligibility. A few commenters asked the Department to consider phasing in the 75-percent pass rate requirement through 2014, as was suggested by the NCFMEA report. One of these commenters believed that the Department could enter into informal compliance agreements to allow foreign graduate medical schools that initially do not meet the 75-percent threshold to continue to participate in the Title IV, HEA programs, conditioned upon compliance with a written agreement that the school will make certain changes in its policies designed to boost its USMLE pass rate by 2014.

A few commenters asked the Department to expand the exemption from the USMLE pass rate requirement for foreign graduate medical schools that had a clinical training program that has been continuously approved by a State as of January 1, 1992. A couple of these commenters asked that the exemption be expanded to include public foreign graduate medical schools that had clinical programs in their own countries well before January 1, 1992, and that had graduates practicing in the United States well before the exempted foreign graduate medical schools were even established. One commenter felt that participation in the Fifth Pathway Program should qualify a school for the exemption.

Discussion: The GAO, as a result of the report referenced by the commenter, made four recommendations to the Department. The GAO recommended that the Department:

1. Collect consumer information, such as aggregate student debt level and graduation rates, from foreign medical schools participating in the federal student loan program and make it publically available.

2. Require foreign medical schools to submit aggregate institutional pass rate data to the Department annually.

3. Verify data submitted by schools, for example by entering into a data-sharing agreement with the testing organizations.

4. Evaluate the potential impact of the 75 percent pass rate requirement on school participation in the federal student loan program and advise Congress of any needed revisions to the requirement.

The Department agreed with all four recommendations. The Department is committed to collecting and examining data on the USMLE pass rate to provide Congress with recommendations for change, if necessary. However, as noted in the GAO report, complete data have not been available to all schools to provide to the Department until recently. As such information is now available, in June of this year, the Department sent a letter to foreign graduate medical schools requiring that USMLE pass rate information be supplied annually, starting with exams taken during calendar year 2009. The letter required foreign graduate medical schools to submit the information for 2009 to the Department by September 30, 2010. The Department will study this data, as well as data submitted for 2010, to determine what changes we will recommend to Congress.

The Department does not support using an aggregate USMLE pass rate of 75 percent in lieu of a required pass rate of 75 percent on each step/test. The Department believes that an individual assessment of each step/test is a better measure, precisely because such an approach provides an assessment of the sequential performance on the USMLE. The Department agrees with the NCFMEA's opinion in Recommendation 4(c) of the NCFMEA report, "The USMLE examinations are taken at different stages of the student's progress toward becoming a licensed medical practitioner and reflect the quality of education delivered by related, but different, sequential processes. As such, the Committee feels that separately reporting performance on each step examination will allow the Department to more adequately judge the performance of each school in preparing students for future clinical performance."

Although the Department believes that Recommendation 4(b) of the NCFMEA report—to include each student or graduate who repeats a step in a particular year once in the denominator for that year, and in the numerator if he/she passes—would be an acceptable approach to calculating the USMLE pass rate, we believe that including only first-time test takers is a better approach. While a couple of commenters believed that recognizing subsequent attempts on steps/tests of the USMLE would more accurately reflect the quality of education at foreign graduate medical schools, data presented in the *2009 Annual Report* of the National Board of Medical Examiners (pages 56–59) indicate that repeat examinees from non-U.S. and Canadian schools pass at lower rates than first-time test takers. For example, the 2008 pass rate on Step 1 for repeat examinations was 37 percent as opposed to 73 percent for first-time test takers, and 36 percent as opposed to 73 percent in 2009. The *2009 Annual Report* is available at *http://www.nbme.org/PDF/2009AnnualReport.pdf.* Thus, the Department is persuaded that, generally, for students attending foreign graduate medical schools, the pass rates in subsequent attempts on steps/tests of the USMLE are low, and therefore redundant and less indicative of the quality of instruction than first-time test scores.

After further consideration of the issue, the Department agrees with the commenters who believed that the USMLE pass rate score should not be limited to U.S. citizens, nationals, and eligible permanent residents. The Department believes that the inclusion of U.S. and non-U.S. students provides a fair evaluation of a foreign graduate medical school's program, while reducing burden on schools by not requiring the separation of pass rates by citizenship. Although the Department heard from non-Federal negotiators that the USMLE pass rates for non-U.S. students at some foreign institutions are lower than those of U.S. students, data provided in the *2009 Annual Report* of the Education Commission for Foreign Graduate Medical Graduates (ECFMG) (available at: *http://www.ecfmg.org/annuals/ECFMG2009.pdf*) indicate that,

generally, that is not the case for two of the three steps/tests for which a pass rate is determined. For Step 1, U.S. citizens who are first-time test takers have a pass rate of 67 percent, compared to a pass rate of 75 percent for foreign citizens who are first-time test takers, while for Step 2–CK, U.S. citizens who are first-time test takers have a pass rate of 76 percent, compared to a pass rate of 85 percent for foreign citizens who are first-time test takers. For Step 2–CS, scores generally are lower. U.S. citizens who are first-time test takers have a pass rate of 82 percent, compared to a pass rate of 70 percent for foreign citizens who are first-time test takers.

As noted in the preamble to the NPRM, the HEA does not currently provide an exemption for any foreign graduate medical schools, even those with small numbers of U.S. students, from the USMLE pass rate requirement, with the exception of those that have a clinical training program that had State approval continuously since January 1, 1992. The Department does not have the authority to expand that statutory exemption to include other schools, delay implementation of the 75-percent threshold, or enter into compliance agreements allowing schools that do not meet the statutory requirement to continue participation. While the NCFMEA report did recommend delaying the implementation of the increased 75-percent threshold until 2014 to allow a stepped approach to the higher threshold, the recommendation recognized that Congress would need to change the law before this recommendation could be implemented.

In addition, participation in the American Medical Association's (AMA) "Fifth Pathway" program does not satisfy the criteria for the pass rate exemption. Individuals participating in the Fifth Pathway program do not complete a foreign graduate medical school's program and do not receive the school's credential, so are not considered to have been attending a Title IV, HEA eligible program. In addition, we note that the AMA has decided that it will not support the Fifth Pathway program as a route to residency for individuals pursuing the Fifth Pathway program after December, 2009. Finally, the Department continues to believe that the methodology established in the proposed regulations allowing for combined step/test pass rate results for foreign graduate medical schools with small numbers of U.S. students sufficiently addresses concerns as to the reliability of pass rates as indicators of quality at such schools.

Changes: We have revised § 600.55(d)(1)(iii), (f)(1)(ii), and (f)(3) to require foreign graduate medical schools to report on USMLE pass rates for all students and graduates, regardless of their citizenship.

Comments: None.

Discussion: These final regulations require a foreign graduate medical school to submit USMLE pass rate information for a calendar year, rather than an award year, as was proposed. The Department is making this change for consistency with the Department's current request for pass rate information, which requires information for the 2009 calendar year. The change will allow the Department to evaluate data from a consistent period to facilitate its evaluation of the potential impact of the 75-percent pass rate requirement and to advise Congress of any necessary statutory changes to the requirement. As a result, these final regulations require an institution to submit the information to the Department by April 30, rather than the proposed submission date of September 30. The Department has extended the submission date by a month past the end of the reporting period and provided that the Department may change the submission date by notice in the **Federal Register**, to accommodate any changes to the timing of the receipt of test scores by institutions or the timing of the receipt of test scores by the ECFMG (or other responsible third party). For consistency, the reporting period and submission date for MCAT, residency placement, and citizenship data have also been changed.

Changes: We have revised § 600.55(d)(1) and (d)(3) to require foreign graduate medical schools to report on USMLE pass rates, MCAT scores, residency placement and citizenship data (unless it is exempt from providing citizenship data) for a calendar year, and to submit that information, to its accrediting authority or the Department, as applicable, no later than April 30 of each year, unless the Secretary specifies a different date through a notice in the **Federal Register**.

Comments: None.

Discussion: The proposed regulations provided that, instead of submitting USMLE pass rate data directly to the Department, a foreign graduate medical school could choose to allow the ECFMG or other responsible third party to calculate and report the school's USMLE rates directly to the Secretary. The Department has reconsidered this provision, however, in view of the fact that the ECMFG does not provide schools with individual pass rate data, except with written student-by-student consent. In addition, ECFMG does not calculate or report a school pass rate if fewer than five test results would be included in the rate.

The Department regards the ECFMG as the most reliable source for pass rates and pass rate data. We note that the pertinent HEA provision refers explicitly to pass rates on examinations administered by ECFMG, and the Department cannot identify any more authoritative source for ECMFG data and pass rates than ECFMG. The Department also recognizes that the option of having ECFMG calculate and report a school's rate may be a significant convenience to foreign graduate medical schools participating or seeking to participate in the Direct Loan program, in contrast to obtaining individual consents in a manner consistent with applicable privacy laws, and then submitting those consents to ECFMG so as to obtain all individual test results, and then furnishing those results to the Department. Furthermore, reliance on ECFMG to provide pass rates is consistent with the GAO's recommendation regarding data sharing.

For these reasons, with two limitations, the Department is retaining the option in proposed § 600.55(d)(2) for foreign graduate medical schools to rely on ECFMG pass rate reports in lieu of obtaining individual student and graduate consents and then collecting and submitting reports of all test results to the Department under § 600.55(d)(1)(iii). The first limitation is that foreign graduate medical schools desiring to invoke the option of relying on ECFMG reports of pass rates must annually provide written consent acknowledging that the ECFMG calculation will be conclusive for purposes of Title IV institutional eligibility. This limitation is necessary because the data needed to confirm the accuracy of ECMFG calculations is available only through obtaining individual consents from all students and graduates included in the ECFMG rate, and because the availability of such consents is not within the control of the Department, the ECFMG, or, at that stage, the foreign graduate medical school. As long as the foreign graduate medical school is fully informed of this circumstance, the Department regards the ECFMG option as contributing to effective administration of the Title IV programs.

The second limitation is that the option cannot be used by foreign graduate medical schools that had fewer than eight test results during the year on any of the three USMLE tests for which rates are to be determined. Under § 600.55(f)(4), the Department uses an alternate methodology to compute rates for these schools. ECFMG does not use

this methodology, nor in most cases will its reports contain the data the Department would need to do the calculation itself. This means that schools will need to determine whether the number of test takers will be high enough to invoke the ECFMG option early enough to obtain individual consents if there is any possibility it will not. We note that the previously discussed change to include the USMLE pass rate scores of all students, rather than limiting the calculation to U.S. citizens, nationals, and eligible permanent residents, is likely to result in fewer schools that will be barred by low numbers of test takers from using the ECFMG reported rates option.

Finally, because the language of the HEA makes clear that a loss of eligibility for a failure to meet the USMLE pass rate threshold is nondiscretionary, and to reflect the discussion above, including the new regulatory requirement for written consent from the school to considering an ECFMG report as conclusive regarding the calculation of the school's pass rates, the Department is revising its provision regarding administrative appeals from loss of institutional eligibility to reflect the limited scope remaining for such an appeal. The Department's approach is consistent with treatment of other nondiscretionary eligibility requirements, such as accreditation and state licensure (§ 600.41(e)(1) and (e)(2))).

Changes: Sections 600.55(d)(1)(iii) and (d)(2) provide that a foreign graduate medical school may choose to allow the ECFMG or other responsible third party to provide the school's USMLE pass rate directly to the Secretary only if that school has provided by April 30 to the Secretary written consent acceptable to the Secretary (1) allowing the Secretary to rely on the USMLE pass rate information provided to the Department by the ECFMG or other responsible third party; and (2) agreeing that the rate calculated by the ECFMG will be conclusive for purposes of determining the school's compliance with the required 75-percent pass rate thresholds. Section 600.55(d)(2) provides that a foreign graduate medical school that, in accordance with § 600.55(f)(4), must use the alternative means of providing pass rate information to the Department because it does not have a sufficient number of step/test results, may not opt to have its pass rates provided to the Department by the ECFMG. We have added § 600.41(e)(3) to make clear that, in an appeal from a loss of institutional eligibility resulting from a pass rate or pass rates below 75 percent, the level of the pass rate for the foreign graduate medical school for the preceding calendar year is the sole issue, and that, for a foreign graduate medical school that invoked the ECFMG report option, ECFMG's calculation of the rate or rates is conclusive.

Comments: None.

Discussion: Under section 102(a)(2)(A)(i)(I)(aa) of the HEA, for a foreign graduate medical school to remain eligible for participation in the Title IV, HEA programs, during the preceding year at least 60 percent of the school's students and graduates must not have been U.S. citizens, nationals, or eligible permanent residents, unless the school has had a State-approved clinical training program since prior to January 1, 2008. Schools must submit their citizenship rates in order for the Department to implement this HEA requirement. The requirement for submission of such data was implicit in, but not explicitly set out in, § 600.55(f)(1)(i)(A) of the proposed regulations. The Department is, therefore, adding to the data-submission provision in § 600.55(d)(1)(iv) new language to clarify that schools that have not had clinical training programs approved by a State since prior to January 1, 2008, must annually supply the Secretary with their citizenship rates, together with the methodology used to determine them, for purposes of enabling the Secretary to ensure compliance with section 102(a)(2)(A)(i)(I)(aa) of the HEA. In connection with this change, and for conformity with the ECFMG data-submission requirements, the Department has also changed the phrase "academic year," in § 600.55(f)(1)(i)(A), relating to citizenship rates, to "calendar year."

Changes: The Department is adding new language in § 600.55(d)(1)(iv) to require schools that have not had clinical training programs approved by a State since prior to January 1, 2008, to annually supply the Secretary with their citizenship rates, together with the methodology used to determine them, for purposes of enabling the Secretary to ensure compliance with section 102(a)(2)(A)(i)(I)(aa) of the HEA.

Foreign Veterinary Schools (§ 600.56)

Comments: Seven commenters were concerned that the proposed regulations would prevent students enrolled in public or private nonprofit foreign veterinary schools that receive Title IV, HEA program funds from taking any part of the program in the United States, except for a limited portion of the clinical training program. The commenters felt that such a limitation was too strict and would be detrimental to the educational experience and future careers of U.S. veterinary students. A few of these commenters noted that their school permits up to nine weeks of clinical placements and six weeks of pre-clinical placements overseas. Some of the commenters noted that allowing their U.S. students to take a greater portion of the program in the United States would be beneficial because it would enable them to build up contacts in the industry and experience veterinary practice in the United States, where they will eventually be practicing. Some of the commenters also noted that, as much of this placement activity takes place during the Christmas, Easter, and summer vacations, students can combine placements in the United States with the opportunity to visit home.

Discussion: The commenters have misinterpreted some parts of the proposed regulations. While the proposed regulations prohibit the offering of the non-clinical portion of a veterinary program outside of the home country, and also limit the offering of the clinical training portion of the program outside of the home country and the United States, they do not prohibit or limit the offering of any portion of the clinical training portion of the program in the United States.

As with the location of graduate medical programs offered by foreign schools, the Department believes that a foreign veterinary school seeking to participate in the Title IV, HEA programs should offer the non-clinical portion of its program solely in the country in which the main campus is located, to ensure greater consistency and accountability, as the oversight of a foreign veterinary school generally exists primarily in the country in which the school is established. Pursuant to section 102(a)(2)(A)(ii) of the HEA, clinical training in the United States is permitted, and, for for-profit veterinary schools, required. However, because these final regulations permit foreign graduate medical schools also to provide clinical training in third countries as long as the locations are included in accreditation granted by the LCME and the AOA, the Department has decided to provide a similar exception, applicable to public and private nonprofit foreign veterinary schools, permitting the provision of clinical training in third countries at locations included in accreditation granted by the American Veterinary Medical Association (AVMA). Just as the LCME and AOA are accreditors for U.S.

medical schools, the AVMA is the accreditor for U.S. veterinary schools.

Changes: We have revised § 600.56(b)(2)(ii)(C) to provide an exception to the provisions limiting the location of clinical training locations, that applies to locations of a public or private nonprofit foreign veterinary school that are included in accreditation granted by the AVMA.

Foreign Nursing Schools (§ 600.57)

Comments: Two commenters objected to changes made to the HEA by the HEOA that, in their view, effectively preclude foreign nursing schools from participating in the Title IV, HEA programs. One of these commenters requested that the Department grandfather in foreign nursing schools that currently participate in the Title IV, HEA programs, to ensure that existing students at those schools continue to receive Title IV, HEA program funding to complete their programs at these schools.

Discussion: We agree that the changes made to the HEA will likely preclude many foreign nursing schools from continuing to participate in the Title IV, HEA programs. However, proposed § 600.57 is consistent with the new statutory requirements that govern eligibility of foreign nursing schools to participate in the Title IV, HEA programs.

The Department does not have the authority to grandfather in indefinitely, through regulations, foreign nursing schools that are currently participating in the Title IV, HEA programs. However, the statute gives foreign nursing schools that were participating in the Title IV, HEA programs on August 13, 2008 until July 1, 2012 to comply with the new requirements. Therefore, the regulations in § 600.57 do not apply to foreign nursing schools that were participating in the Title IV, HEA programs on August 13, 2008 until July 1, 2012.

Changes: None.

Comments: Two commenters raised concerns over proposed § 600.57(c), which requires a foreign nursing school to reimburse the Department for the cost of a loan default if the borrower defaults during the cohort default rate period. Under the proposed regulations, after the school reimburses the Department for the default, the Department assigns the loan to the foreign nursing school.

The commenters generally were concerned that students obtaining Title IV, HEA program loans to enroll in foreign nursing schools may not be aware of the statutory and regulatory benefits that apply to their loans, and that a foreign nursing school will not have the capacity or expertise to properly service Title IV, HEA program loans that have been assigned to it. The commenters stated that procedures for the collection of Title IV, HEA program loans that have lost their eligibility are not clearly defined and readily locatable. The commenters believed that the lack of operational guidance in the proposed rules may be problematic in the servicing of these loans.

The commenters recommended that the Department require foreign nursing schools participating in the Direct Loan Program on or after the effective date of the final regulations to alert prospective and currently enrolled students that their Direct Loan Program loans may be assigned to the school for collection if the borrower defaults on the loan. The commenters recommended that the notification identify any potentially adverse consequences of the loan assignment on the borrower's ability to take advantage of Title IV, HEA program loan benefits. The commenters recommended that the Department require the foreign nursing school to provide this notification on its Web site and in its promotional, enrollment, registration, and other materials.

The commenters also recommended that the final regulations include a requirement that prior to assigning the loan to the school the Department advise a defaulted borrower that the borrower's loans will be assigned to the foreign nursing school for further collection. The commenters recommended that the Department's notification provide contact information for the Federal Student Aid (FSA) Ombudsman's Office. In addition, the commenters recommended that the notice advise the borrower that the borrower will still be entitled to take advantage of loan repayment and discharge options available to defaulted Title IV, HEA program loan borrowers after the loan has been assigned to the school.

The commenters expressed concern that there will be a lack of Federal oversight and consumer advocacy assistance to ensure that the schools service these loans in accordance with the terms and conditions of the promissory note. The commenters recommended that the Department review the handling of these loans during the regular compliance audit process, and develop sanctions for schools that do not comply with the terms and conditions of the promissory note.

The commenters noted several areas where they anticipated complications or limitations on the exercise of benefits available to Title IV, HEA program loan borrowers whose loans have been assigned to a foreign nursing school.

One commenter questioned whether foreign nursing schools would be required to grant discharges due to death, total and permanent disability, or for school-related issues, such as school closure or unpaid refunds.

Another commenter questioned whether foreign nursing schools would be able to make accurate determinations of eligibility for a total and permanent disability discharge, or have access to the necessary resources to determine if a borrower's income exceeded the regulatory limits, or if the borrower received a Title IV, HEA program loan or TEACH Grant, during the three-year post-discharge monitoring period.

The commenters recommended that the Department allow foreign nursing schools to assign these loans back to the Department in the event of a total and permanent disability discharge request. The Department would then make the determination of eligibility for a total and permanent disability discharge on these loans, as it does currently for FFEL and Direct Loans.

One commenter contended that unpaid refund and false certification discharges are based on a dispute between a Title IV, HEA program loan borrower and a school, and argued that a foreign nursing school would have a conflict of interest adjudicating these types of discharge requests. The commenter recommended that unpaid refund and false certification discharge determinations for borrowers whose loans are held by a foreign nursing school be handled by a disinterested party, such as the Department.

The commenters noted that rehabilitation is an option available to defaulted Title IV, HEA loan program borrowers, and asked the Department to confirm that loan rehabilitation will remain an option for defaulted Direct Loan borrowers whose loans have been assigned to a foreign nursing school. The commenters also recommended that the Department allow borrowers to consolidate defaulted Direct Loans that have been assigned to a foreign nursing school.

Commenters recommended that if the Department determines that the loans cannot be consolidated or rehabilitated, that this information be included in the adverse impact disclosures to prospective and actual borrowers. The commenters felt that this would help potential borrowers to make fully informed decisions before borrowing a Direct Loan to attend a foreign nursing school.

One commenter recommended that the Department not proceed with

assigning the loan to the school if the borrower has rehabilitated or consolidated the defaulted loan by the time the Department is prepared to make the assignment.

One commenter recommended that a borrower who is in the process of rehabilitating a loan during the cohort default rate period be allowed to continue making rehabilitation payments to prevent the assignment, even if the stream of monthly payments required to rehabilitate the loan would not be completed until after the cohort default rate period ends.

Discussion: We share the commenters concerns regarding the treatment of a Direct Loan that is assigned to a school and becomes an institutional loan. The statutory and regulatory provisions that govern Title IV, HEA program loans would not apply to these loans. The promissory note signed by the borrower would be the contract that the foreign nursing school has with the borrower to collect on the loan. Not all benefits that apply to Title IV, HEA program loans would continue to apply to loans that have been assigned to a foreign nursing school.

The commenters asked if a borrower whose loan has been assigned to a foreign nursing school would be able to rehabilitate the defaulted loan, or to consolidate it into a Direct Consolidation Loan. Loan rehabilitation is not provided for in the Federal Direct Stafford/Federal Direct Unsubsidized Stafford Loan MPN. Therefore, the borrower would no longer be able to rehabilitate the loan.

Loan consolidation is addressed in the MPN, but the MPN specifies that consolidation is only available for "eligible federal education loans." The borrower's loan would no longer be a Federal education loan, and would not be eligible for consolidation.

Loan discharges are provided for in the MPN. However, the granting of such discharges would be at the discretion of the foreign nursing school. Given the numerous Title IV, HEA program benefits that these borrowers could lose, the Department has concluded that it is not in the best interest of borrowers to assign their Direct Loans to a foreign nursing school. We have determined that these loans may remain Direct Loans, and that the Direct Loan terms and conditions and all applicable Title IV, HEA program benefits continue to apply to the loan, as long as the Department makes provisions to avoid "double recovery" of the loan. Double recovery will be avoided if the Department revises the definition of "cost of a loan default" that was proposed in § 600.57(b) of the NPRM to include only the estimated future collection costs on the loan. The Department annually announces a program-wide average cost of collections for Direct Loans. Estimated future collection costs will be derived from this program-wide average, but may be adjusted based on our experiences with borrowers who obtained Direct Loans to attend foreign nursing schools, or our experiences with the particular borrower whose loan has defaulted. For example, the estimated future collection costs might be higher for a borrower who is living outside of the United States than for a borrower who is living in the United States.

Under the revised definition, the reimbursement by the foreign nursing school to the Department of the cost of a loan default will not include outstanding principal, accrued interest, unpaid late fees or collection charges, or other costs associated with the loan.

Under the final regulations, the Department will continue to hold a Direct Loan that would have been assigned to a foreign nursing school under the proposed regulations, and will collect on the loan as we normally do.

A reimbursement by the school of the cost of a loan default will have no impact on the borrower. The borrower will continue to owe the Direct Loan to the Department, and the Title IV, HEA program benefits will still apply. The borrower will be able to rehabilitate the loan, have access to loan consolidation, choose among Direct Loan repayment plans, and may qualify for a discharge under all of the existing loan discharge regulations and procedures in the Direct Loan Program. Therefore, there will be no need to provide adverse impact disclosures or notifications to borrowers regarding assignment of their Direct Loans to a foreign nursing school. Since the loans will be collected by the Department, there will be no need to develop special audit rules or sanctions around these loans for foreign nursing schools.

Changes: We have modified the definition of "cost of a loan default" in § 600.57(b) of the final regulations by removing the references to outstanding principal, accrued interest, and unpaid late fees and collection costs. We've also removed the references to special allowance and reinsurance payments and other similar payments made on the loan. We've replaced these amounts with estimated future cost of collections on the loan.

We have revised § 600.57(c) by removing the requirement that Direct Loans be assigned to the school after the school reimburses the Department for the cost of a loan default. In its place, we have specified that the Department will continue to collect on the loan until it is paid in full, otherwise satisfied, or the loan account is closed out.

Part 668 Student Assistance General Provisions

Audited Financial Statements (§ 668.23)

Comments: A majority of the commenters opposed the proposed changes to the financial audit submission requirements for foreign institutions. Specifically, the commenters opposed the proposed requirement for public or nonprofit foreign institutions that annually received at least $3,000,000 but less than $5,000,000 in U.S. Title IV, HEA program funds during its most recently completed fiscal year to submit once every three years audited financial statements prepared in accordance with the generally accepted accounting principles of both the institution's home country and U.S. generally accepted accounting principles (U.S. GAAP), and for the two years in between would be allowed to submit, in English, audited financial statements prepared in accordance with generally accepted accounting principles of the institution's home country in lieu of financial statements prepared in accordance with U.S. GAAP. Other commenters from institutions and associations argued that the requirement to produce a U.S. GAAP financial statement, even once every third year, would be cost prohibitive, yield little value above what would be provided in the home country audit, and would not realistically alter the opinion of the financial security of the institution as originally expressed in audited financial statements prepared in their home country's standards.

Many commenters also opposed the requirement in § 668.23 that public and nonprofit foreign institutions that annually received $5,000,000 or more in U.S. Title IV, HEA program funds would be required to submit annually, audited financial statements prepared in accordance with the generally accepted accounting principles of both the institution's home country and U.S. GAAP. The commenters asserted that the proposed requirement would create an unjustified administrative burden. These commenters echoed the concerns related to the translated audits for institutions with smaller volumes of Title IV, HEA program funds, noting that the expense of producing U.S. GAAP financial statements would be cost prohibitive, with first year cost estimates to produce the U.S. GAAP

financial statement ranging from $300,000 for a single year's activity to as much as $770,000 for institutions that would also be required to provide prior-year figures as a part of their financial statement submission. The commenters claimed that the significant expense of providing a U.S. GAAP restatement of the home country's audited financial statement would be unlikely to alter the opinion of the financial security of the institution as originally expressed in audited financial statements prepared in their home country's standards.

Other commenters claimed that a home country audited financial statement that had been restated to reflect U.S. GAAP would be confusing, incompatible or otherwise offer little additional value to the Department.

Several commenters expressed concern that the increased costs to provide U.S. GAAP financial statements would be passed on to international students through higher educational costs, or could end an institution's continued participation in the U.S. Title IV, HEA programs.

Several commenters were concerned that the additional audit expenses conflict with the U.S. government's goal to provide access for international educational opportunities for U.S. residents (GAO–03–647).

Some commenters suggested that the regulations be modified to allow all public and nonprofit foreign institutions to submit financial statements under the generally accepted accounting principles of the institution's home country in lieu of any required submission of U.S. GAAP financial statements, and suggested that the regulations permit the Department to require U.S. GAAP financial statements if an institution's home country audited financial statement revealed any suspected problems with their financial condition or reporting. Commenters also mentioned that auditing standards for other countries have their own history of consistent and strong governance that already provide sufficient and strict controls. Additionally, when viewed along with strong credit ratings by a nationally recognized statistical rating organization (NRSRO), such as Moody's, Standard and Poor's, or Fitch, the Department's need for a U.S. GAAP prepared financial statement would be obviated.

One commenter indicated that there was not sufficient expertise within its country to perform the restatement of their financial statement prepared under their home country standards to U.S. GAAP.

Two commenters suggested that the Department replace the requirement for financial statements to be prepared to U.S. GAAP standards with the Department's acceptance of financial statements prepared under home accounting standards supported by a bond to indemnify against possible institutional financial failure.

Lastly, several commenters suggested that the Department raise the threshold amount of U.S. Title IV, HEA program funds from $3,000,000 to $10,000,000 before requiring an institution to submit audited financial statements prepared in accordance with the generally accepted accounting principles of both the institution's home country and U.S. GAAP, with one commenter suggesting the threshold be increased to $15,000,000.

Discussion: The Department continues to believe that there is a risk threshold of Title IV, HEA program dollars administered by foreign institutions where the audited financial statements for those institutions should be provided in the same format and at the level of testing required from domestic institutions. Audited financial statements for an institution prepared under the accounting standards of a foreign country do not readily support relative comparisons of financial strength with institutions that are audited under U.S. GAAP standards, and the Department believes that this comparability is important when evaluating the financial condition of domestic and foreign institutions under the standards set out in the statute and regulations.

As stated in the preamble to the NPRM, the Department believes that audited financial statement submissions from foreign institutions with a Title IV, HEA program fund volume at or above this threshold must be reviewed on an equal footing with domestic institutions, and allow the Department to evaluate efficiently and effectively the financial condition of those institutions. The framework that requires audit submissions of home country standards in addition to periodic submissions of U.S. GAAP audits for the foreign institutions will provide some flexibility and permit the Department to evaluate the comparability of the audits for foreign institutions over time. This approach will further the ability to deal with changes in the United States acceptance of international auditing standards that may be implemented during the coming years. Contrary to the suggestion that such submissions would create the potential for confusion, the ability to compare audited financial statements prepared under home country standards and U.S. GAAP will permit the Department to assess over time whether a greater reliance on audited financial statements prepared under home country standards would be reasonable.

The Department does not agree that submission of U.S. GAAP financial statements will provide little value to the review process. On the contrary, the benefit of receiving U.S. GAAP financial statements from foreign institutions is that the Department will be able to assess the financial strength of these institutions under the same regulatory measures used for domestic institutions. Audits prepared under U.S. GAAP contain detailed footnotes describing significant activities during the fiscal year, and also contain certain required disclosures by the auditors about concerns identified at an institution, and about the general reliability of the financial information maintained by the entity. At the same time, these U.S. GAAP audits can be compared with audits for the same institutions prepared under audit standards for the home countries to determine if the detailed disclosures are comparable, and to assess whether the requirement to provide U.S. GAAP financial statements could be changed in the future.

In response to comments that it is costly for foreign institutions to prepare U.S. GAAP financial statements, the Department acknowledges that the audit expense to have an institution's home country audit translated to U.S. GAAP, particularly for the initial engagement, may be significant, but believes it is justified, particularly in light of the tiered audit submission requirements that reduce audit cost and burden for institutions with smaller Title IV, HEA program fund volumes. Institutions may be able to reduce the costs for having home country audits translated to U.S. GAAP standards for subsequent years, particularly if an institution is continuing to use the same auditing firm. We also note that the routine engagement of auditing firms to translate the home country audited financial statements to U.S. GAAP will tend to increase the availability of accounting firms that can perform this work. The accounting firms that are retained to perform these audits will develop more expertise in this area, and should provide more choices of auditors for institutions over time. The largest costs for providing annual audited financial statements in U.S. GAAP will be for the foreign institutions that have the highest volume of Title IV, HEA program funds, and in that context these are the institutions for whom the audit expense will be relatively low compared to the amount of federal student aid funds they receive.

We note that, under these final regulations, as the International Financial Reporting Standards (IFRS) are phased-in, the Department will be able to accept financial audits prepared under IFRS. U.S. GAAP is a set of standards established by the Financial Accounting Standards Board that are recognized as authoritative by the American Institute of Certified Public Accountants (AICPA).

When IFRS is accepted by the AICPA in an acceptable audit presentation format for a type of entity (for-profit, non-profit, and public), the audits prepared under IFRS in those designated formats for those types of entities in other countries would also meet U.S. GAAP. Thus, when the Department receives an audit for a foreign institution prepared under IFRS that is prepared in the required format for that type of entity, and U.S. GAAP has adopted IFRS for that type of entity, the audit will meet the U.S. GAAP submission requirements. We will notify foreign institutions as audits prepared under IFRS for each type of entity are deemed acceptable under U.S. GAAP.

Lastly, the Department does not accept the suggestion that a public or nonprofit foreign institution that holds either a strong credit rating from a NRSRO, or provides surety such as a performance bond or letter of credit, should be excused from submitting a U.S. GAAP audited financial statement. A credit rating offers little to mitigate the financial risks that might be present but undisclosed at an institution, while such information might be disclosed under U.S. GAAP requirements. Accepting surety from an institution would mitigate some financial risk, but it would make it difficult to evaluate the relative financial strength of the institution and determine how much risk was present. The Department also rejects the approach suggested by some commenters to use the flexibility under proposed § 668.23(h)(3)(i) to base the submission requirements for foreign institutions on whether a particular institution has been identified as having problems with its financial condition or financial reporting. The goal of monitoring the financial health of an institution on an ongoing basis is to track its relative strength over time, and also in comparison to other institutions so that safeguards may be put in place before other problems are experienced. Given that the financial statement audits are the baseline for these determinations, it is problematic to consider waiting until a financial problem is identified to then require U.S. GAAP audit submissions.

In consideration of the concerns expressed about the expense for foreign institutions to submit audited financial statements prepared in accordance with U.S. GAAP, the Department is raising the threshold from $5,000,000 to $10,000,000 in annual federal student aid funding amounts to determine when a foreign institution must submit U.S. GAAP audited financial statements annually. We believe that this tiered approach for the audit submission requirements will support the goal of providing international education opportunities for U.S. students.

Changes: The thresholds originally proposed in § 668.23 will be revised such that the maximum amount of Title IV, HEA program funds that public and nonprofit foreign institutions may receive annually and submit U.S. GAAP audited financial statements once every three years is increased from $5,000,000 to $10,000,000. These foreign institutions will also be required to submit annually audited financial statements that are prepared under their home country standards.

Public and nonprofit foreign institutions that receive more than $10,000,000 annually in federal student aid funds are required to provide annual U.S. GAAP audited financial statements along with audited financial statements prepared under their home country standards.

Executive Order 12866

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether the regulatory action is "significant" and therefore subject to the requirements of the Executive Order and subject to review by the OMB. Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may (1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an "economically significant" rule); (2) create serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impacts of entitlement 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.

Pursuant to the terms of the Executive Order, it has been determined this proposed regulatory action would not have an annual effect on the economy of more than $100 million. Therefore, this action is not "economically significant" and subject to OMB review under section 3(f)(1) of Executive Order 12866. Notwithstanding this determination, the Secretary has assessed the potential costs and benefits of this regulatory action and has determined that the benefits justify the costs.

Need for Federal Regulatory Action

These proposed regulations are needed to implement provisions of the HEA, as amended by the HEOA, particularly related to audit requirements for foreign institutions, the USMLE pass rate for foreign graduate medical schools, clinical training programs of foreign graduate medical schools, new eligibility criteria for foreign graduate medical, clinical training programs for foreign veterinary schools, provisions for participation by for-profit foreign nursing schools, and eligibility restrictions applicable to for-profit (and, later, all) foreign nursing schools. A brief description of the proposed regulations, the reasons for adopting them, and an analysis of their effects was presented in the NPRM published July 20, 2010. This updated Regulatory Impact Analysis describes changes considered in response to comments received and the reasons for adopting or rejecting them.

A recent report from the GAO entitled "Foreign Medical Schools: Education Should Improve Monitoring of Schools that Participate in the Federal Student Loan Program" (GAO–10–412) (available at *http://www.gao.gov/new.items/d10412.pdf*) described the need for improved data collection and analysis related to foreign medical schools receiving Title IV, HEA program funds. As the GAO noted, approximately $1.5 billion was borrowed between 1998 and 2008 by U.S. students to attend foreign medical schools, with almost ninety percent of those funds going to students at three for-profit medical schools in the Caribbean. Federal student loans enable U.S. citizens and eligible noncitizens to attend eligible foreign institutions, and these graduates are an important source of medical providers in the United States. The GAO indicated that almost twenty percent of the approximately 244,000 international medical graduates practicing in the United States were U.S. citizens and that these graduates were more likely to go into primary care (67.9% of international graduates versus

37.2% of U.S.-educated graduates).[1] While these schools provide a valuable option for potential medical students and source of primary care physicians, there is evidence that their graduates have lower pass rates on licensing exams than U.S.-educated medical graduates.[2] Reasons for these results could be the academic background of students who attend foreign institutions, the degree of emphasis the institutions place on preparing students for the U.S. licensing exams, and the percentage of the institution's student body taking the exam.[3] These final regulations are meant to enable enforcement of the licensing exam pass rate requirement, to improve monitoring of foreign institutions receiving Title IV, HEA program funds, and to provide information that will allow students to evaluate their foreign educational options.

Regulatory Alternatives Considered

Regulatory alternatives were considered as part of the rulemaking process. These alternatives were reviewed in detail in the preamble to the NPRM under both the *Regulatory Impact Analysis* and the *Reasons* sections accompanying the discussion of each proposed regulatory provision. To the extent that they were addressed in response to comments received on the NPRM, alternatives are also considered elsewhere in the preamble to these final regulations under the Comments sections related to each provision. No comments were received related to the *Regulatory Impact Analysis* discussion of these alternatives.

As discussed above in the *Analysis of Comments and Changes* section, these final regulations reflect statutory amendments included in the HEOA and revisions in response to public comments. In most cases, these revisions were intended to address drafting issues or provide additional clarity. References to the FFEL Program in the NPRM were revised to refer to the Direct Loan Program, as appropriate. In response to comments, the Department clarified that, with some exceptions, public and private nonprofit institutions must meet the definition of § 600.4 and for-profit foreign institutions must meet the definition of proprietary institutions in § 600.5. In addition, in response to comments about programs at foreign institutions designed to prepare a student for gainful employment to satisfy the educational and occupational entry requirements in the United States and the country in which the institution is located, the Department dropped paragraphs (1)(v)(A) and (B) of § 600.52.

Specific changes made in response to comments related to foreign graduate medical schools include: (i) Exempting locations accredited by the AOA from the provisions limiting the location of foreign graduate medical school clinical training; and (ii) amending §§ 600.55(d)(1)(iii), (f)(1)(ii), and (f)(3) to require foreign graduate medical schools to report on USMLE pass rates for all students and graduates, regardless of citizenship. Other changes related to foreign graduate medical schools were made by the Department for clarification or technical reasons, and not in response to comments, including the following changes. Schools that have not had clinical training programs approved by a State since prior to January 1, 2008 are required to annually supply the Secretary with citizenship rates and the methodology for determining them. The requirement to submit USMLE pass rates has been changed from an award-year basis to a calendar-year basis to be consistent with the data request for 2009 and allow comparison over a consistent period. This will require submission of USMLE pass rate, MCAT scores, and residency placement for a calendar year to the Department or an institution's accrediting authority by no later than April 30 of each year, unless the Secretary specifies a different date through notice in the **Federal Register.** This is a change from the September 30 deadline that was proposed in the NPRM. In addition, most institutions may, in lieu of submitting USMLE pass rate information to the Secretary, provide for calculation of pass rates, and reporting of pass rates for the institution to the Secretary, by the ECFMG or other responsible third party, but only if the school has provided the Secretary by April 30 with written consent agreeing that the calculation of the pass rates to be provided by the ECFMG or other responsible third party to the Secretary will be conclusive for the purposes of determining compliance with the 75-percent pass rate thresholds.

For foreign veterinary schools, these final regulations provide an exception to the provision limiting the location of clinical training locations applicable to locations of a public or private nonprofit foreign veterinary school that are included in accreditation granted by the AVMA.

Comments were received about the provisions related to foreign nursing schools, but, as discussed in the *Analysis of Comments and Changes,* the Department does not have the authority to undertake some of the changes proposed by the commenters, such as indefinitely, through regulations, grandfathering in foreign nursing schools that currently participate in Title IV, HEA programs. In response to concerns about borrowers' loss of benefits, we have concluded that it is not in the best interest of borrowers to assign their Direct Loans to a foreign nursing school. The loans will remain Direct Loans with all the Direct Loan terms and conditions, and the Department will collect on the loan as we normally do until the loan is paid in full, otherwise satisfied, or the account is closed out. The Department will make provisions to avoid "double recovery" by revising the definition of "cost of a loan" that was proposed in § 600.57(b) of the NPRM to include only the estimated future collection costs on the loan. These collection costs would be estimated as follows: The Department annually announces a program-wide average cost of collections for Direct Loans. Estimated future collection costs will be derived from this program-wide average, but may be adjusted based on our experiences with borrowers who obtained Direct Loans to attend foreign nursing schools, or our experiences with the particular borrower whose loan has defaulted.

Under the revised definition, the reimbursement by the foreign nursing school to the Department of the cost of a loan default will not include outstanding principal, accrued interest, unpaid late fees or collection charges, or other costs associated with the loan. We also removed references to special allowances and reinsurance payments, and, as discussed above, added estimated future collection costs. Because reimbursement by the school will have no effect on the borrower's obligations and the terms and conditions of the Direct Loan, there is no need for adverse impact disclosures or notifications to borrowers regarding assignment of their Direct Loans to a foreign nursing school.

Several comments were submitted that requiring U.S. GAAP audited financial statements would be cost prohibitive and lead some schools to reduce participation in Title IV, HEA programs and would not provide added value to the review process. The Department maintains that U.S. GAAP audits will provide valuable information and allow the comparability of detailed disclosures between foreign and domestic institutions. In response to these comments about the cost of U.S. GAAP audits, however, the Department agreed to raise the threshold for annual

[1] GAO–10–412 p. 39.

[2] GAO–10–412 pp 20–21.

[3] GAO–10–412 pp 30–31.

submission of U.S. GAAP audited financial statements to $10,000,000 in Title IV, HEA program funds received annually.

The effect of these changes on the cost estimates prepared for and discussed in the *Regulatory Impact Analysis* of the NPRM is discussed in the Costs section of this Regulatory Impact Analysis.

Benefits

As discussed in the NPRM, benefits provided in these regulations include submission requirements for compliance audits and audited financial statements specific to foreign institutions; a revised definition of a *foreign institution* and a definition of nonprofit status specific to foreign institutions; the creation of a financial responsibility standard for foreign public institutions that is comparable to the financial responsibility standard for domestic public institutions; permission for a single legal authorization for groups of foreign institutions under the purview of a single government entity; the establishment of program eligibility requirements specific to training programs at foreign institutions; institutional eligibility criteria specific to foreign graduate medical schools, foreign veterinary schools, and foreign nursing schools; and revised maximum certification periods for some foreign institutions. The revised requirements for audited financial statements improve comparability between foreign and domestic institutions and enhance the security of Title IV, HEA program funds while taking into account the burden on foreign institutions of different sizes. The specific eligibility criteria for foreign graduate medical schools allow students to benefit from exposure to other medical environments and cultures while ensuring a comparable education to that available in domestic institutions.

Benefits under these regulations flow directly from statutory changes included in the HEOA; they are not materially affected by discretionary choices exercised by the Department in developing these regulations, or by changes made in response to comments on the NPRM. As noted in the *Regulatory Impact Analysis* in the NPRM, these final regulations result in net savings to the government of $2.6 million over 2011–2015 from the collections associated with the estimated future cost of collections on defaulted loans at foreign nursing schools.

Costs

As discussed extensively in the *Regulatory Impact Analysis* in the NPRM, several of the provisions implemented though these final regulations would require regulated entities to update existing policies and procedures related to financial and compliance audits. Other regulations generally would require discrete changes in specific parameters associated with existing requirements—such as changes to clinical training programs, application procedures, USMLE pass rates, and notification requirements—rather than wholly new requirements. Accordingly, entities wishing to continue to participate in the Title IV, HEA programs have already absorbed many of the administrative costs related to implementing these final regulations. Some foreign institutions may choose to withdraw from participation in the Title IV, HEA programs as a result of these final regulations. The changes to statutory provisions governing foreign nursing schools that are implemented in these regulations will likely result in the transfer of approximately $286 million in loan volume over 2011 to 2015 from institutions that do not meet the revised criteria to institutions that do meet the revised criteria and enroll the students who would have attended the ineligible foreign nursing schools. The foreign nursing schools that continue to participate would also be expected to pay approximately $0.4 million in default costs over 2011 to 2015. However, the Department believes the flexibility of the regulations should allow institutions to remain in the Title IV, HEA programs, while enhancing the security of Title IV, HEA program funds and ensuring compliance with statutory requirements.

In assessing the potential impact of these final regulations, the Department recognizes that certain provisions are likely to increase workload for some program participants. (This additional workload is discussed in more detail under the *Paperwork Reduction Act of 1995* section of this preamble.) Additional workload would normally be expected to result in estimated costs associated with either the hiring of additional employees or independent auditors or opportunity costs related to the reassignment of existing staff from other activities. In total, these changes are estimated to increase burden on entities participating in the Federal Student Assistance programs by 18,684 hours. Of this increased burden, 18,554 hours are associated with foreign institutions and 320 hours are associated with borrowers, generally reflecting the time required to read new disclosures or submit required information. Approximately 95 percent of this burden is associated with the financial and compliance audit requirements in proposed § 668.23. As described in the *Paperwork Reduction Act* section, if the regulatory changes had not been proposed, the burden associated with the financial statement and compliance audit requirements would be significantly higher.

Of these hours, approximately 3,200 hours were related to the requirement to submit U.S. GAAP compliant audited financial statements. Current regulations require all institutions to annually submit financial statements prepared in accordance with U.S. GAAP, with an exception for foreign institutions whose enrolled students received less than $500,000 (in U.S. dollars) in Title IV, HEA program funds per fiscal year. These institutions are allowed to submit audited financial statements prepared according to the generally accepted accounting principles of the institution's home country. The final regulations described here waive the U.S. GAAP reporting requirement for foreign institutions whose enrolled students received less than $500,000 (in U.S. dollars) in Title IV, HEA program funds per fiscal year, and establish the $3,000,000 and $10,000,000 thresholds described above. Comments received from Universities and Associations representing University Finance Directors provided estimates indicating that preparation of U.S. GAAP audited financial statements would cost approximately $300,000 to $400,000 per year in professional accounting expenses. The development of U.S. GAAP reporting could increase costs up to $770,000 in the first year or two, and tri-annual submission for institutions under the threshold for annual submission could also be more expensive given the need to prepare prior-year data. The comments stated that an additional $100,000 to $120,000 would be required for actuarial services and between $25,000 and $50,000 in internal costs related to the provision. In response to the comments about the costs of U.S. GAAP audits, the Department increased the threshold for annual submission of U.S. GAAP audits from $5,000,000 to $10,000,000 in Title IV, HEA funds received annually. In the Department's data, approximately 9 foreign institutions would be subject to the revised annual submission requirement compared to approximately 14 that would be subject to annual reporting under the $5,000,000 threshold proposed in the NPRM. Applying the estimated costs provided through the comments and the

Department's research, increasing the threshold to $10,000,000 results in reducing the estimated costs of U.S. GAAP audits from $20.5 million to $18.7 million when all institutions with Title IV receipts over $3 million have to report and from $7.2 million to $4.6 million in years when only annual submitters must provide U.S. GAAP statements. While some institutions will continue to incur costs to comply with the audit regulations as shown above, this regulation reduces the number of institutions subject to the U.S. GAAP reporting requirements.

The monetized cost of the additional paperwork burden outside of the U.S. GAAP audited financial statement submission requirement, using loaded wage data developed by the Bureau of Labor Statistics and used for domestic institutions, is $466,868 of which $461,620 is associated with foreign institutions and $5,248 with individuals. The wage data for foreign institutions was assumed to be comparable to domestic institutions as many are located in developed economies with wages similar to those in the United States. Institutions located in countries with lower wage scales have to compete for employees familiar with the lending programs, and substituting U.S. wage rates for those in lower wage countries results in a conservative estimate. For institutions, an hourly rate of $26.40 was used to monetize the burden of these provisions. This was a blended rate based on wages of $16.79 for office and administrative staff and $38.20 for managers and financial professionals, assuming that office staff would perform 55 percent of the work affected by these regulations. Because data underlying many of these burden estimates was limited, in the NPRM, the Department requested comments and supporting information for use in developing more robust estimates. In particular, we asked institutions to provide detailed data on actual staffing and system costs associated with implementing these regulations. Additional data received in the comments about the costs of U.S. GAAP audits were incorporated into this Regulatory Impact Analysis.

Net Budget Impacts

The provisions implemented by these final regulations are estimated to have a net budget impact of −$0.4 million over FY 2011–2015, from savings associated with the estimated future cost of collections on defaulted loans from foreign nursing schools. Consistent with the requirements of the Credit Reform Act of 1990, budget cost estimates for the Title IV, HEA programs reflect the estimated net present value of all future non-administrative Federal costs associated with a cohort of loans. (A cohort reflects all loans originated in a given fiscal year.)

These estimates were developed using the Office of Management and Budget's Credit Subsidy Calculator. The OMB calculator takes projected future cash flows from the Department's student loan cost estimation model and produces discounted subsidy rates reflecting the net present value of all future Federal costs associated with awards made in a given fiscal year. Values are calculated using a "basket of zeros" methodology under which each cash flow is discounted using the interest rate of a zero-coupon Treasury bond with the same maturity as that cash flow. To ensure comparability across programs, this methodology is incorporated into the calculator and used government-wide to develop estimates of the Federal cost of credit programs. Accordingly, the Department believes it is the appropriate methodology to use in developing estimates for these proposed regulations. That said, however, in developing the following Accounting Statement, the Department consulted with OMB on how to integrate our discounting methodology with the discounting methodology traditionally used in developing regulatory impact analyses.

Absent evidence on the impact of these final regulations on student behavior, budget cost estimates were based on behavior as reflected in various Department data sets and longitudinal surveys listed under *Assumptions, Limitations, and Data Sources.* Program cost estimates were generated by running projected cash flows related to each provision through the Department's student loan cost estimation model. Student loan cost estimates are developed across five risk categories: Two-year proprietary institutions, two-year public and private institutions, not-for-profit, freshman and sophomore at four-year institutions, junior and senior at four-year institutions, and graduate students. Risk categories have separate assumptions based on the historical pattern of behavior—for example, the likelihood of default or the likelihood to use statutory deferment or discharge benefits—of borrowers in each category.

Estimates indicate that three foreign graduate medical schools may become eligible under these provisions in the next few years but that this would potentially shift volume among schools, but not significantly increase the total volume of loans. The Department estimates no budgetary impact for most of these final regulations, as there is no data indicating that the provisions will have any impact on the volume or composition of Federal student aid programs. The provision requiring foreign nursing schools to reimburse the Secretary for the estimated future cost of collections on defaulted loans is expected to generate approximately $0.4 million in savings for the Department between 2011 and 2015. This is based on the expectation that many foreign nursing schools would not be eligible under the statutory criteria implemented in these regulations and the expected loan volume subject to the default provision would drop from approximately $336 million to $50 million. This reduced volume is not expected to affect Federal costs as the students would be expected to enroll in eligible programs. Applying the subsidy costs of defaults to the estimated new volume, which are approximately .96% for subsidized loans, .86% for unsubsidized loans, and .62% for graduate plus loans, resulted in the $0.4 million in default savings over FY 2011–2015.

Assumptions, Limitations, and Data Sources

Impact estimates provided in the preceding section reflect a pre-statutory baseline in which the HEOA changes implemented in these final regulations do not exist. Costs have been quantified for five years.

In developing these estimates, a wide range of data sources were used, including data from the National Student Loan Data System; operational and financial data from Department of Education systems, including especially the Fiscal Operations Report and Application to Participate (FISAP); and data from a range of surveys conducted by the National Center for Education Statistics such as the 2008 National Postsecondary Student Aid Survey, the 1994 National Education Longitudinal Study, and the 1996 Beginning Postsecondary Student Survey. Data from other sources, such as the U.S. Census Bureau, were also used. Data on administrative burden at participating institutions are extremely limited; accordingly, in the NPRM, the Department expressed interest in receiving comments in this area. The comments received were incorporated in the analysis of costs related to the provisions.

Elsewhere in this **SUPPLEMENTARY INFORMATION** section we identify and explain burdens specifically associated with information collection

requirements. See the heading **Paperwork Reduction Act of 1995**.

Accounting Statement

As required by OMB Circular A–4 (available at *http://www.Whitehouse.gov/omb/Circulars/a004/a-4.pdf*), in Table 2, we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of these proposed regulations. This table provides our best estimate of the changes in Federal student aid payments as a result of these final regulations. Expenditures are classified as transfers from the Federal government to student loan borrowers.

TABLE 2—ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED EXPENDITURES

[In millions]

Category	Transfers
Annualized Monetized Costs	$3.9. Cost of defaults for foreign nursing schools and cost of compliance with paperwork and audit requirements.
Annualized Monetized Transfers	$58.7.
From Whom To Whom?	Ineligible Foreign Nursing Programs to Eligible Nursing Programs.

Regulatory Flexibility Act Certification

The Secretary certifies that these final regulations would not have a significant economic impact on a substantial number of small entities. These final regulations would affect foreign institutions that participate in Title IV, HEA programs and loan borrowers. The definition of "small entity" in the Regulatory Flexibility Act encompasses "small businesses," "small organizations," and "small governmental jurisdictions." The definition of "small business" comes from the definition of "small business concern" under section 3 of the Small Business Act as well as regulations issued by the U.S. Small Business Administration. The SBA defines a "small business concern" as one that is "organized for profit; has a place of business in the United States; operates primarily within the United States or makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor * * *" "Small organizations," are further defined as any "not-for-profit enterprise that is independently owned and operated and not dominant in its field." For the purposes of the Regulatory Flexibility Act analysis, the foreign institutions would not fall within the definition of small businesses or small organizations based upon this definition of "small business concern."

The definition of "small entity" also includes "small governmental jurisdictions," which includes "school districts with a population less than 50,000." The definition of "small governmental jurisdictions" is not applicable to this rule. In the NPRM, the Secretary invited comments from small institutions and other affected entities as to whether they believe the proposed changes would have a significant economic impact on them and requested evidence to support that belief. No comments were received.

Paperwork Reduction Act of 1995

Sections 600.20, 600.21, 600.54, 600.55, 600.56, 600.57, 668.13, 668.23, and 668.171 contain information collection requirements. Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department has submitted a copy of these sections to OMB for its review.

Section 600.20—Application Procedures for Establishing, Reestablishing, Maintaining, or Expanding Institutional Eligibility and Certification

Final § 600.20(a)(3) and § 600.20(b)(3) provide that, for initial certification or for recertification, a foreign graduate medical school (i.e., a freestanding foreign graduate medical school or a foreign institution that includes a foreign graduate medical school) is required to—

- List on the application to participate all educational sites and where they are located, except for those locations that are not used regularly, but instead are chosen by individual students who take no more than two electives at the location for no more than a total of eight weeks;
- Identify, for each clinical site reported in the certification or recertification application, the type of clinical training (core, required clinical rotation, not required clinical rotation) offered at that site;
- Indicate whether it offers only post-baccalaureate/equivalent medical programs, other types of programs that lead to employment as a doctor of osteopathic medicine, doctor or medicine, or both;
- Provide copies of the affiliation agreements with hospitals and clinics that it is required to have as a part of any application for initial certification or recertification to participate in the Title IV, HEA programs.

Final § 600.20(c)(5) requires a foreign graduate medical school that adds a location that offers all or a portion of the school's core clinical training or required clinical rotations, to apply to the Secretary and wait for approval if it wishes to provide Title IV, HEA program funds to the students at that location, except for those locations that are included in the accreditation of a medical program accredited by the LCME and the AOA.

While we recognize that there will be burden assessed under § 600.20(a)(3) and § 600.20(c)(5), we do not anticipate either an initial eligibility application or an application to expand eligibility at this time.

We estimate that 58 public institutions will take .58 hours (35 minutes) per institution to submit a reapplication, which will increase burden by 34 hours. We estimate that 10 private nonprofit institutions will take .58 hours (35 minutes) per institution to submit a reapplication, which will increase burden by 6 hours. We estimate that 3 for-profit institutions will take .58 hours (35 minutes) per institution to submit a reapplication, which will increase burden by 2 hours. There will therefore be a total 42 hours of burden associated with § 600.20(b)(3) in OMB Control Number 1845–0012.

Section 600.21—Updating Application Information

Final § 600.21(a)(10) requires, if a foreign graduate medical school adds a location that offers all or a portion of the school's clinical rotations that are not required, that the school notify the Department no later than 10 days after the location is added, except for those locations that are included in the accreditation of a medical program accredited by the LCME, the AOA, or those locations that are not used regularly, but instead are chosen by individual students who take no more than two electives at the location for no

more than a combined total of eight weeks. This requirement mirrors the requirement in § 600.20(c)(5).

We estimate that 6 public institutions will take .17 hours (10 minutes) per institution to fulfill the reporting requirement, which will increase burden by 1 hour. We estimate that 1 private nonprofit institution will take .17 hours (10 minutes) to fulfill the reporting requirement, which will increase burden by 10 minutes. We estimate that 1 for-profit institution will take .17 hours (10 minutes) to fulfill the reporting requirement, which will increase burden by 10 minutes. Therefore, to account for rounding, the total increase in burden will be 1 hour associated with § 600.21(a)(10) in OMB Control Number 1845–0012.

Section 600.54—Criteria for Determining Whether a Foreign Institution Is Eligible To Apply To Participate in the Direct Loan Program

Under final § 600.54(e)(3)(ii), a foreign institution has to demonstrate to the satisfaction of the Secretary (who will make program-by-program determinations of comparability) that the amount of academic work required by a program it seeks to qualify as eligible as at least a one-academic-year training program is equivalent to an academic year as defined in § 668.3.

We estimate that 93 public institutions will take .17 hours (10 minutes) to demonstrate the comparability of the academic work and will increase burden by 16 hours. We estimate that 33 private institutions will take .17 hours (10 minutes) to demonstrate the comparability of the academic work and will increase burden by 6 hours. Therefore, the total increase in burden will be 22 hours associated with § 600.54(e)(3)(ii) in OMB Control Number 1845–NEWA.

Section 600.55—Additional Criteria for Determining Whether a Foreign Graduate Medical School Is Eligible To Apply To Participate in the Direct Loan Program

Final § 600.55(c)(2) requires a foreign graduate medical school to determine the consent requirements for, and require the necessary consents of, all students accepted for admission for whom the school must report to enable the school to comply with the collection and submission requirements in § 600.55(d) for Medical College Admission Test (MCAT) scores, residency placement, U.S. Medical Licensing Examination (USMLE) scores, and citizenship rate.

We estimate that 58 public institutions will take .50 hours (30 minutes) to develop this consent form and would increase burden by 29 hours. We estimate that 5 private nonprofit institutions will take .50 hours (30 minutes) to develop this consent form and will increase burden by 3 hours. We estimate that 3 for-profit institutions will take .50 hours (30 minutes) to develop this consent form and will increase burden by 2 hours. We estimate that 2,800 individuals will take .08 hours (5 minutes) to complete this consent form and will increase burden by 224 hours. Therefore, the total burden increase will be 258 hours associated with § 600.55(c)(2) in OMB Control Number *1845–NEWA.*

Final § 600.55(d)(1)(i) and (1)(ii) requires that a foreign graduate medical school obtain, at its own expense and no later than April 30 of each year submit to its accrediting authority for all students who are U.S. citizens, nationals, or eligible permanent residents: (1) The MCAT or successor examination scores for students admitted during the preceding calendar year who are U.S. citizens, nationals, or eligible permanent residents and the number of times each student took the exam; and (2) the percentage of students graduating during the preceding calendar year (including at least all graduates who are U.S. citizens, nationals, or eligible permanent residents) who obtain placement in an accredited U.S. medical residency program. Under the regulations, a school will have to submit the data on MCAT scores and placement in a U.S. residency program to the Department only upon request.

Final § 600.55(d)(1)(iii) requires a foreign graduate medical school to obtain, at its own expense and no later than April 30 of each year, unless the Secretary specifies a different date through a notice in the **Federal Register**, submit to the Secretary, USMLE scores earned during the preceding calendar year by each student and graduate and the date each student/graduate took each test, including any failed tests. The USMLE scores submitted must be disaggregated by step/test for Step 1, Step 2–Clinical Skills (Step 2–CS), and Step 2–Clinical Knowledge (Step 2–CK), and by attempt. A school will not be required to submit data on the USMLE Step 3.

Final § 600.55(d)(1)(iv) requires foreign medical schools to submit, no later than April 30 of each year, unless the Secretary specifies a different date through a notice in the **Federal Register,** directly to the Secretary a statement of its citizenship rate for the preceding calendar year with a description of the methodology used to obtain the rate.

Alternatively, new § 600.55(d)(2) allows foreign medical schools, under specific conditions, to provide acceptable written consent to the Secretary, by April 30, in which the school agrees that, in lieu of submission of the USMLE pass rate information required under 600.55(d)(1)(iii), ECFMG, or another responsible third party, will calculate and provide the Secretary with the school's USMLE pass rates required for purposes of determining compliance with § 600.55(f). This written consent must specify that the pass rates provided by the ECFMG or other responsible third party will be conclusive for determining compliance with the pass rate thresholds set in § 600.55(f).

For § 600.55(d)(1), we estimate that 36 public institutions will require 1.41 hours (1 hour 25 minutes) to create this annual report and will increase burden by 51 hours. We estimate that 7 private nonprofit institutions will require 1.41 hours (1 hour 25 minutes) to create this annual report and will increase burden by 10 hours. We estimate that 3 for-profit institutions will require 1.41 hours (1 hour 25 minutes) to create this annual report and will increase burden by 4 hours. The total burden increase for § 600.55(d)(1) will therefore be 65 hours.

Additionally, we estimate that 25 schools with more than eight but fewer than 50 borrowers will use the option in § 600.55(d)(2) to replace the requirements in § 600.55(d)(1)(iii). We estimate that institutions will require .75 hours (45 minutes) to create the report using data under § 600.55(d)(1)(i), (ii), and (iv) and to execute the written consent letter to the Secretary and the request letter to ECFMG or other responsible third party as required in § 600.55(d)(2). We estimate that 22 public institutions will require .75 hours (45 minutes) to fulfill this requirement and will increase burden by 17 hours. We estimate that 3 private institutions will require .75 hours (45 minutes) to fulfill this requirement and will increase burden by 2 hours. The total burden increase for using the option in § 600.55(d)(2) and for completing the requirements of § 600.55(d)(1)(i) and (ii) will be 19 hours. Therefore, the total burden increase will be 84 hours associated with § 600.55(d) in OMB Control Number 1845–NEWA.

Final § 600.55(e)(2) requires a foreign graduate medical school to notify its accrediting body within one year of any material changes in the educational programs, including changes in clinical training programs; and the overseeing bodies and in the formal affiliation

agreements it has with hospitals and clinics.

We estimate that 15 public institutions will require .82 hours (50 minutes) to complete the accrediting agency clinical training notifications and will increase burden by 12 hours. We estimate that 3 private nonprofit institutions will require .82 hours (50 minutes) to complete the accrediting agency clinical training notifications and will increase burden by 3 hours. We estimate that 1 for-profit institution will require .82 hours (50 minutes) to complete the accrediting agency clinical training notifications and will increase burden by 1 hour. Therefore, the total burden increase will be 16 hours associated with § 600.55(e) in OMB Control Number *1845–NEWA.*

Final § 600.55(g)(1) requires a foreign graduate medical school to apply the existing satisfactory academic progress regulations in § 668.16(e) for establishing a maximum timeframe in which a student must complete their educational program and require that a student complete their educational program within 150 percent of the published length of the educational program. In addition, final § 600.55(g)(2) requires a foreign graduate medical school to document the educational remediation it provides to assist students in making satisfactory academic progress.

We estimate that 58 public institutions will require 2.5 hours (2 hours 30 minutes) to update the satisfactory academic policy and document remediation provided to student and will increase burden by 145 hours. We estimate that 10 private nonprofit institutions will require 2.5 hours (2 hours 30 minutes) to update the satisfactory academic policy and document remediation provided to student and will increase burden by 25 hours. We estimate that 3 for-profit institutions will require 2.5 hours (2 hours 30 minutes) to update the satisfactory academic policy and document remediation provided to student and will increase burden by 7 hours and 30 minutes. Therefore, to account for rounding, total burden increase will be 178 hours associated with § 600.55(g)(1) and (2) in OMB Control Number 1845–NEW2.

Final § 600.55(g)(3) requires a foreign graduate medical school to publish all the languages in which instruction is offered.

We estimate that 58 public institutions will require .33 hours (20 minutes) to publish the languages in which instruction is provided, increasing burden by 19 hours. We estimate that 10 private nonprofit institutions will require .33 hours (20 minutes) to publish the languages in which instruction is provided, increasing burden by 3 hours. We estimate that 3 for-profit institutions will require .33 hours (20 minutes) to publish the languages in which instruction is provided, increasing burden by 1 hour. Therefore, the total burden increase will be 23 hours associated with § 600.55(g)(3) in OMB Control Number 1845–NEWA.

In total, we estimate that § 600.55 will increase burden by 381 hours in OMB 1845–NEWA, and 178 hours in OMB 1845–NEW2.

Section 600.56—Additional Criteria for Determining Whether a Foreign Veterinary School Is Eligible To Apply To Participate in the Direct Loan Program

Final § 600.56(a)(4) requires a foreign veterinary school to be accredited or provisionally accredited by an organization acceptable to the Secretary. Section 600.56(a)(4) specifies that the requirement for accreditation or provisional accreditation does not take effect until July 1, 2015.

The Department delayed the effective date of the accreditation requirement in § 600.56(a)(4) until July 1, 2015 to allow foreign veterinary schools that are currently in the Title IV, HEA programs additional time after the final regulations are published to obtain accreditation from an acceptable accrediting agency. Therefore, no burden assessment has been made at this time. The issue will be reviewed closer to the effective date of this section of the regulations, to enable the Department to use a more accurate number of participating veterinary schools in its assessment.

Section 600.57—Additional Criteria for Determining Whether a Foreign Nursing School Is Eligible To Apply To Participate in the Direct Loan Program

The final regulations add a new § 600.57 that specifies additional Title IV, HEA program eligibility criteria for foreign nursing schools. These criteria include § 600.57(a)(6)(i), which requires the school to determine the consent requirements for, and require the necessary consents of, all students accepted for admission who are U.S. citizens, nationals, or eligible permanent residents, to enable the school to comply with the requirements for collection and submission of National Council Licensure Examination for Registered Nurses (NCLEX–RN) results or pass rates.

We estimate that 3 new for-profit nursing institutions will require .50 hours (30 minutes) to develop the consent form, increasing burden by 1 hour and 30 minutes. We estimate that 1,200 individuals will require .08 hours (5 minutes) to respond to this consent form, increasing burden by 96 hours in OMB Control Number 1845–NEWA.

The foreign nursing school eligibility requirements also include § 600.57(a)(6)(ii), which requires an institution to annually, at its own expense, obtain all results on the NCLEX–RN achieved by students and graduates who are U.S. citizens, nationals, or eligible permanent residents, together with the dates the student has taken the examination (including any failed examinations) and provide the results to the Department. As an alternative to obtaining the NCLEX results individually, the school may obtain a report or reports from the National Council of State Boards of Nursing (NCSB), or an NCSB affiliate or NCSB contractor, reflecting the percentage of the school's students and graduates taking the NCLEX–RN in the preceding year who passed the examination, or the data from which the percentage could be derived, and provide the report to the Department.

We estimate that 3 new for profit nursing institutions will require 1.5 hours (1 hour 30 minutes) to compile this annual report submission, increasing burden by 4 hours 30 minutes in OMB Control Number 1845–NEWA. In total, we estimate that there will be 102 hours of burden associated with § 600.57(a)(6) in OMB Control Number 1845–NEWA.

In addition, § 600.57(c) specifies that the Department continues to collect on the Direct Loan after a school reimburses the Secretary for the cost of a loan default, until the loan is paid in full or until the loan account is closed out for any reason.

While burden would normally be associated with the payment of the default to the Department, because there is no history of Federal borrowing for attendance at these new nursing schools, and due to the extended period of time prior to a student borrower defaulting on a Title IV, HEA loan at a newly approved foreign nursing school during the first year after the implementation of the final regulations, we believe that it would be inappropriate to project burden to schools and individuals at this time.

Section 668.13—Certification Procedures

Final § 668.13(b)(1)(i) specifies that the period of participation in Title IV, HEA programs for a private, for-profit foreign institution expires three years

after the date the institution is certified by the Department, rather than the current six years.

While the duration of the approval period is reduced from six years to three years and, therefore, submissions for recertification will be required more often, this change in the regulations does not represent a substantive impact on the amount of annual burden to the institutions affected by these regulations. We do not estimate a change in the annual burden as a result of the regulations for OMB Control Number 1845–0022.

Section 668.23—Compliance Audits and Audited Financial Statements

The final regulations in § 668.23(h)(1) revise financial statement submission requirements for foreign institutions receiving Title IV, HEA program funds in the most recently completed fiscal year.

In § 668.23(h)(1)(i), for a public or nonprofit foreign institution that received less than $500,000 in U.S. Title IV, HEA program funds during the institution's most recently completed fiscal year, the audited financial statements submission will be waived, unless the institution is in its initial provisional period of participation and received Title IV, HEA program funds during that year, in which case the institution must submit, in English, audited financial statements prepared in accordance with the generally accepted accounting principles of the institution's home country.

In § 668.23(h)(1)(iii)(A), for a public or nonprofit foreign institution that received $500,000 or more in U.S. Title IV, HEA program funds, but less than $3,000,000 in U.S. Title IV, HEA program funds during its most recently completed fiscal year, the institution will be allowed to submit for that year, in English, audited financial statements prepared in accordance with the generally accepted accounting principles of the institution's home country in lieu of financial statements prepared in accordance with U.S. GAAP.

In § 668.23(h)(1)(iii)(B), for a public or nonprofit foreign institution that received at least $3,000,000 but less than $10,000,000 in U.S. Title IV, HEA program funds during its most recently completed fiscal year, the institution will be required to submit once every three years audited financial statements prepared in accordance with the generally accepted accounting principles of both the institution's home country and U.S. GAAP, but for the two years in between would be allowed to submit, in English, audited financial statements prepared in accordance with the generally accepted accounting principles of the institution's home country in lieu of financial statements prepared in accordance with U.S. GAAP.

In § 668.23(h)(1)(ii), for a public or nonprofit foreign institution that received $500,000 or more in U.S. Title IV, HEA program funds during its most recently completed fiscal year, and for any for-profit foreign institution, the institution would be required to submit for that year, in English, audited financial statements prepared in accordance with the generally accepted accounting principles of both the institution's home country and U.S. GAAP, except as described above with respect to public and nonprofit institutions.

We estimate that 16 public institutions will require 35 hours for the translation of financial statements to English, increasing burden by 560 hours. We estimate that 20 private institutions will require 35 hours for the translation of financial statements to English increasing burden by 700 hours for a total of 1,260 hours.

We estimate, if the final regulations (allowing for alternate submissions for institutions with funding over $500,000 in U.S. Title IV, HEA program funds) had not been promulgated, that 123 foreign institutions would have been required to continue to submit annually audited financial statements prepared in accordance with U.S. GAAP at a burden of 12,300 hours (123 institutions × 100 hours = 12,300 hours). Instead only 32 foreign institutions will continue to be required to submit annually audited financial statements prepared in accordance with U.S. GAAP with a burden of 3,200 hours. Therefore the final regulations reduce burden by 9,100 hours (burden of 3,200 hours subtracted from the burden of 12,300 hours required under prior regulations).

Collectively, we estimate that there will be a reduction of 7,840 hours of burden (9,100 hours minus 1,260) associated with § 668.23(h)(1) in OMB Control Number 1845–0038.

Final § 668.23(h)(2) separates foreign institutions into two groups, establishing new compliance audit requirements for foreign institutions based upon whether the institution received less than $500,000 or $500,000 or more in U.S. Title IV, HEA program funds during the institution's most recently completed fiscal year.

Under final § 668.23(h)(2)(ii), foreign institutions that receive less than $500,000 per year in U.S. Title IV, HEA program funds, will be required to submit an alternative compliance audit performed in accordance with the Foreign School Audit Guide from the Department's Office of Inspector General. An alternative compliance audit is an agreed-upon procedures attestation engagement, which consists of specific procedures performed on a subject matter and is substantially narrower in scope than a standard compliance audit, which is an examination level attestation.

The final regulations in § 668.23(h)(2)(iii) require an annual submission of the compliance audit but allow, under certain conditions as described in the following paragraphs, an institution to submit a compliance audit annually for two consecutive years, and then, if notified by the Department, will be permitted to submit a cumulative compliance audit every three years thereafter as long as the institution continues to receive less than $500,000 in U.S. Title IV funds each fiscal year being audited.

Under final § 668.23(h)(2)(i), as in the current regulations, foreign institutions that receive $500,000 or more per year in U.S. Title IV, HEA program funds, will be required to submit annual compliance audits using the standard audit procedures for foreign institutions set out in the audit guide issued by the Department's Office of Inspector General. This compliance audit will be submitted together with an alternative compliance audit or audits prepared in accordance with § 668.23(h)(2)(ii) for any preceding fiscal year or years in which the foreign institution received less than $500,000 in U.S. Title IV, HEA program funds.

We estimate, if the final regulations (allowing for alternate compliance audit submission for institutions with funding less than $500,000) had not been promulgated, that 350 foreign institutions would have been required to continue to complete a full compliance audit for 14,000 hours of burden (350 institutions × 40 hours). Instead, these 350 foreign institutions will have their burden reduced to 8,750 hours (350 institutions × 25 hours). The final regulations realize a decrease of 5,250 hours of burden associated with § 668.23(h)(2) in OMB Control Number 1845–0038.

In total, we estimate that there will be a reduction of 13,090 hours of burden related to § 668.23(h) in OMB Control Number 1845–0038.

Section 668.171—General (Subpart L—Financial Responsibility)

Final § 668.171 considers a public foreign institution to be financially responsible if the institution: (1) Notifies the Secretary that it is

designated as a public institution by the country or other government entity that has the legal authority to make that designation; and (2) provides documentation from an official of that country or other government entity confirming that the institution is a public institution and is backed by the full faith and credit of the country or other government entity. A foreign public institution will not meet this standard of financial responsibility if it is in violation of any past performance requirements in § 668.174.

If a foreign public institution does not meet the new requirements, its financial responsibility will be determined under the general requirements of financial responsibility, including the application of the equity, primary reserve, and net income ratios. Although the full faith and credit provision will provide an alternate way of meeting the financial responsibility standards for public foreign institutions, it will not excuse the institution from required submissions of audited financial statements. In addition, if a government entity provides full faith and credit backing, the entity will be held liable for any Title IV, HEA program liabilities that are not paid by the institution.

We estimate that 13 public institutions will require 16 hours to obtain documentation from the applicable government entity for an increase in burden of 208 hours in OMB Control Number 1845–0022.

COLLECTION OF INFORMATION

Regulatory section	Information collection	Collection
600.20—Application procedures for establishing, reestablishing, maintaining, or expanding institutional eligibility and certification.	This final regulation change adds information that must be collected to determine the eligibility of foreign graduate medical, veterinary, and nursing schools to participate in Title IV programs.	OMB 1845–0012. The burden will increase by 42 hours.
600.21—Updating application information	This final regulation identifies when a foreign graduate medical school must notify the Department of specific changes in locations used by the school.	OMB 1845–0012. The burden increases by 1 hour.
600.54—Criteria for determining whether a foreign institution is eligible to participate in the Direct Loan Program.	This final regulation requires that the foreign school demonstrate that its academic work for each training program of at least one-academic-year is equivalent to an academic year as defined for domestic institutions.	OMB 1845–NEWA. This would be a new collection. Separate 60-day and 30-day **Federal Register** notices were published to solicit comment. The burden increases by 22 hours.
600.55—Additional criteria for determining whether a foreign graduate medical school is eligible to apply to participate in the Direct Loan Program.	This final regulation requires the schools to develop and provide a consent form allowing the school to receive a copy of the students' MCAT scores, and requires a medical school to annually produce and provide to its accrediting agency a report with data regarding its students who are U.S. citizens, nationals or eligible permanent residents. Some of the same information will be required to be submitted to the Department on an annual basis. It requires the school to notify the accrediting body within one year of material changes to its educational program, and of formal affiliation agreements. This section also requires a school to identify the languages in which it provides instruction.	OMB 1845–NEWA. This would be a new collection. Separate 60-day and 30-day **Federal Register** notices were published to solicit comment. The burden increases by 381 hours.
600.55(g)(1)&(2)	This final regulation requires that the foreign graduate medical school expands the satisfactory academic progress policy requirements to include foreign schools; requires calculations of maximum timeframes to complete the program; and requires the school to document any student remediation regarding SAP.	OMB 1845–NEW2. This is a new collection. Separate 60-day and 30-day **Federal Register** notices were published to solicit comment. The burden increases by 178 hours.
600.57—Additional criteria for determining whether a foreign nursing school is eligible to apply to participate in the Direct Loan Program.	This final regulation requires the schools to develop and provide a consent form allowing the school to receive a copy of the students' NCLEX–RN results or pass rate; requires a nursing school to annually produce and provide to the Department a report with data regarding the results of the NCLEX–RN exam taken by its students and graduates.	OMB 1845–NEWA. This would be a new collection. Separate 60-day and 30-day **Federal Register** notices were published to solicit comment. The burden increases by 102 hours.
668.13—Certification procedures	This final regulation changes the certification time frame for for-profit schools from 6 to 3 years.	OMB 1845–0022. We do not estimate an increase in burden.
668.23(h)(1)(ii) & 668.23(h)(1)(iii)(B)—Compliance audits and audited financial statements.	This final regulation requires the translation of certain financial statements into English.	OMB 1845–0038. The burden increases by 1,260 hours.
668.23(h)(1)—Compliance audits and audited financial statements.	This final regulation changes the requirements for submission by institutions to the Department of audited financial statements.	OMB 1845–0038. The burden decreases by 9,100 hours.

COLLECTION OF INFORMATION—Continued

Regulatory section	Information collection	Collection
668.23(h)(2)—Compliance audits and audited financial statements.	This final regulation changes the requirements for submission by institutions to the Department of compliance audits.	OMB 1845–0038. The burden decreases by 5,250 hours.
668.171—General (Subpart L—Financial Responsibility).	This final regulation provides an alternate method to show financial responsibility, by showing it is a public institution designated by proper governing authority in the country and providing documentation of the full faith and credit of that country.	OMB 1845–0022. The burden increases by 208 hours.

Assessment of Educational Impact

In the NPRM we requested comments on whether the proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

Based on the response to the NPRM and on our review, we have determined that these final regulations do not require transmission of information that any other agency or authority of the United States gathers or makes available.

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(Catalog of Federal Domestic Assistance Numbers: 84.063 Federal Pell Grant Program; 84.033 Federal Work-Study Program; 84.379 TEACH Grant Program; 84.069 LEAP)

List of Subjects

34 CFR Part 600

Colleges and universities, Foreign relations, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

34 CFR Part 668

Administrative practice and procedure, Aliens, Colleges and universities, Consumer protection, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Selective Service System, Student aid, Vocational education.

34 CFR Part 682

Administrative practice and procedure, Colleges and universities, Education, Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

34 CFR Part 685

Administrative practice and procedure, Colleges and universities, Education, Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

Dated: October 19, 2010.

Arne Duncan,

Secretary of Education.

■ For the reasons discussed in the preamble, the Secretary amends parts 600, 668, 682 and 685 of title 34 of the Code of Federal Regulations as follows:

PART 600—INSTITUTIONAL ELIGIBILITY UNDER THE HIGHER EDUCATION ACT OF 1965, AS AMENDED

■ 1. The authority citation for part 600 continues to read as follows:

Authority: 20 U.S.C. 1001, 1002, 1003, 1088, 1091, 1094, 1099b, and 1099c, unless otherwise noted.

■ 2. Section 600.2 is amended by revising paragraphs (1) and (2) of the definition of *Nonprofit institution.*

The revision reads as follows:

§ 600.2 Definitions.

* * * * *

Nonprofit institution: An institution that—

(1)(i) Is owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which benefits any private shareholder or individual;

(ii) Is legally authorized to operate as a nonprofit organization by each State in which it is physically located; and

(iii) Is determined by the U.S. Internal Revenue Service to be an organization to which contributions are tax-deductible in accordance with section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)); or

(2) For a foreign institution—

(i) An institution that is owned and operated only by one or more nonprofit corporations or associations; and

(ii)(A) If a recognized tax authority of the institution's home country is recognized by the Secretary for purposes of making determinations of an institution's nonprofit status for title IV purposes, is determined by that tax authority to be a nonprofit educational institution; or

(B) If no recognized tax authority of the institution's home country is recognized by the Secretary for purposes of making determinations of an institution's nonprofit status for title IV purposes, the foreign institution demonstrates to the satisfaction of the Secretary that it is a nonprofit educational institution.

* * * * *

■ 3. Section 600.20 is amended by:

■ A. Revising paragraph (a).

■ B. Adding a new paragraph (b)(3).

■ C. In paragraph (c)(4), removing the word "or".

■ D. Redesignating paragraph (c)(5) as paragraph (c)(6).

■ E. Adding a new paragraph (c)(5).

The revision and additions read as follows:

§ 600.20 Application procedures for establishing, reestablishing, maintaining, or expanding institutional eligibility and certification.

(a) *Initial eligibility application.* (1) An institution that wishes to establish its eligibility to participate in any HEA program must submit an application to the Secretary for a determination that it qualifies as an eligible institution under this part.

(2) If the institution also wishes to be certified to participate in the title IV,

HEA programs, it must indicate that intent on the application, and submit all the documentation indicated on the application to enable the Secretary to determine that it satisfies the relevant certification requirements contained in 34 CFR part 668, subparts B and L.

(3) A freestanding foreign graduate medical school, or a foreign institution that includes a foreign graduate medical school, must include in its application to participate—

(i)(A) A list of all medical school educational sites and where they are located, including all sites at which its students receive clinical training, except those clinical training sites that are not used regularly, but instead are chosen by individual students who take no more than two electives at the location for no more than a total of eight weeks; and

(B) The type of clinical training (core, required clinical rotation, not required clinical rotation) offered at each site listed on the application in accordance with paragraph (a)(3)(i)(A) of this section; and

(ii) Whether the school offers—

(A) Only post-baccalaureate/equivalent medical programs, as defined in § 600.52;

(B) Other types of programs that lead to employment as a doctor of osteopathic medicine or doctor of medicine; or

(C) Both; and

(iii) Copies of the formal affiliation agreements with hospitals or clinics providing all or a portion of a clinical training program required under § 600.55(e)(1).

(b) * * *

(3) A freestanding foreign graduate medical school, or a foreign institution that includes a foreign graduate medical school, must include in its reapplication to participate—

(i)(A) A list of all of the foreign graduate medical school's educational sites and where they are located, including all sites at which its students receive clinical training, except those clinical training sites that are not used regularly, but instead are chosen by individual students who take no more than two electives at the location for no more than a total of eight weeks; and

(B) The type of clinical training (core, required clinical rotation, not required clinical rotation) offered at each site listed on the application in accordance with paragraph (b)(3)(i)(A) of this section; and

(ii) Whether the school offers—

(A) Only post-baccalaureate/equivalent medical programs, as defined in § 600.52;

(B) Other types of programs that lead to employment as a doctor of osteopathic medicine or doctor of medicine; or

(C) Both; and

(iii) Copies of the formal affiliation agreements with hospitals or clinics providing all or a portion of a clinical training program required under § 600.55(e)(1).

* * * * *

(c) * * *

(5) For a freestanding foreign graduate medical school, or a foreign institution that includes a foreign graduate medical school, add a location that offers all or a portion of the foreign graduate medical school's core clinical training or required clinical rotations, except for those locations that are included in the accreditation of a medical program accredited by the Liaison Committee on Medical Education (LCME) or the American Osteopathic Association (AOA); or

* * * * *

■ 4. Section 600.21 is amended by adding paragraph (a)(10) to read as follows:

§ 600.21 Updating application information.

(a) * * *

(10) For a freestanding foreign graduate medical school, or a foreign institution that includes a foreign graduate medical school, the school adds a location that offers all or a portion of the school's clinical rotations that are not required, except for those that are included in the accreditation of a medical program accredited by the Liaison Committee on Medical Education (LCME) or the American Osteopathic Association (AOA), or that are not used regularly, but instead are chosen by individual students who take no more than two electives at the location for no more than a total of eight weeks.

* * * * *

■ 5. Section 600.41 is amended by adding paragraph (e)(3) to read as follows:

§ 600.41 Termination and emergency action proceedings.

* * * * *

(e) * * *

(3) If the basis for the loss of eligibility of a foreign graduate medical school is one or more annual pass rates on the U.S. Medical Licensing Examination below the threshold required in § 600.55(f)(1)(ii), the sole issue is whether one or more of the foreign medical school's pass rate or rates for the preceding calendar year fell below that threshold. For a foreign graduate medical school that opted to have the Educational Commission for Foreign Medical Graduates (ECFMG) calculate and provide the pass rates directly to the Secretary for the preceding calendar year as permitted under § 600.55(d)(2) in lieu of the foreign graduate medical school providing pass rate data to the Secretary under § 600.55(d)(1)(iii), the ECFMG's calculations of the school's rates are conclusive; and the presiding official has no authority to consider challenges to the computation of the rate or rates by the ECFMG.

* * * * *

■ 6. Section 600.51 is amended by revising paragraph (c) to read as follows:

§ 600.51 Purpose and scope.

* * * * *

(c) Applicability of other title IV, HEA program regulations.

(1) A foreign institution must comply with all requirements for eligible and participating institutions except when made inapplicable by the HEA or when the Secretary, through publication in the **Federal Register,** identifies specific provisions as inapplicable to foreign institutions.

(2)(i) A public or nonprofit foreign institution that meets the requirements of this subpart, and that also meets the requirements of this part except as provided in §§ 600.51(c)(1) and 600.54(a), is considered an "institution of higher education" for purposes of the title IV, HEA program regulations; and

(ii) A for-profit foreign institution that meets the requirements of this subpart, and that also meets the requirements of this Part, except as provided in §§ 600.51(c)(1) and 600.54(a), is considered a "proprietary institution" for purposes of title IV, HEA program regulations.

* * * * *

■ 7. Section 600.52 is amended by:

■ A. Adding, in alphabetical order, a definition of *Associate degree school of nursing.*

■ B. Adding, in alphabetical order, a definition of *Clinical training.*

■ C. Adding, in alphabetical order, a definition of *Collegiate school of nursing.*

■ D. Adding, in alphabetical order, a definition of *Diploma school of nursing.*

■ E. Revising the definition of *Foreign graduate medical school.*

■ F. Revising the definition of *Foreign institution.*

■ G. Adding, in alphabetical order, a definition of *Foreign nursing school.*

■ H. Adding, in alphabetical order, a definition of *Foreign veterinary school.*

■ I. Adding, in alphabetical order, a definition of *National Committee on Foreign Medical Education and Accreditation (NCFMEA).*

■ J. Revising the definition of *Passing score.*

■ K. Adding, in alphabetical order, a definition of *Post-baccalaureate/equivalent medical program.*

The additions and revisions read as follows:

§ 600.52 Definitions.

* * * * *

Associate degree school of nursing: A school that provides primarily or exclusively a two-year program of postsecondary education in professional nursing leading to a degree equivalent to an associate degree in the United States.

Clinical training: The portion of a graduate medical education program that counts as a clinical clerkship for purposes of medical licensure comprising core, required clinical rotation, and not required clinical rotation.

Collegiate school of nursing: A school that provides primarily or exclusively a minimum of a two-year program of postsecondary education in professional nursing leading to a degree equivalent to a bachelor of arts, bachelor of science, or bachelor of nursing in the United States, or to a degree equivalent to a graduate degree in nursing in the United States, and including advanced training related to the program of education provided by the school.

Diploma school of nursing: A school affiliated with a hospital or university, or an independent school, which provides primarily or exclusively a two-year program of postsecondary education in professional nursing leading to the equivalent of a diploma in the United States or to equivalent indicia that the program has been satisfactorily completed.

Foreign graduate medical school: A foreign institution (or, for a foreign institution that is a university, a component of that foreign institution) having as its sole mission providing an educational program that leads to a degree of medical doctor, doctor of osteopathic medicine, or the equivalent. A reference in these regulations to a foreign graduate medical school as "freestanding" pertains solely to those schools that qualify by themselves as foreign institutions and not to schools that are components of universities that qualify as foreign institutions.

Foreign institution:

(1) For the purposes of students who receive title IV aid, an institution that—

(i) Is not located in a State;

(ii) Except as provided with respect to clinical training offered under § 600.55(h)(1), § 600.56(b), or § 600.57(a)(2)—

(A) Has no U.S. location;

(B) Has no written arrangements, within the meaning of § 668.5, with institutions or organizations located in the United States for students enrolling at the foreign institution to take courses from institutions located in the United States;

(C) Does not permit students to enroll in any course offered by the foreign institution in the United States, including research, work, internship, externship, or special studies within the United States, except that independent research done by an individual student in the United States for not more than one academic year is permitted, if it is conducted during the dissertation phase of a doctoral program under the guidance of faculty, and the research can only be performed in a facility in the United States;

(iii) Is legally authorized by the education ministry, council, or equivalent agency of the country in which the institution is located to provide an educational program beyond the secondary education level; and

(iv) Awards degrees, certificates, or other recognized educational credentials in accordance with § 600.54(e) that are officially recognized by the country in which the institution is located; or

(2) If the educational enterprise enrolls students both within a State and outside a State, and the number of students who would be eligible to receive title IV, HEA program funds attending locations outside a State is at least twice the number of students enrolled within a State, the locations outside a State must apply to participate as one or more foreign institutions and must meet all requirements of paragraph (1) of this definition, and the other requirements of this part. For the purposes of this paragraph, an educational enterprise consists of two or more locations offering all or part of an educational program that are directly or indirectly under common ownership.

Foreign nursing school: A foreign institution (or, for a foreign institution that is a university, a component of that foreign institution) that is an associate degree school of nursing, a collegiate school of nursing, or a diploma school of nursing. A reference in these regulations to a foreign nursing school as "freestanding" pertains solely to those schools that qualify by themselves as foreign institutions and not to schools that are components of universities that qualify as foreign institutions.

Foreign veterinary school: A foreign institution (or, for a foreign institution that is a university, a component of that foreign institution) having as its sole mission providing an educational program that leads to the degree of doctor of veterinary medicine, or the equivalent. A reference in these regulations to a foreign veterinary school as "freestanding" pertains solely to those schools that qualify by themselves as foreign institutions and not to schools that are components of universities that qualify as foreign institutions.

National Committee on Foreign Medical Education and Accreditation (NCFMEA): The operational committee of medical experts established by the Secretary to determine whether the medical school accrediting standards used in other countries are comparable to those applied to medical schools in the United States, for purposes of evaluating the eligibility of accredited foreign graduate medical schools to participate in the title IV, HEA programs.

Passing score: The minimum passing score as defined by the Educational Commission for Foreign Medical Graduates (ECFMG), or on the National Council Licensure Examination for Registered Nurses (NCLEX–RN), as applicable.

Post-baccalaureate/equivalent medical program: A program offered by a foreign graduate medical school that requires, as a condition of admission, that its students have already completed their non-medical undergraduate studies and that consists solely of courses and training leading to employment as a doctor of medicine or doctor of osteopathic medicine.

* * * * *

■ 8. Section 600.54 is revised to read as follows:

§ 600.54 Criteria for determining whether a foreign institution is eligible to apply to participate in the Direct Loan Program.

The Secretary considers a foreign institution to be comparable to an eligible institution of higher education in the United States and eligible to apply to participate in the Direct Loan Program if the foreign institution meets the following requirements:

(a)(1) Except for a freestanding foreign graduate medical school, foreign veterinary school, or foreign nursing school, the foreign institution is a public or private nonprofit educational institution.

(2) For a public or private nonprofit foreign institution, the institution meets the requirements of § 600.4, except § 600.4(a)(1), (a)(2), (a)(3), (a)(4)(ii),

(a)(5), (b), (c), and any requirements the HEA or the Secretary has designated as inapplicable in accordance with § 600.51(c)(1).

(3) For a for-profit foreign medical, veterinary, or nursing school, the school meets the requirements of § 600.5, except § 600.5(a)(2), (a)(3), (a)(4), (a)(5)(i)(B), (a)(5)(ii), (a)(6), (c), (d), (e) and any requirements the HEA or the Secretary has designated as inapplicable in accordance with § 600.51(c)(1).

(b) The foreign institution admits as regular students only persons who—

(1) Have a secondary school completion credential; or

(2) Have the recognized equivalent of a secondary school completion credential.

(c) Notwithstanding § 668.5, an eligible foreign institution may not enter into a written arrangement under which an ineligible institution or organization provides any portion of one or more of the eligible foreign institution's programs. For the purposes of this paragraph, written arrangements do not include affiliation agreements for the provision of clinical training for foreign medical, veterinary, and nursing schools.

(d) An additional location of a foreign institution must separately meet the definition of a foreign institution in § 600.52 if the additional location is—

(1) Located outside of the country in which the main campus is located, except as provided in § 600.55(h)(1), § 600.56(b), § 600.57(a)(2), § 600.55(h)(3), and the definition of foreign institution found in § 600.52; or

(2) Located within the same country as the main campus, but is not covered by the legal authorization of the main campus.

(e) The foreign institution provides an eligible education program—

(1) For which the institution is legally authorized to award a degree that is equivalent to an associate, baccalaureate, graduate, or professional degree awarded in the United States;

(2) That is at least a two-academic-year program acceptable for full credit toward the equivalent of a baccalaureate degree awarded in the United States; or

(3)(i) That is equivalent to at least a one-academic-year training program in the United States that leads to a certificate, degree, or other recognized educational credential and prepares students for gainful employment in a recognized occupation within the meaning of the gainful employment provisions.

(ii) An institution must demonstrate to the satisfaction of the Secretary that the amount of academic work required by a program in paragraph (e)(3)(i) of this section is equivalent to at least the definition of an academic year in § 668.3.

(f) For a for-profit foreign medical, veterinary, or nursing school—

(1) No portion of an eligible medical or veterinary program offered may be at what would be an undergraduate level in the United States; and

(2) The title IV, HEA program eligibility does not extend to any joint degree program.

(g) Proof that a foreign institution meets the requirements of paragraph (1)(iii) of the definition of a foreign institution in § 600.52 may be provided to the Secretary by a legal authorization from the appropriate education ministry, council, or equivalent agency—

(1) For all eligible foreign institutions in the country;

(2) For all eligible foreign institutions in a jurisdiction within the country; or

(3) For each separate eligible foreign institution in the country.

(Authority: 20 U.S.C. 1082, 1088)

■ 9. Section 600.55 is revised to read as follows:

§ 600.55 Additional criteria for determining whether a foreign graduate medical school is eligible to apply to participate in the Direct Loan Program.

(a) *General.* (1) The Secretary considers a foreign graduate medical school to be eligible to apply to participate in the title IV, HEA programs if, in addition to satisfying the criteria of this part (except the criterion in § 600.54 that the institution be public or private nonprofit), the school satisfies the criteria of this section.

(2) A foreign graduate medical school must provide, and in the normal course require its students to complete, a program of clinical training and classroom medical instruction of not less than 32 months in length, that is supervised closely by members of the school's faculty and that—

(i) Is provided in facilities adequately equipped and staffed to afford students comprehensive clinical training and classroom medical instruction;

(ii) Is approved by all medical licensing boards and evaluating bodies whose views are considered relevant by the Secretary; and

(iii) As part of its clinical training, does not offer more than two electives consisting of no more than eight weeks per student at a site located in a foreign country other than the country in which the main campus is located or in the United States, unless that location is included in the accreditation of a medical program accredited by the Liaison Committee on Medical Education (LCME) or the American Osteopathic Association (AOA).

(3) A foreign graduate medical school must appoint for the program described in paragraph (a)(2) of this section only those faculty members whose academic credentials are the equivalent of credentials required of faculty members teaching the same or similar courses at medical schools in the United States.

(4) A foreign graduate medical school must have graduated classes during each of the two twelve-month periods immediately preceding the date the Secretary receives the school's request for an eligibility determination.

(b) *Accreditation.* A foreign graduate medical school must—

(1) Be approved by an accrediting body—

(i) That is legally authorized to evaluate the quality of graduate medical school educational programs and facilities in the country where the school is located; and

(ii) Whose standards of accreditation of graduate medical schools have been evaluated by the NCFMEA or its successor committee of medical experts and have been determined to be comparable to standards of accreditation applied to medical schools in the United States; or

(2) Be a public or private nonprofit educational institution that satisfies the requirements in § 600.4(a)(5)(i).

(c) *Admission criteria.* (1) A foreign graduate medical school having a post-baccalaureate/equivalent medical program must require students accepted for admission who are U.S. citizens, nationals, or permanent residents to have taken the Medical College Admission Test (MCAT) and to have reported their scores to the foreign graduate medical school; and

(2) A foreign graduate medical school must determine the consent requirements for, and require the necessary consents of, all students accepted for admission for whom the school must report to enable the school to comply with the collection and submission requirements of paragraph (d) of this section.

(d) *Collection and submission of data.* (1) A foreign graduate medical school must obtain, at its own expense, and submit, by the date required by paragraph (d)(3) of this section—

(i) To its accrediting authority and, on request, to the Secretary, the scores on the MCAT or successor examination, of all students admitted during the preceding calendar year who are U.S. citizens, nationals, or eligible permanent residents, together with a statement of the number of times each student took the examination;

(ii) To its accrediting authority and, on request, to the Secretary, the percentage of students graduating during the preceding calendar year (including at least all graduates who are U.S. citizens, nationals, or eligible permanent residents) who obtain placement in an accredited U.S. medical residency program;

(iii) To the Secretary, except as provided for in paragraph (d)(2) of this section, all scores, disaggregated by step/test—i.e., Step 1, Step 2—Clinical Skills (Step 2–CS), and Step 2—Clinical Knowledge (Step 2–CK), or the successor examinations—and attempt, earned during the preceding calendar year by each student and graduate, on Step 1, Step 2–CS, and Step 2–CK, or the successor examinations, of the U.S. Medical Licensing Examination (USMLE), together with the dates the student has taken each test, including any failed tests;

(iv) To the Secretary, a statement of its citizenship rate for the preceding calendar year for a school that is subject to paragraph (f)(1)(i)(A) of this section, together with a description of the methodology used in deriving the rate that is acceptable to the Secretary.

(2) In lieu of submitting the information required in paragraph (d)(1)(iii) of this section to the Secretary, a foreign graduate medical school that is not subject to paragraph (f)(4) of this section may agree to allow the Educational Commission for Foreign Medical Graduates (ECFMG) or other responsible third party to calculate the rate described in paragraph (f)(1)(ii) and (f)(3) of this section for the preceding calendar year and provide the rate directly to the Secretary on the school's behalf with a copy to the foreign graduate medical school, provided—

(i) The foreign graduate medical school has provided by April 30 to the Secretary written consent acceptable to the Secretary to reliance by the Secretary on the pass rate as calculated by the ECFMG or other responsible third party for purposes of determining compliance with paragraph (f)(1)(ii) and (f)(3) of this section for the preceding calendar year; and

(ii) The foreign graduate medical school agrees in its written consent that for the preceding calendar year the rate as calculated by the ECFMG or other designated third party will be conclusive for purposes of determining compliance with paragraph (f)(1)(ii) and (f)(3) of this section.

(3) A foreign graduate medical school must submit the data it collects in accordance with paragraph (d)(1) of this section no later than April 30 of each year, unless the Secretary specifies a different date through a notice in the **Federal Register**.

(e) *Requirements for clinical training.* (1)(i) A foreign graduate medical school must have—

(A) A formal affiliation agreement with any hospital or clinic at which all or a portion of the school's core clinical training or required clinical rotations are provided; and

(B) Either a formal affiliation agreement or other written arrangements with any hospital or clinic at which all or a portion of its clinical rotations that are not required are provided, except for those locations that are not used regularly, but instead are chosen by individual students who take no more than two electives at the location for no more than a total of eight weeks.

(ii) The agreements described in paragraph (e)(1)(i) of this section must state how the following will be addressed at each site—

(A) Maintenance of the school's standards;

(B) Appointment of faculty to the medical school staff;

(C) Design of the curriculum;

(D) Supervision of students;

(E) Evaluation of student performance; and

(F) Provision of liability insurance.

(2) A foreign graduate medical school must notify its accrediting body within one year of any material changes in—

(i) The educational programs, including changes in clinical training programs; and

(ii) The overseeing bodies and in the formal affiliation agreements with hospitals and clinics described in paragraph (e)(1)(i) of this section.

(f) *Citizenship and USMLE pass rate percentages.* (1)(i)(A) During the calendar year preceding the year for which any of the school's students seeks an title IV, HEA program loan, at least 60 percent of those enrolled as full-time regular students in the school and at least 60 percent of the school's most recent graduating class must have been persons who did not meet the citizenship and residency criteria contained in section 484(a)(5) of the HEA, 20 U.S.C. 1091(a)(5); or

(B) The school must have had a clinical training program approved by a State prior to January 1, 2008, and must continue to operate a clinical training program in at least one State that approves the program; and

(ii) Except as provided in paragraph (f)(4) of this section, for a foreign graduate medical school outside of Canada, for Step 1, Step 2–CS, and Step 2–CK, or the successor examinations, of the USMLE administered by the ECFMG, at least 75 percent of the school's students and graduates who took that step/test of the examination in the year preceding the year for which any of the school's students seeks a title IV, HEA program loan must have received a passing score on that step/test and are taking the step/test for the first time; or

(2)(i) The school must have had a clinical training program approved by a State as of January 1, 1992; and

(ii) The school must continue to operate a clinical training program in at least one State that approves the program.

(3) In performing the calculation required in paragraph (f)(1)(ii) of this section, a foreign graduate medical school shall—

(i) Include as a graduate each student who graduated from the school during the three years preceding the year for which the calculation is performed and who took that step/test for the first time in that year; and

(ii) Include students and graduates who take more than one step/test of the USMLE examination for the first time in the same year in the denominator for each of those steps/tests;

(4)(i) If the calculation described in paragraph (f)(1)(ii) of this section would result in any step/test pass rate based on fewer than eight students, a single pass rate for the school is determined instead based on the performance of the school's students and graduates on Step 1, Step 2–CS, and Step 2–CK combined;

(ii) If combining the results on all three step/tests as permitted in paragraph (f)(4)(i) of this section would result in a pass rate based on fewer than eight step/test results, the school is deemed to have no pass rate for that year and the results for the year are combined with each subsequent year until a pass rate based on at least eight step/test results is derived.

(g) *Other criteria.* (1) As part of establishing, publishing, and applying reasonable satisfactory academic progress standards, a foreign graduate medical school must include as a quantitative component a maximum timeframe in which a student must complete his or her educational program that must—

(i) Be no longer than 150 percent of the published length of the educational program measured in academic years, terms, credit hours attempted, clock hours completed, etc., as appropriate; and

(ii) Meet the requirements of § 668.16(e)(2)(ii)(B), (C) and (D).

(2) A foreign graduate medical school must document the educational remediation it provides to assist

students in making satisfactory academic progress.

(3) A foreign graduate medical school must publish all the languages in which instruction is offered.

(h) *Location of a program.* (1) Except as provided in paragraph (h)(3)(ii) of this section, all portions of a graduate medical education program offered to U.S. students must be located in a country whose medical school accrediting standards are comparable to standards used in the United States, as determined by the NCFMEA, except for clinical training sites located in the United States.

(2) No portion of the graduate medical educational program offered to U.S. students, other than the clinical training portion of the program, may be located outside of the country in which the main campus of the foreign graduate medical school is located.

(3)(i) Except as provided in paragraph (h)(3)(ii) of this section, for any part of the clinical training portion of the educational program located in a foreign country other than the country in which the main campus is located or in the United States, in order for students attending the site to be eligible to borrow title IV, HEA program funds—

(A) The site must be located in an NCFMEA approved comparable foreign country;

(B) The institution's medical accrediting agency must have conducted an on-site evaluation and specifically approved the clinical training site; and

(C) Clinical instruction must be offered in conjunction with medical educational programs offered to students enrolled in accredited medical schools located in that approved foreign country.

(ii) A clinical training site located in a foreign country other than the country in which the main campus is located or in the United States is not required to meet the requirements of paragraph (h)(3)(i) of this section in order for students attending that site to be eligible to borrow title IV, HEA program funds if—

(A) The location is included in the accreditation of a medical program accredited by the Liaison Committee on Medical Education (LCME) or the American Osteopathic Association (AOA); or

(B) No individual student takes more than two electives at the location and the combined length of the electives does not exceed eight weeks.

■ 10. Section 600.56 is revised as follows:

§ 600.56 Additional criteria for determining whether a foreign veterinary school is eligible to apply to participate in the Direct Loan Program.

(a) The Secretary considers a foreign veterinary school to be eligible to apply to participate in the Direct Loan Program if, in addition to satisfying the criteria in this part (except the criterion in § 600.54 that the institution be public or private nonprofit), the school satisfies all of the following criteria:

(1) The school provides, and in the normal course requires its students to complete, a program of clinical and classroom veterinary instruction that is supervised closely by members of the school's faculty, and that is provided in facilities adequately equipped and staffed to afford students comprehensive clinical and classroom veterinary instruction through a training program for foreign veterinary students that has been approved by all veterinary licensing boards and evaluating bodies whose views are considered relevant by the Secretary.

(2) The school has graduated classes during each of the two twelve-month periods immediately preceding the date the Secretary receives the school's request for an eligibility determination.

(3) The school employs for the program described in paragraph (a)(1) of this section only those faculty members whose academic credentials are the equivalent of credentials required of faculty members teaching the same or similar courses at veterinary schools in the United States.

(4) Effective July 1, 2015, the school is accredited or provisionally accredited by an organization acceptable to the Secretary for the purpose of evaluating veterinary programs.

(b)(1) No portion of the foreign veterinary educational program offered to U.S. students, other than the clinical training portion of the program as provided for in paragraph (b)(2) of this section, may be located outside of the country in which the main campus of the foreign veterinary school is located;

(2)(i) For a veterinary school that is neither public nor private nonprofit, the school's students must complete their clinical training at an approved veterinary school located in the United States;

(ii) For a veterinary school that is public or private nonprofit, the school's students may complete their clinical training at an approved veterinary school located—

(A) In the United States;

(B) In the home country; or

(C) Outside of the United States or the home country, if—

(*1*) The location is included in the accreditation of a veterinary program accredited by the American Veterinary Medical Association (AVMA); or

(*2*) No individual student takes more than two electives at the location and the combined length of the elective does not exceed eight weeks.

(Authority: 20 U.S.C. 1002 and 1092.)

■ 11. Section 600.57 is redesignated as § 600.58 and a new § 600.57 is added to read as follows:

§ 600.57 Additional criteria for determining whether a foreign nursing school is eligible to apply to participate in the Direct Loan Program.

(a) Effective July 1, 2012 for a foreign nursing school that was participating in any title IV, HEA program on August 13, 2008, and effective July 1, 2011 for all other foreign nursing schools, the Secretary considers the foreign nursing school to be eligible to apply to participate in the Direct Loan Program if, in addition to satisfying the criteria in this part (except the criterion in § 600.54 that the institution be public or private nonprofit), the nursing school satisfies all of the following criteria:

(1) The nursing school is an associate degree school of nursing, a collegiate school of nursing, or a diploma school of nursing.

(2) The nursing school has an agreement with a hospital located in the United States or an accredited school of nursing located in the United States that requires students of the nursing school to complete the student's clinical training at the hospital or accredited school of nursing.

(3) The nursing school has an agreement with an accredited school of nursing located in the United States providing that students graduating from the nursing school located outside of the United States also receive a degree from the accredited school of nursing located in the United States.

(4) The nursing school certifies only Federal Stafford Loan program loans or Federal PLUS program loans, as those terms are defined in § 668.2, for students attending the nursing school.

(5) The nursing school reimburses the Secretary for the cost of any loan defaults for current and former students included in the calculation of the institution's cohort default rate during the previous fiscal year.

(6)(i) The nursing school determines the consent requirements for and requires the necessary consents of all students accepted for admission who are U.S. citizens, nationals, or eligible permanent residents to enable the school to comply with the collection

and submission requirements of paragraph (a)(6)(ii) of this section.

(ii) The nursing school annually either—

(A) Obtains, at its own expense, all results achieved by students and graduates who are U.S. citizens, nationals, or eligible permanent residents on the National Council Licensure Examination for Registered Nurses (NCLEX–RN), together with the dates the student has taken the examination, including any failed examinations, and provides such results to the Secretary; or

(B) Obtains a report or reports from the National Council of State Boards of Nursing (NCSB), or an NCSB affiliate or NCSB contractor, reflecting the percentage of the school's students and graduates taking the NCLEX–RN in the preceding year who passed the examination, or the data from which the percentage could be derived, and provides the report to the Secretary.

(7) Not less than 75 percent of the school's students and graduates who are U.S. citizens, nationals, or eligible permanent residents who took the NCLEX–RN in the year preceding the year for which the institution is certifying a Federal Stafford Loan or a Federal Plus Loan, passed the examination.

(8) The school provides, including under the agreements described in paragraphs (a)(2) and (a)(3) of this section, and in the normal course requires its students to complete, a program of clinical and classroom nursing instruction that is supervised closely by members of the school's faculty that is provided in facilities adequately equipped and staffed to afford students comprehensive clinical and classroom nursing instruction, through a training program for foreign nursing students that has been approved by all nurse licensing boards and evaluating bodies whose views are considered relevant by the Secretary.

(9) The school has graduated classes during each of the two twelve-month periods immediately preceding the date the Secretary receives the school's request for an eligibility determination.

(10) The school employs only those faculty members whose academic credentials are the equivalent of credentials required of faculty members teaching the same or similar courses at nursing schools in the United States.

(b) For purposes of paragraph (a)(5) of this section, the cost of a loan default is the estimated future cost of collections on the defaulted loan.

(c) The Department continues to collect on the Direct Loan after a school reimburses the Secretary for the amount specified in paragraph (b) of this section until the loan is paid in full or otherwise satisfied, or the loan account is closed out.

(d) No portion of the foreign nursing program offered to U.S. students may be located outside of the country in which the main campus of the foreign nursing school is located, except for clinical sites located in the United States.

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

■ 12. The authority citation for part 668 continues to read as follows:

Authority: 20 U.S.C. 1001, 1002, 1003, 1070g, 1085, 1088, 1091, 1092, 1094, 1099c, and 1099c–1, unless otherwise noted.

§ 668.2 [Amended]

■ 13. Section 668.2 is amended by adding the words "Foreign institution" immediately after "Federal Family Education Loan (FFEL) programs" in the list of definitions in paragraph (a).

■ 14. Section 668.5 is amended by revising paragraph (b) to read as follows:

§ 668.5 Written arrangements to provide educational programs.

* * * * *

(b) *Written arrangements for study-abroad.* Under a study abroad program, if an eligible institution enters into a written arrangement under which an institution in another country, or an organization acting on behalf of an institution in another country, provides part of the educational program of students enrolled in the eligible institution, the Secretary considers that educational program to be an eligible program if it otherwise satisfies the requirements of paragraphs (c)(1) through (c)(3) of this section.

■ 15. Section 668.13 is amended by revising paragraph (b) to read as follows:

§ 668.13 Certification procedures.

* * * * *

(b) *Period of participation.* (1) If the Secretary certifies that an institution meets the standards of this subpart, the Secretary also specifies the period for which the institution may participate in a title IV, HEA program. An institution's period of participation expires no more than six years after the date that the Secretary certifies that the institution meets the standards of this subpart, except that—

(i) The period of participation for a private, for profit foreign institution expires three years after the date of the Secretary's certification; and

(ii) The Secretary may specify a shorter period.

(2) Provided that an institution has submitted an application for a renewal of certification that is materially complete at least 90 days prior to the expiration of its current period of participation, the institution's existing certification will be extended on a month to month basis following the expiration of the institution's period of participation until the end of the month in which the Secretary issues a decision on the application for recertification.

* * * * *

■ 16. Section 668.15 is amended by revising paragraph (h) to read as follows:

§ 668.15 Factors of financial responsibility.

* * * * *

(h) *Foreign institutions.* The Secretary makes a determination of the financial responsibility for a foreign institution on the basis of financial statements submitted under § 668.23(h).

* * * * *

■ 17. Section 668.23 is amended by:

■ A. In paragraph (a)(5), removing the words ""Audits of Institutions of Higher Education and Other Non-profit Organizations"; Office of Management and Budget Circular A–128, "Audits of State and Local Governments"" and adding, in their place, the words "Audits of States, Local Governments, and Non-Profit Organizations".

■ B. In paragraph (d)(1), adding the words "issued by the Comptroller General of the United States" after "with generally accepted government auditing standards" and removing the words ""Audits of Institutions of Higher Education and Other Non-profit Organizations"; Office of Management and Budget Circular A–128, "Audits of State and Local Governments""; and adding, in their place, "Audits of States, Local Governments, and Non-Profit Organizations".

■ C. Removing paragraph (d)(3).

■ D. Redesignating paragraph (d)(4) as paragraph (d)(3).

■ E. Redesignating paragraph (d)(5) as paragraph (d)(4).

■ F. Adding paragraph (h).

The addition reads as follows:

§ 668.23 Compliance audits and audited financial statements.

* * * * *

(h) *Audit submission requirements for foreign institutions.* (1) *Audited financial statements.* (i) The Secretary waives for that fiscal year the submission of audited financial statements if the institution is a foreign public or nonprofit institution that received less than $500,000 in U.S. title IV program funds during its most recently completed fiscal year, unless that foreign public or nonprofit

institution is in its initial provisional period of participation, and received title IV program funds during that fiscal year, in which case the institution must submit, in English, audited financial statements prepared in accordance with generally accepted accounting principles of the institution's home country.

(ii) Except as provided in paragraph (h)(1)(iii) of this section, a foreign institution that received $500,000 or more in U.S. title IV program funds during its most recently completed fiscal year must submit, in English, for each most recently completed fiscal year in which it received title IV program funds, audited financial statements prepared in accordance with generally accepted accounting principles of the institution's home country along with corresponding audited financial statements that meet the requirements of paragraph (d) of this section.

(iii) In lieu of making the submission required by paragraph (h)(1)(ii) of this section, a public or private nonprofit institution that received—

(A) $500,000 or more in U.S. title IV program funds, but less than $3,000,000 in U.S. title IV program funds during its most recently completed fiscal year, may submit for that year, in English, audited financial statements prepared in accordance with the generally accepted accounting principles of the institution's home country, and is not required to submit the corresponding audited financial statements that meet the requirements of paragraph (d) of this section;

(B) At least $3,000,000, but less than $10,000,000 in U.S. title IV, program funds during its most recently completed fiscal year, must submit in English, for each most recently completed fiscal year, audited financial statements prepared in accordance with the generally accepted accounting principles of the institution's home country along with corresponding audited financial statements that meet the requirements of paragraph (d) of this section, except that an institution that continues to receive at least $3,000,000 but less than $10,000,000, in U.S. title IV funds during its most recently completed fiscal year may omit the audited financial statements that meet the requirements of paragraph (d) of this section for up to two consecutive years following the submission of audited financial statements that meet the requirements of paragraph (d) of this section.

(2) *Compliance audits.* A foreign institution's compliance audit must cover, on a fiscal year basis, all title IV, HEA program transactions, and must cover all of those transactions that have occurred since the period covered by the institution's last compliance audit. A compliance audit that is due under this paragraph must be submitted no later than six months after the last day of the institution's fiscal year, and must meet the following requirements:

(i) If the foreign institution received $500,000 or more in U.S. dollars in title IV, HEA program funds during its most recently completed fiscal year, it must submit a standard compliance audit for that prior fiscal year that is performed in accordance with audit guides developed by, and available from, the Department of Education's Office of Inspector General, together with an alternative compliance audit or audits prepared in accordance with paragraph (h)(2)(ii) of this section for any preceding fiscal year or years in which the foreign institution received less than $500,000 in U.S. dollars in title IV, HEA program funds and for which a compliance audit has not already been submitted;

(ii) If the foreign institution received less than $500,000 U.S. in title IV, HEA program funds for its most recently completed fiscal year, it must submit an alternative compliance audit for that prior fiscal year that is performed in accordance with audit guides developed by, and available from, the Department of Education's Office of Inspector General, except as noted in paragraph (h)(2)(iii) of this section.

(iii) If so notified by the Secretary, a foreign institution may submit an alternative compliance audit performed in accordance with audit guides developed by, and available from, the Department of Education's Office of Inspector General, that covers a period not to exceed three of the institution's consecutive fiscal years if such audit is submitted either no later than six months after the last day of the most recent fiscal year, or contemporaneously with a standard compliance audit timely submitted under paragraph (h)(2)(i) or (h)(3)(ii) of this section for the most recently completed fiscal year, and if the following conditions are met:

(A) The institution received less than $500,000 in title IV, HEA program funds for its most recently completed fiscal year.

(B) The institution has timely submitted acceptable compliance audits for two consecutive fiscal years, and following such submission, has no history of late submission since then.

(C) The institution is fully certified.

(3)(i) *Exceptions.* Notwithstanding the provisions of paragraphs (h)(1)(i) and (h)(1)(iii) of this section, the Secretary may issue a letter to a foreign institution that identifies problems with its financial condition or financial reporting and requires the submission of audited financial statements in the manner specified by the Secretary.

(ii) Notwithstanding the provisions of paragraphs (h)(2)(ii) and (h)(2)(iii) of this section, the Secretary may issue to a foreign institution a letter that identifies problems with its administrative capability or compliance reporting that may require the compliance audit to be performed at a higher level of engagement, and may require the compliance audit to be submitted annually.

* * * * *

■ 18. Section 668.171 is amended by revising paragraph (c) to read as follows:

§ 668.171 General.

* * * * *

(c) *Public institutions.* (1) The Secretary considers a domestic public institution to be financially responsible if the institution—

(i)(A) Notifies the Secretary that it is designated as a public institution by the State, local, or municipal government entity, tribal authority, or other government entity that has the legal authority to make that designation; and

(B) Provides a letter from an official of that State or other government entity confirming that the institution is a public institution; and

(ii) Is not in violation of any past performance requirement under § 668.174.

(2) The Secretary considers a foreign public institution to be financially responsible if the institution—

(i)(A) Notifies the Secretary that it is designated as a public institution by the country or other government entity that has the legal authority to make that designation; and

(B) Provides documentation from an official of that country or other government entity confirming that the institution is a public institution and is backed by the full faith and credit of the country or other government entity; and

(ii) Is not in violation of any past performance requirement under § 668.174.

* * * * *

PART 682—FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM

■ 19. The authority citation for part 682 continues to read as follows:

Authority: 20 U.S.C. 1071–1087–2, unless otherwise noted.

§ 682.200 [Amended]

■ 20. Section 682.200 is amended by:

■ A. Adding the words "Foreign institution" immediately after "Federal Family Education Loan Program (formerly known as the Guaranteed Student Loan (GSL) Program" in the list of definitions in paragraph (a)(2).
■ B. Removing the definition of *Foreign school* in paragraph (b).

§ 682.611 [Removed and Reserved]

■ 21. Section 682.611 is removed and reserved.

PART 685–WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

■ 22. The authority citation for part 685 continues to read as follows:

Authority: 20 U.S.C. 1070g, 1087a, *et seq.* unless otherwise noted.

§ 685.102 [Amended]

■ 23. Section 685.102 is amended by:
■ A. Adding the words "Foreign institution" immediately after "Federal Family Education Loan (FFEL) Program" in the list of definitions in paragraph (a)(2).
■ B. Removing the words "Foreign school" immediately after "Federal Stafford Loan Program" in the list of definitions in paragraph (a)(3).

§ 682.301 [Amended]

■ 24. Section 685.301 is amended by:
■ A. In paragraph (b)(6)(i)(B), removing "; or" at the end of the sentence and adding, in its place, a period.
■ B. Removing paragraph (b)(6)(i)(C).

§ 685.303 [Amended]

■ 25. Section 685.303 is amended by:
■ A. In paragraph (b)(4)(i)(B), removing "; or" at the end of the sentence and adding, in its place, a period.
■ B. Removing paragraph (b)(4)(i)(C).

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H.R. 3619/P.L. 111–281

Coast Guard Authorization Act of 2010 (Oct. 15, 2010; 124 Stat. 2905)

S. 1510/P.L. 111–282

United States Secret Service Uniformed Division Modernization Act of 2010 (Oct. 15, 2010; 124 Stat. 3033)

S. 3196/P.L. 111–283

Pre-Election Presidential Transition Act of 2010 (Oct. 15, 2010; 124 Stat. 3045)

S. 3802/P.L. 111–284

Mount Stevens and Ted Stevens Icefield Designation Act (Oct. 18, 2010; 124 Stat. 3050)

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