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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1216

[Doc. No. AMS–FV–08–0110; FV–08–704]

Peanut Promotion, Research, and Information Order; Section 610 Review

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Confirmation of regulations.

SUMMARY: This document summarizes the results of an Agricultural Marketing Service (AMS) review of the Peanut Promotion, Research, and Information Order (Order), under the criteria contained in Section 610 of the Regulatory Flexibility Act. Based upon its review, AMS has determined that the Peanut Promotion, Research, and Information Order should be continued without change.

ADDRESSES: Interested persons may obtain a copy of the review on the Internet at: *http://www.regulations.gov* or requests for copies can be sent to the Docket Clerk, Research and Promotion Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, (Department) Room 0632–S, Stop 0244, 1400 Independence Avenue, SW., Washington, DC 20250–0244; facsimile: (202) 205–2800 or electronic mail: *Jeanette. Palmer@ams.usda.gov*.

FOR FURTHER INFORMATION CONTACT: Jeanette Palmer, Marketing Specialist, Research and Promotion Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, Stop 0244, 1400 Independence Avenue, SW., Room 0632–S, Washington, DC 20250–0244; telephone: (888) 720–9917; facsimile: (202) 205–2800; or electronic mail: *Jeanette.Palmer@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: The Commodity Promotion, Research, and Information Act of 1996, (7 U.S.C. 7411–7425) authorized the Peanut Promotion, Research, and Information Order (7 CFR part 1216) which is administered by the National Peanut Board, with oversight by the Department. The Order's objective is to carry out an effective, continuous, and coordinated program of promotion, research, and information designed to strengthen peanuts' competitive position, and to maintain and expand the domestic market for peanuts.

The Order became effective on July 30, 1999. The program is funded by a mandatory assessment on all peanut producers at the rate of one percent of the total value of all farmers stock peanuts. The first handler collects from each peanut producer and pays assessments to the Board on all peanuts handled. For peanuts placed under a marketing assistance loan with the Department's Commodity Credit Corporation, the Commodity Credit Corporation will deduct and remit to the Board, from the proceeds of the loan paid to the peanut producer, one percent of the loan value of the peanuts as determined by the warehouse receipt accompanying such peanuts.

The Order is administered by the National Peanut Board, which is composed of 11 producer members and their alternates: one member and alternate from each primary peanut producing State (Alabama, Florida, Georgia, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Texas, and Virginia) and one at-large member and alternate collectively from the minor peanut producing States. The members and alternates are nominated by peanut producers or peanut producer groups. The producer and alternate members were appointed to the Board by the Secretary of Agriculture. All Board members serve a term of three years.

The AMS published in the **Federal Register** on March 24, 2006, (71 FR 14828) its plan to review certain regulations, including the Peanut Promotion, Research, and Information program, under criteria contained in section 610 of the Regulatory Flexibility Act (RFA; 5 U.S.C. 601–612). Because many AMS regulations impact small entities, AMS decided, as a matter of policy, to review certain regulations which, although they may not meet the threshold requirement under section 610 of the RFA, warrant review.

AMS published a notice of review and request for written comments in the **Federal Register** on April 3, 2009 (74 FR 15226). The comment period ended on June 2, 2009. No written comments were received.

Currently, there are approximately 10,840 producers and 33 handlers of peanuts who are subject to the provisions of the Order.

The review was undertaken to determine whether the Order should be continued without change, amended, or rescinded (consistent with the objectives of the Act) to minimize the impacts on small entities. AMS considered the following factors: (1) The continued need for the Order; (2) comments received from the public concerning the Order; (3) the complexity of the Order; (4) the extent to which the Order overlaps, duplicates, or conflicts with other Federal rules, and, to the extent feasible, with State and local regulations; and (5) the length of time since the Order has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the Order.

AMS provides Federal oversight of the Peanut program. The Order is not unduly complex, and AMS has not identified any Federal rules, or State and local regulations that duplicate, overlap, or conflict with the Order. Over the years, regulation changes have been made to address industry operation changes and to improve program administration. The goal of these evaluations is to assure that the Order and the regulations implemented under it fit the needs of the industry and are consistent with the Act.

Based upon its review, AMS has determined that the Order should be continued without change. AMS plans to continue working with the peanut industry in maintaining an effective program.

Dated: July 14, 2009.

David R. Shipman,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. E9–17030 Filed 7–16–09; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners: Prisoners Serving Sentences Under the United States and District of Columbia Codes

AGENCY: United States Parole Commission, Department of Justice.

ACTION: Interim rule with request for comments.

SUMMARY: The Parole Commission is implementing, as an interim rule, an administrative remedy for those parole-eligible District of Columbia prisoners who contend that the Commission's use of the parole guidelines at 28 CFR 2.80(b) through (m) have significantly increased the risk of their punishment in violation of the Ex Post Facto Clause of the Constitution. Under the remedial plan, the Commission will schedule new parole hearings for those prisoners who meet the plan's eligibility criteria, unless the Commission grants the applicant a parole effective date after a pre-hearing assessment on the record. In conducting the new consideration, the Commission will apply the parole guidelines of the former District of Columbia Board of Parole that were promulgated in March 1985 and published in May 1987. The Commission is amending § 2.80 by replacing paragraph (o), which describes a procedure no longer employed by the Commission, with the remedial plan.

DATES: Effective date is August 17, 2009. Comments must be received by September 15, 2009.

ADDRESSES: Submit your comments, identified by docket identification number USPC–2009–02 by one of the following methods:

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

2. *Mail:* Office of the General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815.

3. *Fax:* 301–492–5563.

FOR FURTHER INFORMATION CONTACT: Office of General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815, telephone (301) 492–5959. Questions about this publication are welcome, but inquiries concerning individual cases cannot be answered over the telephone.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to submit comments on the interim rule through one of the methods described above. If you choose to use the rulemaking portal on the Internet, your comments will be posted without change to *http://www.regulations.gov* and will include any personal information you included in your correspondence. Your comments are most helpful when you provide us with the reasons behind the opinions or conclusions you express in your correspondence.

Background

The U.S. Parole Commission is responsible for making parole release decisions for District of Columbia felony offenders who are eligible for parole. DC Code 24–131(a). The Commission took over this responsibility on August 5, 1998 as a result of the National Capital Revitalization and Self-Government Improvement Act of 1997 (Pub. L. 105–33). The Commission immediately promulgated regulations to implement its new duties, including paroling policy guidelines at 28 CFR 2.80. 63 FR 39172–39183 (July 21, 1998). In promulgating the decisionmaking guidelines, the Commission used the basic approach and format of the 1987 guidelines of the District of Columbia Board of Parole, but made modifications to the Board's guidelines in an effort to incorporate factors that led to departures from the guidelines. 63 FR 39172–39174. In 2000, the Commission modified the guidelines for DC prisoners, creating suggested ranges of months to be served based on the pre- and post-incarceration factors evaluated under the guidelines, which in turn allowed the Commission to extend presumptive parole dates to prisoners up to three years from the hearing date. 65 FR 45885–45903. Also in 2000, the U.S. Supreme Court decided the case of *Garner* v. *Jones,* 529 U.S. 244 (2000), indicating that parole rules that allow for the use of discretionary judgment may come within the proscription of the Ex Post Facto Clause of the Constitution. For over twenty years, federal appellate courts had rejected claims that the Commission's use of discretionary guidelines for parole release decisions violated the constitutional ban against ex post facto laws. As a result of the Supreme Court's decision in *Garner,* the U.S. Court of Appeals for the District of Columbia Circuit held that parole release guidelines may constitute laws that are covered by the Ex Post Facto Clause. *Fletcher* v. *District of Columbia,* 391 F.3d 250 (DC Cir. 2004) (*Fletcher II*). Following upon the *Fletcher II* decision and the decision in *Fletcher* v. *Reilly,* 433 F.3d 867 (DC Cir. 2006) (*Fletcher III*), the U.S. District Court for the District of Columbia (Huvelle, District Judge) held that the Parole Commission's application of its 2000 paroling guidelines for several DC Code prisoners violated the Ex Post Facto Clause. *Sellmon* v. *Reilly,* 551 F.Supp.2d 66 (D.D.C. 2008). Several other prisoner-plaintiffs were denied relief by the district court. The court ordered that the Commission conduct new parole hearings for the successful plaintiffs, using the 1987 Board of Parole guidelines, instead of the Commission's parole guidelines at 28 CFR 2.80(b) through (m). The *Sellmon* decision affects only the plaintiffs in that case. But other complaints brought in the District of Columbia would now likely result in a similar outcome, at a significant cost to the Commission. Therefore, the Commission is establishing an administrative remedy to avoid further ex post facto challenges to its parole determinations for DC prisoners.

Discussion of the Interim Rule and Implementation

As the *Sellmon* decision showed, not every DC prisoner must be reconsidered under the 1987 guidelines to avoid ex post facto problems. The Ex Post Facto Clause only requires that an offender be punished according to the law in effect at the time of his offense. If the prisoner committed his crime before the effective date of the 1987 guidelines (March 4, 1985), then the Commission is not required to apply those guidelines to his case. Similarly, the Commission is not required to apply the 1987 guidelines to a DC prisoner who committed his crime after August 4, 1998 (the last date the former Board exercised its parole release authority). Therefore, the Commission is adopting the following criteria for eligibility under the remedial plan: (1) The prisoner committed the crime after March 3, 1985 and before August 5, 1998; (2) the prisoner received his initial hearing after August 4, 1998 and therefore has not been considered for parole under the 1987 Board guidelines; (3) the prisoner is not incarcerated on a parole revocation; and (4) the prisoner does not have a parole effective date or a presumptive parole date before January 1, 2010. The Commission will ask the institutions to provide notice of the remedial plan to eligible prisoners. After the interim rule becomes effective, cases will be added to hearing dockets as the Commission's workload permits until the remedial proceedings are completed.

At the hearing under the remedial plan the hearing examiner will evaluate the prisoner for parole using the Board's 1987 guidelines. The Commission has employed these guidelines for some DC prisoners since 1992, and continues to use the 1987 guidelines for a DC prisoner who had his initial hearing before August 5, 1998. 28 CFR 2.80(a)(4). The ''1987 guidelines'' include the salient factor score, the calculation of points for pre- and post-incarceration factors, the point assignment grid, the decisions indicated by the prisoner's point score, and the reasons for departing from the guidelines listed in the decision worksheet at Appendix 2–1 of the former Board's rules. Because the suggested reasons include the term ''other,'' the Commission is not restricted to the listed reasons in making departures from the guidelines.

A 1991 policy guideline of the DC Board provides definitions of terms used in scoring post-incarceration factors of the 1987 guidelines (''negative institutional behavior'' and ''sustained program or work assignment achievement''), and in giving reasons for departing from the outcome indicated by the guidelines point score (*e.g.,* ''unusually extensive or serious prior record''). For prisoners who committed their crimes while the policy guideline was in effect (from December 16, 1991 to October 23, 1995), the Commission will follow the definitions given in the 1991 policy guideline for scoring negative behavior or sustained achievement, and in using the departure reasons that have been identified by the Board in its rules and the policy guideline. But again, the Commission is not restricted from relying on ''other'' reasons for departing from the guidelines, reasons not listed in the rules and the policy statement, with one caveat. The Commission will not depart from the guidelines for the reason that the prisoner has not served a sufficient prison term to be ''accountable'' for his crime or because his release would depreciate the seriousness of his offense. Under the former Board's policy the factor of offense accountability or punishment for the crime is satisfied by the prisoner's service of the minimum term imposed by the sentencing judge.

The 1991 policy guideline sets standards for guideline departure that arguably raise doubts as to whether the standards, in some cases, sufficiently protect the public safety. For example, the Board defined the aggravating factor of ''unusually extensive or serious prior record'' as ''at least five (5) felony convictions for commission, or attempted commission, of * * * [arson, assault, murder, kidnapping, etc.].'' The aggravating factor of ''history of repetitive sophisticated criminal behavior'' is defined as ''three (3) or more convictions, including the current conviction, for: a. Serious crimes involving premeditation or methodical planning; or b. Assaultive or fraudulent criminal behavior.'' These definitions would seem to preclude a departure from the guidelines for the prisoner who has committed murder while on parole for murder, or who is in custody for a new rape conviction with a prior conviction for forcible sodomy or rape. These are the types of cases the Commission will have to carefully consider when deciding whether ''other'' reasons exist for a guidelines departure. The Board itself appears to have recognized the problems created by its 1991 policy guideline because it wrote a revised statement in 1995 that superseded the 1991 policy guideline and removed specific standards, such as the number of convictions and types of crimes, in describing the terms for departure.

The remedial hearing will be conducted using the initial hearing guidelines of the former DC Board. If the hearing examiner does not recommend parole, the examiner will recommend a rehearing date 12 months from the initial hearing date under the former Board's rule on the timing for rehearings, unless the examiner finds a good reason to depart from the normal rehearing schedule. If the examiner's recommended rehearing date has already passed, the examiner will then apply the 1987 guidelines for rehearing decisions and make a recommendation on the premise that the case is a rehearing case.

If a prisoner has been granted a presumptive parole date under the Commission's guidelines at § 2.80(b)–(m), the presumptive date will not be rescinded unless the Commission would rescind the date for one of the accepted bases for such action, *i.e.,* new criminal conduct, new institutional misconduct, or new adverse information. The interim rule also provides that the Commission may set a presumptive parole date for a prisoner who is considered under the remedial plan if the Commission determines that the prisoner needs to successfully complete a treatment program to reduce the risk his release would pose to the community, and the prisoner's eligibility for entry into the program includes an expected release date within a certain number of months or years. In these cases, the Commission may grant the presumptive parole date on the condition that the prisoner successfully completes the particular treatment program. The Commission may rescind the presumptive date if the prisoner failed in the program or one of the other accepted bases for rescission of a presumptive date were present.

At the quarterly business meeting held on May 14, 2009, the Commission received written and oral comments from interested organizations on a proposed remedial plan to use the 1987 guidelines for some DC prisoners. The comments came from representatives of the District of Columbia Public Defender Service, the Washington Lawyers' Committee on Civil Rights and Urban Affairs, the attorney who represented the plaintiffs in the *Sellmon* case, and the U.S. Attorney's Office for the District of Columbia. Several commenters questioned the plan's eligibility criteria, especially the limitation regarding offenders who committed their crimes before the Board's guidelines became effective in March 1985. In their view, the Commission should apply the 1987 guidelines to those offenders as well as offenders who committed their crimes when the guidelines were in effect. Concerns were also expressed regarding the proposal's allowance that the Commission be able to depart from the Board's guidelines for reasons ''other'' than those listed in the Board's regulations and policy guidelines. The issues raised by the commenters are substantial and worthy of careful consideration before the Commission adopts a final rule implementing a remedial plan.

The Commission will amend § 2.80 by replacing paragraph (o), which describes conversion procedures no longer used by the Commission, with the interim remedial plan. The Commission is proceeding expeditiously with an interim rule because key personnel who are presently available to implement the plan will be lost through retirement by the end of the calendar year.

Executive Order 12866

The U.S. Parole Commission has determined that this interim rule does not constitute a significant rule within the meaning of Executive Order 12866.

Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Under Executive Order 13132, this rule does not have sufficient federalism implications requiring a Federalism Assessment.

Regulatory Flexibility Act

The interim rule will not have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605(b), and is deemed by the Commission to be a rule of agency practice that does not substantially affect the rights or obligations of non-agency parties pursuant to Section 804(3)(c) of the Congressional Review Act.

Unfunded Mandates Reform Act of 1995

This rule will not cause State, local, or tribal governments, or the private sector, to spend $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. No action under the Unfunded Mandates Reform Act of 1995 is necessary.

Small Business Regulatory Enforcement Fairness Act of 1996 (Subtitle E—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 (Subtitle E—Congressional Review Act), now codified at 5 U.S.C. 804(2). The 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 the ability of United States-based companies to compete with foreign-based companies. Moreover, this is a rule of agency practice or procedure that does not substantially affect the rights or obligations of non-agency parties, and does not come within the meaning of the term ''rule'' as used in Section 804(3)(C), now codified at 5 U.S.C. 804(3)(C). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Prisoners, Probation and parole.

The Interim Rule

■ Accordingly, the U.S. Parole Commission is adopting the following amendment to 28 CFR part 2.

PART 2—[AMENDED]

■ 1. The authority citation for 28 CFR part 2 continues to read as follows:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

■ 2. Amend § 2.80 by revising paragraph (o) to read as follows:

§ 2.80 Guidelines for DC Code Offenders.

* * *

(o)(1) A prisoner who is eligible under the criteria of paragraph (o)(2) may receive a parole determination using the 1987 guidelines of the former District of Columbia Board of Parole (hereinafter ''the 1987 guidelines'').

(2) A prisoner must satisfy the following criteria to obtain a determination using the 1987 guidelines:

(i) The prisoner committed the offense of conviction after March 3, 1985 and before August 5, 1998;

(ii) The prisoner is not incarcerated as a parole violator;

(iii) The prisoner received his initial hearing after August 4, 1998; and

(iv) The prisoner does not have a parole effective date, or a presumptive parole date before January 1, 2010.

(3) If an eligible prisoner applies for a hearing under the 1987 guidelines, a hearing examiner shall review the case on the record. If the hearing examiner recommends that the prisoner receive a parole effective date and the Commission concurs in the recommendation, the case shall not be scheduled for a hearing. If the hearing examiner does not recommend a parole effective date, the examiner shall recommend a hearing on an appropriate hearing docket.

(4) At the hearing, the hearing examiner shall evaluate the prisoner's case using the 1987 guidelines as if the prisoner were receiving an initial hearing shortly before the date of parole eligibility. If the prisoner has passed the rehearing date that the examiner determines is appropriate under the circumstances presented by the case, the examiner shall also evaluate the case under the rehearing guidelines. The Commission shall also use the former Board's policy guidelines in making its determinations under this paragraph, according to the policy guideline in effect at the time of the prisoner's offense.

(5) If the Commission denies parole after the hearing, and the prisoner received a presumptive parole date under the parole determination that preceded the hearing under this paragraph, the prisoner shall not forfeit the presumptive parole date unless the presumptive date is rescinded for institutional misconduct, new criminal conduct, or for new adverse information.

(6) Decisions resulting from hearings under this paragraph may not be appealed to the Commission.

Dated: July 8, 2009.

Isaac Fulwood,

Chairman, United States Parole Commission.

[FR Doc. E9–16969 Filed 7–16–09; 8:45 am]

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 159

[DOD–2008–OS–0125/RIN 0790–AI38]

Private Security Contractors (PSCs) Operating in Contingency Operations

AGENCY: Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics, DoD.

ACTION: Interim final rule.

SUMMARY: This part establishes policy, assigns responsibilities and provides procedures for the regulation of the selection, accountability, training, equipping, and conduct of personnel performing private security functions under a covered contract during contingency operations. It also assigns responsibilities and establishes procedures for incident reporting, use of and accountability for equipment, rules for the use of force, and a process for administrative action or the removal, as appropriate, of PSCs and PSC personnel. For the Department of Defense, this IFR supplements DoD Instruction 3020.41, ''Contractor Personnel Authorized to Accompany the U.S. Armed Forces,'' which provides guidance for all DoD contractors operating in contingency operations.

This part is of critical importance. It is being published as an Interim Final Rule because there is insufficient policy and guidance regulating the actions of DoD and other governmental PSCs and their movements in the operational area. It will procedurally close existing gaps in the oversight of Private Security Contractors (PSCs), ensure compliance with laws and regulations pertaining to Inherently Governmental functions, and ensure proper performance by armed contractors. The expansion of troops in Afghanistan will result in a corresponding increase in the number of PSCs performing in that Area of Operations. This part is required to ensure implementation of necessary guidance for all U.S.G. PSCs across the CENTCOM area of responsibility. Further, the publication of this IFR is required to meet the mandate of Section 862 of the 2008 National Defense Authorization Act. The Congress has expressed continuing concern that

regulations for the oversight of PSCs are not yet in place.

DATES: This rule is effective July 17, 2009. Comments must be received by August 31, 2009.

ADDRESSES: You may submit comments, identified by docket number and/or RIN number and title, by any of the following methods:

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

• *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Jeffrey Taylor, (703) 692–3032.

SUPPLEMENTARY INFORMATION: This Interim Final Rule is required to meet the mandate of Section 862 of the FY 2008 National Defense Authorization Act. Section 862 of the 2008 NDAA lays out two requirements:

(i) That the Secretary of Defense, in coordination with the Secretary of State shall prescribe regulations on the selection, training, equipping, and conduct of personnel performing private security functions under a covered contract in an area of combat operations; and

(ii) That the FAR shall be revised to require the insertion into each covered contract of a contract clause addressing the selection, training, equipping, and conduct of personnel performing private security functions under such contract.

This Interim Final Rule meets requirement (i). There will be a separate and subsequent **Federal Register** action to meet requirement (ii) to update the FAR.

Executive Order 12866, ''Regulatory Planning and Review''

It has been certified that 32 CFR part 159 does not:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Public Law 104–121, ''Congressional Review Act'' (5 U.S.C. 801)

It has been determined that 32 CFR part 159 is not a ''major'' rule under 5 U.S.C. 801, enacted by Public Law 104–121, because it will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

Section 202, Public Law 104–4, ''Unfunded Mandates Reform Act''

It has been certified that 32 CFR part 159 does not contain a Federal mandate that may result in expenditure by State, local and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

It has been certified that 32 CFR part 159 is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. This rule will apply only to a specific sector of defense industry and a limited number of small entities.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been certified that 32 CFR part 159 does impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995. These requirements have been approved by OMB and assigned OMB Control Numbers 0704–0460, ''Synchronized Predeployment and Operational Tracker (SPOT) System'' and 0704–0461, ''Qualification to Possess Firearms or Ammunition.''

Executive Order 13132, ''Federalism''

It has been certified that 32 CFR part 159 does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

(1) The States;

(2) The relationship between the National Government and the States; or

(3) The distribution of power and responsibilities among the various levels of Government.

List of Subjects in 32 CFR Part 159

Contracts, Security measures.

■ Accordingly 32 CFR Part 159 is added to read as follows:

PART 159—PRIVATE SECURITY CONTRACTORS OPERATING IN CONTINGENCY OPERATIONS

Sec.

159.1 Purpose.
159.2 Applicability and scope.
159.3 Definitions.
159.4 Policy.
159.5 Responsibilities.
159.6 Procedures.

Authority: Public Law 110–181; Pub. L. 110–417.

§ 159.1. Purpose.

This part establishes policy, assigns responsibilities and provides procedures for the regulation of the selection, accountability, training, equipping, and conduct of personnel performing private security functions under a covered contract. It also assigns responsibilities and establishes procedures for incident reporting, use of and accountability for equipment, rules for the use of force, and a process for administrative action or the removal, as appropriate, of PSCs and PSC personnel.

§ 159.2. Applicability and scope.

This part:

(a) Applies to:

(1) The Office of the Secretary of Defense, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities in the Department of Defense (hereafter referred to as the ''DoD Components'').

(2) The Department of State and other U.S. Federal agencies insofar as it implements the requirements of section 862 of Public Law 110–181. Specifically, in areas of operations which require enhanced coordination of PSC and PSC personnel working for U.S. Government (U.S.G.) agencies, the Secretary of Defense may designate such areas as areas of combat operations for the limited purposes of this part. In such an instance, the standards

established in accordance with this part would, in coordination with the Secretary of State, expand from covering only DoD PSCs and PSC personnel to cover all U.S.G.-funded PSCs and PSC personnel operating in the designated area.

(b) Prescribes policies applicable to all:

(1) DoD PSCs and PSC personnel performing private security functions during contingency operations outside the United States.

(2) USG-funded PSCs and PSC personnel performing private security functions in an area of combat operations, as designated by the Secretary of Defense.

§ 159.3. Definitions.

Unless otherwise noted, these terms and their definitions are for the purpose of this part.

Area of combat operations. An area of operations designated as such by the Secretary of Defense for the purpose of this part, when enhanced coordination of PSCs working for U.S.G. agencies is required.

Contingency operation. A military operation that is either designated by the Secretary of Defense as a contingency operation or becomes a contingency operation as a matter of law (10 U.S.C. 101(a)(13)). It is a military operation that: a. Is designated by the Secretary of Defense as an operation in which members of the Armed Forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing force; or b. Is created by definition of law. Under 10 U.S.C. 101(a)(13)(B), a contingency operation exists if a military operation results in the (1) call-up to (or retention on) active duty of members of the uniformed Services under certain enumerated statutes (10 U.S.C. 688, 12301(a), 12302, 12304, 12305, 12406, or 331–335); and (2) the call-up to (or retention on) active duty of members of the uniformed Services under any other (non-enumerated) provision of law during war or national emergency declared by the President or Congress. These may include humanitarian or peacekeeping operations or other military operations or exercises.

Contractor. The contractor, subcontractor, grantee, or other party carrying out the covered contract.

Covered contract. A DoD contract for performance of services in an area of contingency operations or a contract of a non-DoD Federal agency for performance of services in an area of combat operations, as designated by the Secretary of Defense;

A subcontract at any tier under such a contract; or

A task order or delivery order issued under such a contract or subcontract.

Also includes contracts or subcontracts funded under grants and sub-grants by a Federal agency for performance in an area of combat operations as designated by the Secretary of Defense. Excludes temporary arrangements entered into by non-DoD contractors or grantees for the performance of private security functions by individual indigenous personnel not affiliated with a local or expatriate security company. Such arrangements must still be in compliance with local law.

Private security functions. Activities engaged in by a contractor under a covered contract as follows:

(1) Guarding of personnel, facilities, designated sites, or property of a Federal agency, the contractor or subcontractor, or a third party.[1]

(2) Any other activity for which personnel are required to carry weapons in the performance of their duties. For the DoD, DoDI Instruction 3020.41, ''Contractor Personnel Authorized to Accompany the U.S. Armed Forces,'' [2] prescribes policies related to personnel allowed to carry weapons for self defense.

PSC. During contingency operations ''PSC'' means a company employed by the DoD performing private security functions under a covered contract. In a designated area of combat operations, the term ''PSC'' expands to include all companies employed by U.S.G. agencies performing private security functions under a covered contract.

PSC personnel. Any individual performing private security functions under a covered contract.

§ 159.4. Policy.

(a) Consistent with the requirements of paragraph (a)(2) of section 862 of Public Law 110–181, the selection, training, equipping, and conduct of PSC personnel including the establishment of appropriate processes shall be coordinated between the DoD and the Department of State.

(b) Geographic Combatant Commanders will provide tailored PSC guidance and procedures for the operational environment in their Area of Responsibility (AOR) in accordance with this part, the Federal Acquisition Regulation (FAR) [3] and the Defense Federal Acquisition Regulation Supplement (DFARS).[4]

(c) In a designated area of combat operations, the relevant Chief of Mission will be responsible for developing and issuing implementing instructions for non-DoD PSCs and their personnel consistent with the standards set forth by the geographic Combatant Commander in accordance with paragraph (b) of this section. The Chief of Mission has the option to instruct non DoD PSCs and their personnel to follow the guidance and procedures developed by the Geographic Combatant Commander and/or Subordinate Commander.

(d) The requirements of this part shall not apply to contracts entered into by elements of the intelligence community in support of intelligence activities.

§ 159.5. Responsibilities.

(a) The Assistant Deputy Under Secretary of Defense for Program Support, under the authority, direction, and control of the Deputy Under Secretary of Defense for Logistics and Materiel Readiness, shall monitor the registering, processing, and accounting of PSC personnel in an area of contingency operations.

(b) The Director, Defense Procurement and Acquisition Policy, under the authority, direction, and control of the Deputy Under Secretary of Defense for Acquisition and Technology (DUSD(AT)), shall ensure that the DFARS and (in consultation with the other members of the FAR Council) the FAR provide appropriate guidance and contract clauses consistent with this part and paragraph (b) of section 862 of Public Law 110–181.

(c) The Director, Defense Business Transformation Agency, under the authority, direction, and control of the Deputy Chief Management Officer of the Department of Defense, through the DUSD(AT), shall ensure that information systems effectively support the accountability and visibility of contracts, contractors, and specified equipment associated with private security functions.

(d) The Chairman of the Joint Chiefs of Staff shall ensure that joint doctrine is consistent with the principles established by DoD Directive 3020.49 ''Orchestrating, Synchronizing, and Integrating Program Management of Contingency Acquisition Planning and

[1] Contractors performing private security functions are not authorized to perform inherently governmental functions. In this regard, they are limited to a defensive response to hostile acts or demonstrated hostile intent.

[2] Available at *http://www.dtic.mil/whs/directives/corres/pdf/302041p.pdf.*

[3] Published in Title 48 of the Code of Federal Regulations.

[4] Published in Title 48 of the Code of Federal Regulations.

Its Operational Execution,'' [5] DoD Instruction 3020.41, ''Contractor Personnel Authorized to Accompany the U.S. Armed Forces,'' and this part.

(e) The geographic Combatant Commanders in whose AOR a contingency operation is occurring, and within which PSCs and PSC personnel perform under covered contracts, shall:

(1) Provide guidance and procedures, as necessary and consistent with the principles established by DoD Directive 3020.49, ''Orchestrating, Synchronizing, and Integrating Program Management of Contingency Acquisition Planning and Its Operational Execution,'' DoD Instruction 3020.41, ''Contractor Personnel Authorized to Accompany the U.S. Armed Forces,'' [6] and this part, for the selection, training, accountability and equipping of such PSC personnel and the conduct of PSCs and PSC personnel within their AOR. Individual training and qualification standards shall meet, at a minimum, one of the Military Departments' established standards.

Within a geographic Combatant Command, Subordinate Commanders shall be responsible for developing and issuing implementing procedures as warranted by the situation, operation, and environment, in consultation with the relevant Chief of Mission in designated areas of combat operations.

(2) Through the Contracting Officer, ensure that PSC personnel acknowledge, through their PSC, their understanding and obligation to comply with the terms and conditions of their covered contracts.

(3) Issue written authorization to the PSC identifying individual PSC personnel who are authorized to be armed. Rules for the use of force, developed in accordance with Chairman of the Joint Chief of Staff Instruction 3121.01B, ''Standing Rules of Engagement/Standing Rules for the Use of Force for U.S. Forces,'' [7] shall be included with the written authorization.

(4) Ensure that the procedures, orders, directives and instructions prescribed § 159.6(a) of this part are available through a single location (to include an Internet Web site, consistent with security considerations and requirements).

(f) The Heads of the DoD Components shall:

(1) Ensure that all private security-related requirement documents are in compliance with the procedures listed in § 159.6 of this part and the guidance and procedures issued by the geographic Combatant Command,

(2) Ensure private security-related contracts contain the appropriate clauses in accordance with the applicable FAR clause and include additional mission-specific requirements as appropriate.

§ 159.6. Procedures.

(a) *Standing Combatant Command Guidance and Procedures.* Each geographic Combatant Commander shall develop and publish guidance and procedures for PSCs and PSC personnel operating during a contingency operation within their AOR, consistent with applicable law; this part; applicable Military Department publications; and other applicable DoD issuances to include DoD Directive 3020.49, ''Orchestrating, Synchronizing, and Integrating Program Management of Contingency Acquisition Planning and Its Operational Execution,'' DFARS, DoD Directive 2311.01E, ''DoD Law of War Program,'' [8] DoD 5200.8–R, ''Physical Security Program,'' [9] CJCSI 3121.01B, ''Standing Rules of Engagement/Standing Rules for the Use of Force for U.S. Forces,'' and DoD Directive 5210.56, ''Use of Deadly Force and the Carrying of Firearms by DoD Personnel Engaged in Law Enforcement and Security Duties.'' [10] The guidance and procedures shall:

(1) Contain, at a minimum, procedures to implement the following processes, and identify the organization responsible for managing these processes:

(i) Registering, processing, accounting for and keeping appropriate records of PSCs and PSC personnel in accordance with DoD Instruction 3020.41, ''Contractor Personnel Authorized to Accompany the U.S. Armed Forces.''

(ii) PSC verification that PSC personnel meet all the legal, training, and qualification requirements for authorization to carry a weapon in accordance with the terms and conditions of their contract and host country law. Weapons accountability procedures will be established and approved prior to the weapons authorization.

(iii) Arming of PSC personnel. Requests for permission to arm PSC personnel shall be reviewed on a case-by-case basis by the appropriate Staff Judge Advocate to the geographic Combatant Commander (or a designee) to ensure there is a legal basis for approval. The request will then be approved or denied by the geographic Combatant Commander or a specifically identified designee, no lower than the flag officer level. Requests to arm non-DOD PSC personnel shall be reviewed and approved in accordance with § 159.4(c) of this part. Requests for permission to arm PSC personnel shall include:

(A) A description of where PSC personnel will operate, the anticipated threat, and what property or personnel such personnel are intended to protect, if any.

(B) A description of how the movement of PSC personnel will be coordinated through areas of increased risk or planned or ongoing military operations, including how PSC personnel will be rapidly identified by members of the U.S. Armed Forces.

(C) A communication plan, to include a description of how relevant threat information will be shared between PSC personnel and U.S. military forces and how appropriate assistance will be provided to PSC personnel who become engaged in hostile situations. DoD contractors performing private security functions are only to be used in accordance with DoD Instruction 1100.22, ''Guidance for Determining Workforce Mix,'' [11] that is, they are limited to a defensive response to hostile acts or demonstrated hostile intent.

(D) Documentation of individual training covering weapons familiarization and qualification, rules for the use of force, limits on the use of force including whether defense of others is consistent with host nation Status of Forces Agreements or local law, the distinction between the rules of engagement applicable to military forces and the prescribed rules for the use of force that control the use of weapons by civilians, and the Law of Armed Conflict.

(E) Written acknowledgment by the PSC and its individual PSC personnel, after investigation of background of PSC personnel by the contractor, verifying such personnel are not prohibited under U.S. law to possess firearms.

[5] Available from *http://www.dtic.mil/whs/directives/corres/pdf/302040p.pdf.*

[6] Available from *http://www.dtic.mil/whs/directives/corres/html/302041.htm.*

[7] CJCSI 3121.01B provides guidance on the standing rules of engagement (SROE) and establishes standing rules for the use of force (SRUF) for DOD operations worldwide. This document is classified secret. CJCSI 3121.01B is available via Secure Internet Protocol Router Network at *http://js.smil.mil* If the requester is not an authorized user of the classified network, the requester should contact Joint Staff J–3 at 703–614–0425.

[8] Available at *http://www.dtic.mil/whs/directives/corres/html/231101.htm.*

[9] Available at *http://www.dtic.mil/whs/directives/corres/pdf/520008r.pdf.*

[10] Available at *http://www.dtic.mil/whs/directives/corres/html/521056.htm.*

[11] Available at *http://www.dtic.mil/whs/directives/corres/pdf/110022p.pdf.*

(F) Written acknowledgment by the PSC and individual PSC personnel that:

(1) Potential civil and criminal liability exists under U.S. and local law or host nation Status of Forces Agreements for the use of weapons.[12]

(2) Proof of authorization to be armed must be carried by each PSC personnel.

(3) PSC personnel may possess only U.S.G.-issued and/or -approved weapons and ammunition for which they have been qualified according to paragraph (a)(1)(iii)(E) of this section.

(4) PSC personnel were briefed and understand limitations on the use of force.

(5) Authorization to possess weapons and ammunition may be revoked for non-compliance with established rules for the use of force.

(*6*) PSC personnel are prohibited from consuming alcoholic beverages or being under the influence of alcohol while armed.

(iv) Registration and identification in the Synchronized Predeployment and Operational Tracker (or its successor database) of armored vehicles, helicopters, and other vehicles operated by PSC personnel.

(v) Reporting alleged criminal activity or other incidents involving PSCs or PSC personnel by another company or any other person. All incidents involving the following shall be reported and documented:

(A) A weapon is discharged by an individual performing private security functions;

(B) An individual performing private security functions is killed or injured in the performance of their duties;

(C) A person other than an individual performing private security functions is killed or injured as a result of conduct by PSC personnel;

(D) Property is destroyed as a result of conduct by a PSC or PSC personnel;

(E) An individual performing private security functions has come under attack including in cases where a weapon is discharged against an individual performing private security functions or personnel performing such functions believe a weapon was so discharged; or

(F) Active, non-lethal counter-measures (other than the discharge of a weapon) are employed by PSC personnel in response to a perceived immediate threat in an incident that could significantly affect U.S. objectives with regard to the military mission or international relations.

(vi) The independent review and, if practicable, investigation of incidents reported pursuant to paragraphs (a)(1)(v)(A) through (a)(1)(v)(F) of this section and incidents of alleged misconduct by PSC personnel.

(vii) Identification of ultimate criminal jurisdiction and investigative responsibilities, where conduct of U.S.G.-funded PSCs or PSC personnel are in question, in accordance with applicable laws to include a recognition of investigative jurisdiction and coordination for joint investigations (i.e., other U.S.G. agencies, host nation, or third country agencies), where the conduct of PSCs and PSC personnel is in question.

(viii) A mechanism by which a commander of a combatant command may request an action by which PSC personnel who are non-compliant with contract requirements are removed from the designated operational area.

(ix) Interagency coordination of administrative penalties or removal, as appropriate, of non-DoD PSC personnel who fail to comply with the terms and conditions of their contract, as is applicable to this part.

(x) Implementation of the training requirements contained below in paragraph (a)(2)(ii) of this section.

(2) Specifically cover:

(i) Matters relating to authorized equipment, force protection, security, health, safety, and relations and interaction with locals in accordance with DoD Instruction 3020.41, ''Contractor Personnel Authorized to Accompany the U.S. Armed Forces.''

(ii) Predeployment training requirements addressing, at a minimum, the identification of resources and assistance available to PSC personnel as well as country information and cultural training, and guidance on working with host country nationals and military personnel.

(iii) Rules for the use of force and graduated force procedures.

(iv) Requirements and procedures for direction, control and the maintenance of communications with regard to the movement and coordination of PSCs and PSC personnel, including specifying interoperability requirements. These include coordinating with the Chief of Mission, as necessary, private security operations outside secure bases and U.S. diplomatic properties to include movement control procedures for all contractors, including PSC personnel.

(b) *Availability of Guidance and Procedures.* The geographic Combatant Commander shall ensure the guidance and procedures prescribed in paragraph (a) of this section are readily available and accessible by PSCs and their personnel (e.g., on a Web page and/or through contract terms), consistent with security considerations and requirements.

(c) *Subordinate Guidance and Procedures.* The Subordinate Commander, in consultation with the Chief of Mission, will issue guidance and procedures implementing the standing combatant command publications specified in paragraph (a) of this section, consistent with the situation and operating environment.

(d) *Consultation and Coordination.* The Chief of Mission and the geographic Combatant Commander/Subordinate Commander shall make every effort to consult and coordinate responses to common threats and common concerns related to oversight of the conduct of U.S.G.-funded PSC and their personnel. The Memorandum of Agreement between the Department of Defense and Department of State on U.S.G. Private Security Contractors[13] shall provide the framework for the development of guidance and procedures without regard to the specific locations identified therein.

Dated: July 14, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–17059 Filed 7–16–09; 8:45 am]

BILLING CODE 5001–06–P

[12] This requirement is specific to arming procedures. Such written acknowledgement should not be construed to limit civil and criminal liability to conduct arising from ''the use of weapons.'' PSC personnel could be held criminally liable for any conduct that would constitute a federal offense (see MEJA, 18 USC 3261(a)).

[13] Available at *http://www.acq.osd.mil/log/PS/p_vault.html.*

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DOD–2007–HA–0127; RIN 0720–AB18]

TRICARE: Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) Changes Included in the John Warner National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2007; Authorization of Forensic Examinations

AGENCY: Office of the Secretary, Department of Defense.

ACTION: Final rule.

SUMMARY: This final rule implements section 701 of the John Warner National Defense Authorization Act for FY 2007, Public Law 109–364. Section 701 amends Title 10 of the United States Code (U.S.C.), Chapter 55, Section 1079(a) by authorizing coverage for

forensic examinations following a sexual assault or domestic violence for eligible beneficiaries. This authorizes forensic examinations provided in civilian health care facilities (e.g., civilian rape crisis facilities) following sexual assault or domestic violence, which is consistent with the services that are authorized in Military Medical Treatment Facilities for all beneficiaries who are victims of sexual assault or domestic violence.

DATES: *Effective Dates:* This rule is effective August 17, 2009.

Applicability date: This amendment applies to services provided on or after October 17, 2006.

FOR FURTHER INFORMATION CONTACT: Joy Saly, Office of Medical Benefits and Reimbursement Branch, TRICARE Management Activity, telephone (303) 676–3742. Questions regarding payment of specific claims should be addressed to the appropriate TRICARE contractor.

SUPPLEMENTARY INFORMATION:

I. Summary of Final Rule Provisions

This final rule implements section 701 of the John Warner National Defense Authorization Act for Fiscal Year 2007, which establishes coverage of contracted medical care with respect to forensic examinations following a sexual assault or domestic violence. TRICARE pays for and will continue to pay for all emergency room services delivered to a victim.

Prior to section 701, forensic examinations were not covered for beneficiaries in civilian health care facilities through TRICARE medical plan contracts because TRICARE, under 10 U.S.C. 1079(a)(13), may cost share only medically or psychologically necessary services or supplies. Forensic examinations are conducted primarily for preservation of evidence for use in any future criminal investigation and/or prosecution. However, there is a dual purpose for the examination process. One purpose is to address the needs of the justice system, which include: Obtaining a history of the assault; documenting examination findings; properly collecting, handling, and preserving evidence; interpreting and analyzing findings (post examination), and subsequently, presenting findings; and providing factual and expert opinion related to the examination and evidence collection. The other purpose is to address the medical needs of the individual disclosing the sexual assault or domestic violence, which include: Evaluating and treating injuries; conducting prompt examinations; providing support, crisis intervention, and advocacy; providing prophylaxis against sexually transmitted diseases; assessing female patients for pregnancy risk and discussing treatment options, including reproductive health services; and providing follow-up care for medical and emotional needs.

Forensic examinations are paid for Active Duty members by using supplemental health care funds, which, under 10 U.S.C. 1074(c)(1), does not have the same requirement for medical or psychological necessity. All beneficiaries are covered if they are examined in a military treatment facility. The forensic examination became an issue when services were provided in a civilian health care facility. Although most States have laws that designate payment sources to cover the costs of forensic examinations for sexual assault victims (some States even prohibit billing victims), some beneficiaries who were victims of a sexual assault received a bill for the forensic examination. Many States have mechanisms in place that require civilian health care facilities to bill a State agency directly. Certain other States, to some degree, have mechanisms to minimize the possibility of invoicing the beneficiary. This final rule puts into place a mechanism that allows civilian health care facilities to invoice TRICARE for reimbursement of forensic examinations.

Forensic Examination (Early Evidence Kits)

A forensic examination uses an early evidence kit to collect and preserve the evidence. Early evidence kits (also known as rape kits) typically include: Forms for documentation of what is observed; tubes for blood samples; a urine sample container (for detecting drugs that may have been used to facilitate a sexual assault); cotton swabs for biological evidence collection; sterile water; sterile saline; glass slides; unwaxed dental floss; a wooden stick for fingernail scrapings; envelopes or boxes for individual evidence samples; labels for each item and paper bags for clothing collection; and a large sheet of paper for patient to undress over. The victim's clothing is collected for any external evidence and new clothes are provided. Forensic examinations can take up to 4 hours.

We believe that a large portion of the costs for forensic examinations are probably already being paid by TRICARE, as most services associated with the examination are covered under any circumstance; and if a claim from a health care facility is submitted with the appropriate procedure code, then the claim would then be paid. What was not being cost-shared were the examinations to gather information for the justice system. In a civilian facility, the victim's private insurance should not be billed for the cost of the examination. Pursuant to the Federal Victims of Crime Act (VOCA), the primary payer is a Federal or federally funded program (such as Medicare, Medicaid, TRICARE or the Department of Veterans Affairs). A reimbursement request from a provider, under the VOCA, should only be submitted for a victim who is not covered by a Federal or federally funded program. This final rule amends the regulation to ensure that forensic examinations following sexual assault or domestic violence are specifically listed as a covered benefit under TRICARE. This rule applies to services provided on or after October 17, 2006, the effective date of the NDAA for FY 2007.

II. Review of Public Comments

We provided a 60-day comment period on the proposed rule which was published in the **Federal Register** on July 7, 2008 (73 FR 38348–38350). No comments were received.

III. Regulatory Procedures

Executive Order 12866, ''Regulatory Planning and Review''

Executive Order 12866 requires a comprehensive regulatory impact analysis be performed on any economically significant regulatory action, defined as one that would result in an annual effect of $100 million or more on the national economy or which would have other substantial impacts. This final rule is not an economically significant regulatory action, and it has been certified that it will not have a significant impact on the national economy.

Public Law 96–354, ''Regulatory Flexibility Act'' (RFA) (5 U.S.C. 601)

Public Law 96–354, ''Regulatory Flexibility Act'' (RFA) (5 U.S.C. 601), requires each Federal agency to prepare a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities. This final rule is not an economically significant regulatory action, and it has been certified that it will not have a significant impact on a substantial number of small entities. Therefore, this final rule is not subject to the requirements of the RFA.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

This rule does not contain a ''collection of information'' requirement, and will not impose

additional information collection requirements on the public under Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35).

Public Law 104–4, Section 202, ''Unfunded Mandates Reform Act''

Section 202 of Public Law 104–4, ''Unfunded Mandates Reform Act,'' requires an analysis be performed to determine whether any federal mandate may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector of $100 million in any one year. It has been certified that this final rule does not contain a federal mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Therefore, this final rule is not subject to this requirement.

Executive Order 13132, ''Federalism''

Executive Order 13132, ''Federalism,'' requires an impact analysis be performed to determine whether the rule has federalism implications that would have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. It has been certified that this final rule does not have federalism implications, as set forth in Executive Order 13132.

List of Subjects in 32 CFR Part 199

Claims, Dental health, Health care, Health insurance, Individuals with disabilities, Military personnel.

Accordingly, 32 CFR part 199 is amended as follows:

PART 199—[AMENDED]

■ 1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. Chapter 55.

■ 2. Section 199.4 is amended by adding paragraph (e)(27) to read as follows:

§ 199.4 Basic program benefit.

* * * * *

(e) * * *

(27) TRICARE will cost share forensic examinations following a sexual assault or domestic violence. The forensic examination includes a history of the event and a complete physical and collection of forensic evidence, and medical and psychological follow-up care. The examination for sexual assault also includes, but is not limited to, a test kit to retrieve forensic evidence, testing for pregnancy, testing for sexually transmitted disease and HIV, and medical services and supplies for prevention of sexually transmitted diseases, HIV, pregnancy, and counseling services.

* * * * *

Dated: July 14, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–17060 Filed 7–16–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

[FWS–R7–SM–2008–0101; 70101–1335–0064L6]

Subsistence Management Regulations for Public Lands in Alaska; Makhnati Island Area

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

ACTION: Final rule; correction.

SUMMARY: This document corrects 36 CFR 242.3 and 50 CFR 100.3 of the subsistence management regulations for public lands in Alaska, subpart A, Makhnati Island Area, which were published in the **Federal Register** of August 24, 2006. That rule, which became effective September 25, 2006, inadvertently omitted 190 acres of the Makhnati Island Area in the regulatory text.

DATES: This correction is effective July 17, 2009.

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Peter J. Probasco, Office of Subsistence Management; (907) 786–3888. For questions specific to National Forest System lands, contact Calvin H. Casipit, Subsistence Program Leader, USDA—Forest Service, Alaska Region, (907) 586–7918.

SUPPLEMENTARY INFORMATION: On August 24, 2006, the Secretaries of Agriculture and the Interior published a final rule (71 FR 49997) that revised jurisdiction of the Federal Subsistence Management Program by adding submerged lands and waters in the area of Makhnati Island, near Sitka, Alaska. That rule, which became effective September 25, 2006, inadvertently omitted 190 acres of the Makhnati Island Area which was withdrawn for use by the Federal Government in Executive Order 8216 (July 25, 1939). Executive Order 8216 was not rescinded until after statehood, so the submerged land did not transfer to the State at statehood. Since this submerged land is not included in any other withdrawal, reservation, or administrative set aside, the marine submerged lands, including any filled lands owned by the United States, are under the administration of the Bureau of Land Management and are included within the jurisdiction of the Federal Subsistence Management Program.

Because this rule relates to public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical text is incorporated into 36 CFR part 242 and 50 CFR part 100.

Administrative Procedure Act

We find good cause to waive notice and comment on this correction, pursuant to 5 U.S.C. 533(b)(3)(B), and the 30-day delay in effective date, pursuant to 5 U.S.C. 553(d). Notice and comment are unnecessary because this correction is a minor, technical change in the description of the area already under Federal jurisdiction. The substance of the regulations remains unchanged. Therefore, this correction is being published as a final rule and is effective upon publication.

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

■ Accordingly, we amend title 36, part 242, and title 50, part 100, of the Code of Federal Regulations as follows:

PART ___—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

■ 1. The authority citation for both 36 CFR part 242 and 50 CFR part 100 continues to read as follows:

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

■ 2. Amend §__.3 by revising paragraph (b)(5) as follows:

§ ___.3 Applicability and scope.

* * * * *

(b) * * *

(5) Southeastern Alaska—Makhnati Island Area: Land and waters beginning at the southern point of Fruit Island, 57°02′35″ north latitude, 135°21′07″ west longitude as shown on United States Coast and Geodetic Survey Chart No. 8244, May 21, 1941; from the point of beginning, by metes and bounds; S. 58° W., 2,500 feet, to the southern point of Nepovorotni Rocks; S. 83° W., 5,600 feet, on a line passing through the southern point of a small island lying about 150 feet south of Makhnati Island; N. 6° W., 4,200 feet, on a line passing through the western point of a small island lying about 150 feet west of Makhnati Island, to the northwestern point of Signal Island; N. 24° E., 3,000 feet, to a point, 57°03′15″ north latitude, 134°23′07″ west longitude; East, 2,900 feet, to a point in course No. 45 in meanders of U.S. Survey No. 1496, on west side of Japonski Island; southeasterly, with the meanders of Japonski Island, U.S. Survey No. 1,496 to angle point No. 35, on the southwestern point of Japonski Island; S. 60° E., 3,300 feet, along the boundary line of Naval reservation described in Executive Order No. 8216, July 25, 1939, to the point beginning, and that part of Sitka Bay lying south of Japonski Island and west of the main channel, but not including Aleutski Island as revoked in Public Land Order 925, October 27, 1953, described by metes and bounds as follows: Beginning at the southeast point of Japonski Island at angle point No. 7 of the meanders of U.S. Survey No. 1496; thence east approximately 12.00 chains to the center of the main channel; thence S. 45° E. along the main channel approximately 20.00 chains; thence S. 45° W. approximately 9.00 chains to the southeastern point of Aleutski Island; thence S. 79° W. approximately 40.00 chains to the southern point of Fruit Island; thence N. 60° W. approximately 50.00 chains to the southwestern point of Japonski Island at angle point No. 35 of U.S. Survey No 1496; thence easterly with the meanders of Japonski Island to the point of beginning including Charcoal, Harbor, Alice, Love, Fruit islands and a number of smaller unnamed islands.

* * * * *

Dated: July 2, 2009.

Ken Salazar,

Secretary of the Interior, Department of the Interior.

Dated: June 1, 2009.

Dennis E. Bschor,

Regional Forester, USDA-Forest Service.

[FR Doc. E9–17052 Filed 7–16–09; 8:45 am]

BILLING CODE 3410–11–P, 4310–55–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2008–0020]

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: Base (1% annual chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated in the table below.

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

FOR FURTHER INFORMATION CONTACT: William R. Blanton Jr., Engineering Management Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3151.

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

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

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

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

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

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

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

List of Subjects in 44 CFR Part 67

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

■ Accordingly, 44 CFR part 67 is amended as follows:

PART 67—[AMENDED]

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

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

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
Brown County, Illinois, and Incorporated Areas Docket No.: FEMA–B1007			
Illinois River	From the limit of flooding affecting community at river mile 71.3 in Pike County; 0.7 mile downstream of the Pike/Brown County border at approximately State Hwy 104.	+448	Unincorporated Areas of Brown County.
	To the Schuyler/Morgan County border at River Mile 83.8; approximately the mouth of the La Moine River.	+450	

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

ADDRESSES

Unincorporated Areas of Brown County

Maps are available for inspection at the Brown County Courthouse, 200 West Court Street, Mt. Sterling, IL 62353.

Hancock County, Illinois, and Incorporated Areas Docket No.: FEMA–B–1012			
Mississippi River	From the Hancock/Adams County boundary at River Mile 347.4; approximately 4 miles upstream of Lock and Dam No. 20.	+494	Unincorporated Areas of Hancock County, City of Dallas City, City of Hamilton, City of Nauvoo, City of Warsaw, Village of Pontoosuc.
	To the Hancock/Henderson county boundary at River Mile 390.85, approximately Oak Street in Dallas City.	+529	

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

ADDRESSES

City of Dallas City

Maps are available for inspection at 261 Oak Street, P.O. Box 454, Dallas City, IL 62330.

City of Hamilton

Maps are available for inspection at Hamilton City Hall, 1010 Broadway Street, Hamilton, IL 62341.

City of Nauvoo

Maps are available for inspection at 60 North Bluff Street, P.O. Box 85, Nauvoo, IL 62354.

City of Warsaw

Maps are available for inspection at 210 North Fourth Street, P.O. Box 12, Warsaw, IL 62379.

Unincorporated Areas of Hancock County

Maps are available for inspection at 500 Main Street, P.O. Box 444, Carthage, IL 62321.

Village of Pontoosuc

Maps are available for inspection at Pontoosuc Village Hall, 200 Mustard Street, Pontoosuc, IL 62368.

Hancock County, Mississippi, and Incorporated Areas Docket No.: FEMA–B–7756			
Bayou Coco	Approximately 300 feet upstream of Sam Farve Road	+17	Unincorporated Areas of Hancock County.
	Just downstream of Cuevas Road	+38	
Bayou Coco Tributary 1	At the confluence with Bayou Coco	+26	Unincorporated Areas of Hancock County.
	Approximately 6,500 feet upstream of the confluence with Bayou Coco.	+55	
Bayou La Terre	Approximately 3,100 feet upstream of Kiln Delisle Road	+17	Unincorporated Areas of Hancock County.
	Approximately 8,976 feet upstream of Kiln Delisle Road	+21	
Bayou Lasalle	Approximately 2,000 feet upstream of Kiln Delisle Road	+17	Unincorporated Areas of Hancock County.
	Approximately 2,100 feet downstream of confluence with Bayou LaSalle Tributary 1.	+21	
Bayou Talla	Approximately 1,300 feet downstream of confluence with Bayou Talla Tributary 3.	+17	Unincorporated Areas of Hancock County.
	Just downstream of Kiln Picayune Road	+25	
Bayou Talla Tributary 3	At the confluence with Bayou Talla	+19	Unincorporated Areas of Hancock County.

Flooding source(s)	Location of referenced elevation	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground Modified	Communities affected
	Approximately 2,300 feet upstream of the confluence with Bayou Talla.	+28	
Catahoula Creek	At the confluence with Jourdan River	+18	Unincorporated Areas of Hancock County.
	Approximately 3,100 feet downstream of Mitchell Road	+47	
Dead Tiger Creek	At the confluence with Catahoula Creek	+27	Unincorporated Areas of Hancock County.
	Just downstream of Flat Top Road	+34	
Hickory Creek	At the confluence with Catahoula Creek	+45	Unincorporated Areas of Hancock County.
	Approximately 450 feet downstream of the confluence with Crane Pond Branch.	+50	
Hickory Creek Tributary 1	Approximately 2,500 feet upstream of the confluence with Hickory Creek.	+81	Unincorporated Areas of Hancock County.
	Approximately 7,500 feet upstream of the confluence with Hickory Creek.	+113	
Jourdan River	Approximately 10,560 feet downstream of confluence with Bayou Bacon.	+16	Unincorporated Areas of Hancock County.
	At the confluence with Bayou Bacon	+18	
Mississippi Sound/Gulf of Mexico.	Near the intersection of Beach Boulevard and Lafitte Drive.	+18	Unincorporated Areas of Hancock County, City of Bay St. Louis, City of Waveland.
	Near the intersection of Hancock Street and St. Charles Street.	+27	
Pearl River/Mississippi Sound	Just west of the intersection of State Highway 607 and Old Highway 43.	+12	Unincorporated Areas of Hancock County.
	South of La France Road at railroad along coastline	+25	
St. Louis Bay/Bayou La Croix/ Bayou Philip/Jourdan River.	Approximately 15,840 feet east of intersection of Interstate 10 and State Highway 607.	+9	Unincorporated Areas of Hancock County, City of Bay St. Louis, City of Waveland.
	Eastern county boundary south of Interstate 10	+26	
Stall Branch	At the confluence with Dead Tiger Creek	+30	Unincorporated Areas of Hancock County.
	Approximately 14,600 feet upstream of the confluence with Dead Tiger Creek.	+42	

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

ADDRESSES

City of Bay St. Louis
Maps are available for inspection at the Courthouse, 688 Highway 90, Bay St. Louis, MS 39520.

City of Waveland
Maps are available for inspection at the Permit Department, 335 Coleman Avenue, Building 5, Waveland, MS 39576.

Unincorporated Areas of Hancock County
Maps are available for inspection at the Building Department, 3068 Longfellow Drive, Building 6, Bay St. Louis, MS 39520.

Halifax County, Virginia and Incorporated Areas
Docket No.: FEMA–B–1009

Reedy Creek	Approximately 1,400 feet downstream of Ash Avenue	+331	Unincorporated Areas of Halifax County.
	At confluence with Dan River	+331	
Rocky Branch	At confluence with Reedy Creek	+331	Unincorporated Areas of Halifax County.
	Approximately 0.4 mile upstream of Eastover Road	+346	

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

ADDRESSES

Unincorporated Areas of Halifax County
Maps are available for inspection at the Halifax County GIS Department, 134 South Main Street, Halifax, Virginia.

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

Dated: June 29, 2009.

Deborah S. Ingram,

Acting Deputy Assistant Administrator for Mitigation, Mitigation Directorate, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. E9–17108 Filed 7–16–09; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 0812171612–9134–02]

RIN 0648–XQ35

Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Closure

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific sardine off the coast of Washington, Oregon and California. This action is necessary because the directed harvest allocation total for the second seasonal period (July 1–September 14) is projected to be reached by the effective date of the rule. From the effective date of this rule until September 15, 2009, Pacific sardine can only be harvested as part of the live bait fishery or incidental to other fisheries; the incidental harvest of Pacific sardine is limited to 20–percent by weight of all fish per trip. Fishing vessels must be at shore and in the process of offloading at 12:01 am Pacific Daylight Time on date of closure.

DATES: Effective 12:01 am Pacific Daylight Time (PDT) July 18, 2009, through September 14, 2009.

FOR FURTHER INFORMATION CONTACT: Joshua Lindsay, Southwest Region, NMFS, (562) 980–4034.

SUPPLEMENTARY INFORMATION: This notice announces that based on the best available information recently obtained from the fishery, the directed fishing harvest allocation for the second allocation period (July 1–September 14) will be reached and therefore directed fishing for Pacific sardine is now closed until September 15, 2009. Fishing vessels must be at shore and in the process of offloading at the time of closure. From 12:01 am on the date of closure until September 15, 2009, Pacific sardine may be harvested only incidental to other fisheries, with the incidental harvest of Pacific sardine limited to 20-percent by weight of all fish caught during a trip.

NMFS manages the Pacific sardine fishery in the U.S. exclusive economic zone (EEZ) off the Pacific coast (California, Oregon, and Washington) in accordance with the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). Annual specifications published in the **Federal Register** establish the harvest guideline (HG) and allowable harvest levels for each Pacific sardine fishing season (January 1–December 31). The acceptable biological catch (ABC) or maximum HG for the 2009 Pacific sardine fishing season (January 1, 2009–December 31, 2009) is 66,932 mt and was divided into a directed harvest fishery of 58,032 mt, an incidental fishery of 6,500 mt and an exempted fishing permit set-aside of 2,400 mt. The directed and incidental harvest amounts were subdivided throughout the year in the following way: January 1–June 30, 22,006 mt was allocated for directed harvest with an incidental set-aside of 1,000 mt; July 1–September 14, 24,543 mt plus any portion not harvested from the initial allocation was allocated for directed harvest with an incidental set-aside of 1,000 mt; September 15–December 31, 11,483 mt plus any portion not harvested from earlier allocations was allocated for directed harvest with an incidental set-aside of 4,500 mt. See, 74 FR 7826 (February 20,2009) as adjusted by 74 FR 31199 (June 30, 2009).

If during any of the seasonal allocation periods the applicable adjusted directed harvest allocation is projected to be taken, only incidental harvest is allowed and, for the remainder of the period, any incidental Pacific sardine landings will be counted against that period's incidental set aside. In the event that an incidental set-aside is projected to be attained, all fisheries will be closed to the retention of Pacific sardine for the remainder of the period via appropriate rulemaking.

Under 50 CFR 660.509 if the total HG or these apportionment levels for Pacific sardine are reached at any time, NMFS is required to close the Pacific sardine fishery via appropriate rulemaking and it is to remain closed until it re-opens either per the allocation scheme or the beginning of the next fishing season. In accordance with § 660.509 the Regional Administrator shall publish a notice in the **Federal Register** the date of the closure of the directed fishery for Pacific sardine.

The above in-season harvest restrictions are not intended to affect the prosecution the live bait portion of the Pacific sardine fishery.

Classification

This action is required by 50 CFR 660.509 and is exempt from Office of Management and Budget review under Executive Order 12866.

NMFS finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) for the closure of the July 1–September 14 directed harvest of Pacific sardine. For the reasons set forth below, notice and comment procedures are impracticable and contrary to the public interest. For the same reasons, NMFS also finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness for this action. This measure responds to the best available information and is necessary for the conservation and management of the Pacific sardine resource. A delay in effectiveness would cause the fishery to exceed the in-season harvest level. These seasonal harvest levels are important mechanisms in preventing overfishing and managing the fishery at optimum yield. The established directed and incidental harvest allocations are designed to allow fair and equitable opportunity to the resource by all sectors of the Pacific sardine fishery and to allow access to other profitable CPS fisheries, such as squid and Pacific mackerel. Many of the same fishermen who harvest Pacific sardine rely on these other fisheries for a significant portion of their income.

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

Dated: July 15, 2009

Kristen C. Koch,

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

[FR Doc. E9–17186 Filed 7–15–09; 4:15 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 071102641–91087–04]

RIN 0648–AR06

Fisheries of the Exclusive Economic Zone Off Alaska; Revision of Single Geographic Location Requirement in the Bering Sea Subarea; Amendments 62/62

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to increase the number of times per year that a stationary floating processor (SFP) that is qualified under the American Fisheries Act (AFA) may move within State of Alaska waters in the Bering Sea (BS) subarea to process pollock harvested in the BS subarea directed pollock fishery. This action also requires AFA SFPs to process all Gulf of Alaska (GOA) pollock and GOA Pacific cod where they processed these species in 2002. This action is necessary to increase operational flexibility for AFA SFPs that process pollock caught in the BS subarea directed fishery while continuing to limit the competitive advantage of AFA SFPs in the GOA pollock and GOA Pacific cod fisheries. This final rule also is notification to the public of the approval of Amendment 62 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP) and the approval of Amendment 62 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP). Amendments 62/62 revise the BSAI FMP description of the Catcher Vessel Operational Area and remove the obsolete sunset date for inshore/offshore sector allocations of pollock and Pacific cod in the GOA FMP. These actions are intended to promote the goals and objectives of the Magnuson–Stevens Fishery Conservation and Management Act, the GOA FMP, the BSAI FMP, and other applicable laws.

DATES: Effective August 17, 2009.

The uncodified fishery management plan amendments (Amendments 62/62) became effective July 1, 2009, and are summarized in the preamble of this rule.

ADDRESSES: Electronic copies of the Environmental Assessment/Regulatory Impact Review (EA/RIR) for this action may be obtained from *http://www.regulations.gov* or from the Alaska Region website at *http://www.alaskafisheries.noaa.gov*.

Written comments regarding the burden-hour estimates or other aspects of the collection–of–information requirements contained in this final rule may be submitted by mail to NMFS, Alaska Region, P. O. Box 21668, Juneau, AK 99802–1668, Attn: Ellen Sebastian, Records Officer; in person at NMFS, Alaska Region, 709 West 9th Street, Room 420A, Juneau, Alaska; and by e–mail to *David_Rostker@omb.eop.gov*, or fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Becky Carls, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the exclusive economic zone of the Bering Sea and Aleutian Islands Management Area (BSAI) and the GOA under the Fishery Management Plans (FMPs) for groundfish in the respective areas. The North Pacific Fishery Management Council (Council) prepared, and NMFS approved, the FMPs under the authority of the Magnuson–Stevens Fishery Conservation and Management Act (Magnuson–Stevens Act), 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the FMPs appear at 50 CFR parts 600 and 679.

Background and Need for Action

In June 2002, the Council adopted Amendments 62/62 to revise obsolete or inconsistent inshore/offshore language in the BSAI and GOA FMPs to make them consistent with the AFA. A combination of circumstances delayed the submission of these amendments for Secretarial review. Additionally, other amendments incorporated two of the four Council–approved FMP changes regarding inshore/offshore language. In April 2008, the Council reviewed Amendments 62/62 and affirmed its 2002 decisions concerning the remaining FMP amendments.

In conjunction with the Council's consideration of Amendments 62/62, the Council also considered a separate regulatory amendment to allow AFA SFPs to relocate in the BSAI during a fishing year for purposes of processing pollock in the BSAI. Amendments 62/62 do not require any regulatory text changes, and the FMPs do not require modification to authorize the regulatory amendment concerning AFA SFPs. Therefore, the changes to the regulations in this final rule do not implement Amendments 62/62. The background and need for both actions were described in detail in the preamble to the proposed rule to revise single geographic location requirements in the BS subarea (74 FR 17137; April 14, 2009) and in the Notice of Availability (NOA) for Amendments 62/62 (74 FR 14950; April 2, 2009). The proposed rule and NOA are available via the Internet (see **ADDRESSES**) and are summarized in separate sections below. No substantive changes were made to the proposed regulatory text in this final rule. One minor change to regulatory text is made at § 679.7(k)(3)(vii) to clarify that it is the same AFA SFP that must return to the location where that particular AFA SFP first processed GOA pollock or GOA Pacific cod in 2002 in order to process GOA pollock or GOA Pacific cod after implementation of this final rule. NMFS' rationale for approving the regulatory provisions in this final rule is contained in the agency's response to comments below.

Single Geographic Location

Single geographic location provisions apply to SFPs, which can be AFA or non–AFA qualified. An SFP, as defined at § 679.2, is a vessel of the United States operating as a processor in State of Alaska (State) waters that remains anchored or otherwise remains stationary in a single geographic location while receiving or processing groundfish harvested in the GOA or BSAI. There are two AFA SFPs that are semi–permanently moored in protected anchorages in the Aleutian Islands less than 45 nautical miles (nm) (83 km) apart, consisting of the F/V *Arctic Enterprise* which is located in Akutan Bay, and the F/V *Northern Victor* which is located in Beaver Inlet.

Regulations in effect prior to this rule limited AFA inshore processors, including AFA SFPs, to a single geographic location during a fishing year when processing pollock harvested in the BS subarea directed pollock fishery. The regulations further specified that a single geographic location for an AFA SFP was the location within State waters that was within 5 nm of the position in which the SFP first processed pollock harvested in the BS subarea directed pollock fishery during a fishing year.

This final rule allows any AFA SFP to change its location within State waters, from reporting week to reporting week, up to four times during a fishing year, for processing pollock harvested in the BS subarea directed pollock fishery. Originally, the single geographic location restriction was implemented in the inshore/offshore regulations to prevent floating processors, which have limited mobility and which operate in the inshore processing sector, from

having an unfair economic advantage over operators of onshore processing plants. It was also intended to prevent offshore catcher/processors and motherships, that have greater mobility, from entering the inshore sector. With the passage of the AFA in 1998, and the associated cooperative agreements, these concerns diminished in the BSAI pollock target fisheries.

The regulations further specify that no more than one single geographic location may be used during a reporting week, and specify that a single geographic location is the geographic position within 5 nm of the latitude and longitude reported in check–in and check–out reports that are required under regulations at § 679.5(h)(5)(ix)(B). As many as five different locations may be used, but the number of times that an AFA SFP may move to change its location for purposes of processing pollock harvested in a BS subarea directed pollock fishery is limited to four.

In addition, AFA inshore processors are required to process all GOA pollock and GOA Pacific cod delivered to them in the same location at which they processed these species in 2002. This restriction is intended to reduce the potential for these mobile AFA SFPs to take advantage of increased flexibility for processing locations in the BS subarea and receive and process a larger share of GOA pollock or GOA Pacific cod compared with the status quo in 2002, the year that Council action was taken. Pacific cod or pollock harvested in the GOA also are processed by other inshore processing operations. Without this restriction on AFA SFPs, other inshore processing operations would not be protected from the competitive advantage that could result from the increased mobility of the AFA SFPs. It is not the intention of this action to increase the operational flexibility of the AFA SFPs in the GOA pollock and GOA Pacific cod fisheries. Therefore, the AFA SFPs are restricted to processing GOA pollock and GOA Pacific cod to the location at which they processed these species in 2002.

Amendments 62/62

Amendment 62 to the BSAI FMP revises the Catcher Vessel Operational Area (CVOA) descriptions to make the FMP consistent with current regulations at § 679.22(a)(5). The CVOA is an area in which AFA catcher/processors are prohibited from directed fishing for pollock during the non–roe, or B, season unless they are participating in the Community Development Quota fishery. The previous FMP descriptions of the CVOA included outdated references to pollock B season dates and to the inshore and offshore components of the BSAI pollock fishery and were removed. The new BSAI FMP text for Section 3.5.2.1.6 and Appendix B is as follows: ''The CVOA is defined as the area of the BSAI east of 167°30′ W. longitude, west of 163° W. longitude, south of 56° N. latitude, and north of the Aleutian Islands. AFA catcher/processors are prohibited from engaging in directed fishing for pollock in the CVOA during the non–roe season unless they are participating in the CDQ fishery.''

Amendment 62 to the GOA FMP formally removes the December 31, 2004, sunset date for GOA inshore/offshore pollock and Pacific cod allocations. Housekeeping Amendments 83/75 (70 FR 35395, June 20, 2005) revised the FMPs by updating harvest, ecosystem, and socioeconomic information; consolidating text; and organizing the information to improve the readability of the documents. It was premature to remove the sunset date at that time, because that was not specified as one of the changes made by Amendments 83/75. This action officially removes the sunset date from the GOA FMP.

Recordkeeping and Reporting

Existing regulations at § 679.5(h)(1) require the manager of an SFP to submit check–in and check–out reports prior to receiving or ceasing to receive or process groundfish. Check–in and check–out reports must be submitted to the Regional Administrator within the appropriate time limits when beginning and when ceasing processing activities. Under this action, no more than a single geographic location may be used by an AFA SFP in a weekly reporting period. To monitor this restriction, the current check–in report and check–out report table at § 679.5(h)(4) adds requirements for the manager of an AFA SFP to notify NMFS of a change in location by submitting a complete check–out report before changing location and a check–in report before receiving groundfish at the new location. The new location will be reported on the check–in report as currently required at § 679.5(h)(5)(ix)(B).

Response to Comments

The proposed rule was published in the **Federal Register** on April 14, 2009 (74 FR 17137), with a 45-day comment period that ended on May 29, 2009. The NOA for Amendments 62/62 was published on April 2, 2009 (74 FR 14950), with a 60-day comment period that ended on June 1, 2009. NMFS received a total of two letters on the proposed rule that contained two unique comments. A summary of these comments and NMFS's responses follows.

Comment 1: We support the adoption of Amendments 62/62. The redefinition of single geographic location will allow for greater flexibility and efficient use of the AFA stationary floating processors. Relocation of the stationary floating processors may be particularly useful if Steller sea lion regulations become more restrictive or pollock stocks move or shrink. Allowing these floating processors to relocate up to four times per year to process Bering Sea target pollock catch will allow for more efficiency by reducing delivery costs for catcher vessels and enhancing product quality with shorter delivery times. The amendment continues to provide protection for GOA groundfish processors by restricting the AFA stationary floating processors to the location in which they processed GOA pollock and Pacific cod in 2002. We believe the Council has taken appropriate action to meet the problem identified in the Bering Sea while still providing protection for Gulf of Alaska groundfish processors.

Response: The Council's rationale for this action was provided in detail in the preamble to the proposed rule. NMFS has determined that the action is reasonable and NMFS finds the articulated rationale supported by the record. The above comment lends further support for approval of this action.

Comment 2: All quotas allocated should be cut in half this year and all quotas should continue to be cut by 10 percent in each succeeding year. You should never rely on fish population numbers from the commercial fishermen.

Response: Cutting catch quotas is beyond the scope of this action. NMFS conservatively manages the Alaska groundfish fisheries based on the best scientific information available. To ensure conservation of the resource, the status of the stocks is reviewed by NMFS and the Council each year through a public scientific review process before total allowable catch limits for each target species are allocated. Catch information from scientific surveys of the groundfish stocks and from the commercial fishing industry are important parts of this process. This action does not entail allocation of the fishery resource among fishermen.

Classification

The Acting Administrator, Alaska Region, NMFS, determined that the FMP amendments and final rule are necessary for the conservation and

management of the GOA and BS subarea pollock fisheries and the GOA Pacific cod fishery, and that they are consistent with the Magnuson–Stevens Act and other applicable laws. This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Council for Regulation of the Department of Commerce certified to the Chief Council for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

This rule contains collection–of–information requirements subject to the Paperwork Reduction Act (PRA) and which have been approved by OMB under Control Number 0648–0213. Public reporting burden for the shoreside processor check–in and check–out reports is estimated to average ten minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by e–mail to *David_Rostker@omb.eop.gov*, or fax to 202–395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: July 13, 2009.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

■ For the reasons set out in the preamble, NMFS amends 50 CFR part 679 as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Pub. L. 108–447.

■ 2. In § 679.4, revise paragraphs (l)(5)(iii) introductory text and (l)(5)(iii)(B) to read as follows:

§ 679.4 Permits.

* * * * *

(l) * * *

(5) * * *

(iii) *Single geographic location requirement.* An AFA inshore processor permit authorizes the processing of pollock harvested in the BS subarea directed pollock fishery only in a single geographic location during a reporting week. For the purposes of this paragraph, single geographic location means:

* * * * *

(B) *Stationary floating processors (SFP).* A geographic position within State of Alaska waters of the BS subarea and that is within a 5 nm radius of the latitude and longitude reported in the check–in and check–out reports at § 679.5(h)(5)(ix)(B). An AFA SFP cannot change its single geographic location more than four times within State of Alaska waters in the BS subarea to process pollock harvested in a BS subarea directed pollock fishery during a fishing year and cannot use more than one single geographic location during a reporting week.

* * * * *

■ 3. In § 679.5, add paragraph (h)(4)(x) to read as follows:

§ 679.5 Recordkeeping and reporting (R&R).

* * * * *

(h) * * *

(4) * * *

For ...	If you are a ...	Submit a BEGIN message	Submit a CEASE message
* * * * * * *			
(x) Change of location	AFA SFP	Before receiving groundfish.	Upon completion of receipt of groundfish from a position and before movement from that position.

* * * * *

■ 4. In § 679.7, revise paragraphs (a)(7)(vi) and (k)(3)(iv)(B) and add paragraph (k)(3)(vii) to read as follows:

§ 679.7 Prohibitions.

* * * * *

(a) * * *

(7) * * *

(vi) Except as provided in paragraph (k)(3)(iv) of this section, use a stationary floating processor with a GOA inshore processing endorsement to process pollock or GOA Pacific cod harvested in a directed fishery for those species in more than one single geographic location during a fishing year.

* * * * *

(k) * * *

(3) * * *

(iv) * * *

(B) *Stationary floating processor (SFP).* A geographic position within State of Alaska waters of the BS subarea and that is within a 5 nm radius of the latitude and longitude reported in the check–in and check–out reports at § 679.5(h)(5)(ix)(B). An AFA SFP cannot change its single geographic location more than four times within State of Alaska waters in the BS subarea to process pollock harvested in a BS subarea directed pollock fishery during a fishing year and cannot use more than one single geographic location during a reporting week.

* * * * *

(vii) *Restrictions for GOA Pacific cod and GOA pollock.* Use an AFA SFP to process GOA pollock or GOA Pacific cod in any location other than the location at which either GOA pollock or GOA Pacific cod were first processed by that SFP in the year 2002.

* * * * *

[FR Doc. E9–17088 Filed 7–16–09; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 74, No. 136
Friday, July 17, 2009

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.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2009–0475; FRL–8932–2]

Revisions to the California State Implementation Plan, San Joaquin Valley Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a limited approval and limited disapproval of revisions to the San Joaquin Valley Air Pollution Control District (SJVAPCD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from steam-enhanced crude oil production well vents, aerospace coating operations, and polyester resin operations. We are proposing action on local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by August 17, 2009.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2009–0475, by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions.
2. *E-mail: steckel.andrew@epa.gov.*
3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *http://www.regulations.gov* or e-mail. *http://www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: The index to the docket for this action is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available in either location (*e.g.,* CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Sona Chilingaryan, EPA Region IX, (415) 972–3368, *chilingaryan.sona@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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I. The State's Submittal

A. What Rules Did the State Submit?

Table 1 lists the rules addressed by this proposal with the dates that they were adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
SJVAPCD	4401	Steam-Enhanced Crude Oil Production Wells	12/14/06	5/8/07
SJVAPCD	4605	Aerospace Assembly and Component Coating Operations	9/20/07	3/7/08
SJVAPCD	4684	Polyester Resin Operations	9/20/07	3/7/08

On July 23, 2007, EPA determined that the submittal for Rule 4401 met the completeness criteria in 40 CFR Part 51, Appendix V, which must be met before formal EPA review. On April 17, 2008, EPA determined that the submittal for Rules 4605 and 4684 met the completeness criteria.

B. Are There Other Versions of These Rules?

We approved an earlier version of Rule 4401 into the SIP on June 22, 1998 (63 FR 33854). The SJVAPCD adopted revisions to the SIP-approved version on December 14, 2006. We approved an earlier version of Rule 4605 into the SIP on November 14, 2003 (68 FR 64537). The SJVAPCD adopted revisions to the SIP-approved version on September 20, 2007. We approved an earlier version of Rule 4684 into the SIP on June 26, 2002 (67 FR 42999). The SJVAPCD adopted revisions to the SIP-approved version on September 20, 2007.

C. What Is the Purpose of the Submitted Rule Revisions?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires States to submit regulations that control VOC emissions. The revisions to Rule 4401 narrow exemptions, add leak inspection and repair requirements, enhance monitoring and recordkeeping requirements and improve rule clarity. The revisions to Rule 4605 and Rule 4684 improve rule clarity and strengthen the solvent cleaning provisions. EPA's technical support documents (TSD) have more information about these rules.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rules?

Generally, SIP rules must be enforceable (*see* section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source in nonattainment areas (*see* section 182(a)(2) and (b)(2)), and must not relax existing requirements (*see* sections 110(l) and 193). The SJVAPCD regulates an extreme (for the 1-hour NAAQS) and serious (for the 8-hour NAAQS) ozone nonattainment area (*see* 40 CFR part 81), so Rules 4401, 4605, and 4684 must fulfill RACT.

Guidance and policy documents that we use to evaluate enforceability and RACT requirements consistently include the following:

1. Portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044, November 24, 1987.

2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' EPA, May 25, 1988 (the Bluebook).

3. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).

4. ''Surface Coating Operations at Aerospace Manufacturing & Rework Operations,'' EPA–453/R–97–004, December 1997.

5. ''Control Techniques Guidelines for Fiberglass Boat Manufacturing Materials,'' EPA–453/R–08–004, September 2008.

6. ''State Implementation Plans, General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498, Apr. 16, 1992.

7. ''Preamble, Final Rule to Implement the 8-hour Ozone National Ambient Air Quality Standard,'' 70 FR 71612, Nov. 29, 2005.

8. Letter from William T. Harnett to Regional Air Division Directors, ''RACT Qs & As—Reasonable Available Control Technology (RACT) Questions and Answers,'' May 18, 2006.

B. Do the Rules Meet the Evaluation Criteria?

Rule 4401 improves the SIP by establishing more stringent work practice requirements and by enhancing monitoring and recordkeeping provisions. Rules 4605 and 4684 improve the SIP by clarifying monitoring and recordkeeping provisions and establishing more stringent emission limits for solvents. The rules are largely consistent with the relevant policy and guidance regarding enforceability, RACT and SIP relaxations. Rule provisions which do not meet the evaluation criteria are summarized below and discussed further in the TSD.

C. What Are the Rule Deficiencies?

These provisions do not satisfy the requirements of section 110 and part D of the Act and prevent full approval of the SIP revision.

1. Rule 4401 allows sources to request a waiver from an annual source test requirement if approval is granted by the District, CARB, and EPA. However, Rule 4401 states that a request for a waiver is deemed approved by EPA if we do not object within 45 days of receipt. The SJVAPCD cannot obligate EPA's decision making in this manner. Section 6.2.4 effectively provides executive officer discretion in conflict with CAA sections 110(a) and (i) and long-standing national policy.

2. Rule 4605 does not include seventeen of the specialty VOC coating limits provided in the 1997 CTG for coating operations at aerospace facilities and has limits for two other specialty coating categories that are higher than the applicable limits listed in the CTG. SJVAPCD has not demonstrated that the CTG limits are infeasible in San Joaquin Valley or otherwise adequately demonstrated that Rule 4605 implements RACT.

3. Rule 4684 contains limits that are not as stringent as requirements in several other California districts. Fiberglass boat manufacturing facilities subject to this rule are covered by EPA's 2008 CTG for Fiberglass Boat Manufacturing Materials. As such, the District is required to adopt and submit a SIP revision that satisfies RACT for these sources by September 2009. In addition, Rule 4684 appears also to apply to certain other sources that are not covered by the CTG but that emit major amounts of VOCs. These sources are also subject to RACT because they are major sources of ozone precursors. The District has not demonstrated that the more stringent monomer content requirements and capture and control device requirements in other California rules are infeasible in San Joaquin Valley or otherwise adequately demonstrated that Rule 4684 meets RACT.

D. EPA Recommendations To Further Improve the Rules

The TSDs describe additional rule revisions that we recommended for the next time the local agency modifies the rule.

E. Proposed Action and Public Comment

As authorized in sections 110(k)(3) and 301(a) of the Act, EPA is proposing a limited approval of the submitted rules to improve the SIP. If finalized, this action would incorporate the submitted rules into the SIP, including those provisions identified as deficient. This approval is limited because EPA is simultaneously proposing a limited disapproval of the rules under section 110(k)(3). If this disapproval is finalized, sanctions will be imposed under section 179 of the Act unless EPA approves subsequent SIP revisions that correct the rule deficiencies within 18 months of the disapproval. These sanctions would be imposed according to 40 CFR 52.31. A final disapproval would also trigger the two year clock for the Federal implementation plan (FIP) requirement under section 110(c). Note that the submitted rules have been adopted by the SJVAPCD, and EPA's final limited disapproval would not prevent the local agency from enforcing it.

We will accept comments from the public on the proposed limited approval and limited disapproval for the next 30 days.

III. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b).

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

D. Unfunded Mandates Reform Act

Under sections 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or Tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or Tribal governments in the aggregate, or to the private sector. This Federal action proposes to approve pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or Tribal governments, or to the private sector, result from this action.

E. Executive Order 13132, Federalism

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

F. Executive Order 13175, Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by Tribal officials in the development of regulatory policies that have Tribal implications.'' This proposed rule does not have Tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on Tribal governments, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. Thus, Executive Order 13175 does not apply to this rule.

EPA specifically solicits additional comment on this proposed rule from Tribal officials.

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

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045, because it approves a State rule implementing a Federal standard.

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

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping

requirements, Volatile organic compounds.

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

Dated: June 30, 2009.

Jane Diamond,

Acting Deputy Regional Administrator, Region IX.

[FR Doc. E9–17045 Filed 7–16–09; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 192

[Docket No. PHMSA–2009–0203]

Pipeline Safety: Notice of Technical Pipeline Safety Advisory Committee Meetings

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); DOT.

ACTION: Notice of technical pipeline safety advisory committee meetings.

SUMMARY: This notice announces a public meeting of the Technical Pipeline Safety Standards Committee (TPSSC) and of the Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC).

The PHMSA staff will brief the committee members on pipeline regulatory actions and policy concerns. The purpose of the meeting is to keep the members updated on current safety concerns, proposed rules, and future proposals.

DATES: The meeting will be on Thursday, August 6, 2009, from 1 p.m. to 5 p.m. EST. The TPSSC and the THLPSSC will take part in the meeting by telephone conference call. The public may attend the meeting at the U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, Room E27–302. Please contact the individual listed under ''**FOR FURTHER INFORMATION CONTACT**'' by July 27, 2009.

FOR FURTHER INFORMATION CONTACT: For information about the meetings, contact Cheryl Whetsel by phone at (202) 366–4431 or by e-mail at *cheryl.whetsel@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Meeting Details

Members of the public may attend and make a statement during the advisory committee meetings. For a better chance to speak at the meetings, please contact the individual listed under ''**FOR FURTHER INFORMATION CONTACT**'' by July 27, 2009.

Privacy Act Statement

Anyone may search the electronic form of comments received in response to any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). DOT's complete Privacy Act Statement was published in the **Federal Register** on April 11, 2000 (65 FR 19477).

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities, or to seek special assistance at the meetings, please contact Cheryl Whetsel at (202) 366–4431 by July 27, 2009.

II. Committee Background

These two statutorily-mandated committees advise PHMSA on proposed safety standards, risks assessments, and safety policies for natural gas pipelines and for hazardous liquid pipelines. Both committees fall under the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. 1) and both are mandated by the pipeline safety law (49 U.S.C. Chap. 601). Each committee consists of 15 members—with membership evenly divided among the Federal and State government, the regulated industry, and the public. The committees advise PHMSA on technical feasibility, practicability, and cost-effectiveness of each proposed pipeline safety standard.

III. Preliminary Agenda

The PHMSA will discuss its pipeline safety regulatory program, and the following proposed rules or topics of interest. The committee will not be voting on any proposals at this meeting.

1. One-Rule and Changes to Incident and Accident Forms.
2. Periodic Updates of Regulatory References to Technical Standards.
3. Low Stress II—Survey Results.
4. Installing Excess Flow Valves (EFV)—(Application for Apartments and Commercial Properties)
5. Community Technical Assistance Grant Program.
6. Pipelines and Informed Planning Alliance (PIPA).

Issued in Washington, DC, on July 9, 2009.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.

[FR Doc. E9–16965 Filed 7–16–09; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 090218199–91091–01]

RIN 0648–AX38

Fisheries in the Western Pacific; Pelagic Fisheries; Vessel Identification Requirements

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to revise identification requirements for U.S. vessels that fish for pelagic management unit species on the high seas of the central and western Pacific. The new measures would require vessels to display their International Telecommunication Union Radio Call Sign (IRCS). If an IRCS has not been assigned to the vessel, the vessel would be required to display its official number, preceded by the characters ''USA ''. The intent of this proposed rule is to make existing Federal vessel identification requirements conform with other regulations being proposed to implement international requirements.

DATES: Comments on the proposed rule must be received by August 3, 2009.

ADDRESSES: Comments on this proposed rule, identified by 0648–AX38, may be sent to either of the following addresses:

- Electronic Submission: Submit all electronic public comments via the Federal e–Rulemaking Portal *www.regulations.gov*; or
- Mail: William L. Robinson, Regional Administrator, NMFS, Pacific Islands Region (PIR), 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814–4700.

Instructions: All comments received are a part of the public record and will generally be posted to *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender may be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

The Western Pacific Fishery Management Council (Council) prepared a regulatory amendment that contains background information on the issue, analyses of biological and economic impacts, and proposed changes to the regulations. Copies of the regulatory amendment are available from *www.regulations.gov*, and from the Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808–522–8220, fax 808–522–8226, *www.wpcouncil.org*.

Written comments regarding the burden-hour estimates or other aspects of the collection–of–information requirements contained in this proposed rule may be submitted to William L. Robinson (see **ADDRESSES**) and by e–mail to *David__Rostker@omb.eop.gov*, or fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Jarad Makaiau, Sustainable Fisheries, NMFS PIR, 808–944–2108.

SUPPLEMENTARY INFORMATION: This **Federal Register** document is also accessible at *www.gpoaccess.gov/fr/*.

The Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC) was established under the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Convention). The Convention's objective is to ensure, through effective management, the long–term conservation and sustainable use of highly migratory fish stocks in the western and central Pacific Ocean, including measures to manage and conserve tunas and to minimize impacts on protected resources, such as sea turtles and seabirds. The Convention Area includes waters around Hawaii, American Samoa, Guam, the Northern Marianas Islands, and U.S. Pacific remote island areas. Thus, it encompasses the operational areas of U.S. purse seine, pelagic longline, and troll and handline fisheries, as well as local pelagic fisheries.

Under the Convention, vessels that are authorized to fish on the high seas in the Convention Area are required to be identified in accordance with the Standard Specifications for the Marking and Identification of Fishing Vessels of the Food and Agriculture Organization of the United Nations. NMFS is in the process of implementing those standards in new requirements for U.S. fishing vessels under the authority of the Western and Central Pacific Fisheries Convention Implementation Act (WCPFCIA, Public Law 109 479, Sec 501, *et seq*., and codified at 16 U.S.C. 6901 *et seq*.). On May 22, 2009, NMFS published a proposed rule in the **Federal Register** (74 FR 23965), seeking public comment on pending vessel identification requirements. Specifically, U.S. vessels used for commercial fishing for pelagic management unit species (i.e., highly migratory species) on the high seas with a NMFS-issued Western and Central Pacific Fisheries Commission Area Endorsement would be required to display its IRCS on the port and starboard sides of the hull or superstructure and deck surface. If an IRCS has not been assigned, the vessel must display its official number (i.e., USCG documentation number or other registration number) preceded by the characters ''USA'' and a hyphen (i.e., ''USA-''). Only these markings would be allowed on the hull or superstructure, apart from the vessel's name and hailing port.

This proposed rule would be consistent with the proposed requirements under the WCPFCIA by revising existing western Pacific vessel identification regulations at Title 50, Code of Federal Regulations (50 CFR 665.16). United States vessels that are issued a permit under 50 CFR 665.21, i.e., longline, troll & handline, and squid jig vessels, and that fish for pelagic management unit species highly migratory species) in the high seas of the Convention Area would be required to display vessel markings as described above. Vessels that fish for pelagic species only within the U.S. Exclusive Economic Zone (EEZ) or on the high seas outside the Convention Area would have the option to be marked pursuant to the vessel identification requirements being proposed under the WCPFCIA, or maintain markings pursuant to existing vessel identification requirements. The proposed rule would modify only the manner in which federally–permitted pelagic fishing vessels are marked with their official numbers, and does not modify vessel operations or other aspects of the pelagic fisheries.

To be considered, comments on this proposed rule must be received by August 3, 2009, not postmarked or otherwise transmitted by that date.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson–Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the vessel identification regulatory amendment, provisions of the Magnuson–Stevens Act, and other applicable law, subject to further consideration after public comment.

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

NMFS analyzed this proposed rule under the National Environmental Policy Act, 42 U.S.C. 4321 *et seq*., and NOAA Administrative Order 216–6, and concluded that there are no factors that would limit the use of a categorical exclusion under sections 5.05 and 6.03.c.3.(i) of that order. Therefore, this proposed rule is categorically excluded from further environmental consideration because the proposed actions are administrative in nature and do not have the potential to individually or cumulatively pose significant impacts to the quality of the human environment.

Certification of Finding of No Significant Impact on Substantial Number of Small Entities

The Chief Council for Regulation of the Department of Commerce certified to the Chief Council for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

The Council and NMFS are proposing to revise western Pacific vessel identification regulations by requiring U.S. vessels that fish for pelagic species on the high seas of the western and central Pacific to be marked with the vessel's IRCS. The revisions will also provide that if an IRCS has not been assigned to the vessel, the marking will consist of the vessel's official number, preceded by the characters ''USA-.'' Vessels that fish for pelagic species only within the EEZ or on the high seas outside the Western and Central Pacific Fisheries Convention Area would have the option to either apply the high seas markings or maintain markings pursuant to existing requirements.

The intent of the proposed action is to bring the existing vessel identification requirements at 50 CFR 665.16 into conformity with international vessel identification requirements agreed to by the WCPFC, as they would be applied in a separate proposed action, for U.S. vessels fishing for pelagic species on the high seas in the Convention Area. The United States, as a Contracting Party to the Convention, will soon be implementing the vessel identification requirements under the Convention. This action will result in a consistent set of identification requirements applicable to United States vessels fishing in the EEZ and on the high seas within the Convention Area. The proposed rule affects only the manner in which Federally–permitted fishing vessels are marked with their official number, and does not modify vessel operations or other aspects of the fishery.

A description of the action, why it is being considered, and the legal basis for this action are contained in the preamble to this proposed rule. All vessels having the potential to participate in this fishery are

considered to be small entities under the current Small Business Administration definition of small fish–harvesting businesses (gross receipts not in excess of $4 million).

There are up to 230 longline, pole–and–line, and troll and handline vessels that could be affected by this rulemaking. The estimated one-time cost for the required marking for each of 230 vessels would be up to $100. Estimated 2006 average gross revenues per vessel for the Hawaii- and American Samoa-based longline fisheries were approximately $300,000. Therefore, the cost of vessel marking for those vessels represents far less than one percent of gross revenues per vessel. The remaining affected vessels, including other longline, pole–and–line, and troll and handline vessels, would most likely have a higher cost-to-gross revenue percentage. However, it is unlikely that any of the percentages would exceed three percent (which would translate to $3,300 in annual revenues).

This proposed action contains no fishery management controls that affect the operations of the fishery, other than vessel identification. Thus, significant impacts to the profitability of a substantial number of small entities are not anticipated. This rule does not duplicate, overlap, or conflict with other Federal rules. There are no disproportionate economic impacts from this rule based on home port, gear type, or relative vessel size.

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. § 605(b), NMFS has determined that this rule will not have a significant economic impact on a substantial number of small entities based on the pre–existing status of pelagic fisheries of the central and western Pacific.

As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule contains a collection–of–information requirement subject to the Paperwork Reduction Act (PRA), and which has been approved by OMB under control number 0648–0360. The one-time public reporting burden for vessel identification requirements is estimated at 45 minutes and $100 in supplies per vessel. This includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to William L. Robinson (see **ADDRESSES**) and by e–mail to *David__Rostker@omb.eop.gov*, or fax to 202–395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

List of Subjects in 50 CFR Part 665

Fisheries, Fishing, Reporting and recordkeeping requirements, Vessel identification, Western and central Pacific.

Dated: July 13, 2009.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 665 is proposed to be amended as follows:

PART 665—FISHERIES IN THE WESTERN PACIFIC

1. The authority citation for part 665 continues to read as follows:

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

2. In § 665.16, revise paragraphs (a) and (b) to read as follows:

§ 665.16 Vessel identification.

(a) *Applicability.* Each fishing vessel subject to this part, except those identified in paragraph (e) of this section, must be marked for identification purposes, as follows:

(1) A vessel that is registered for use with a valid permit issued under § 665.21 and used to fish on the high seas within the Convention Area as defined in § 300.211 of this title must be marked in accordance with the requirements at §§ 300.14 and 300.217 of this title.

(2) A vessel that is registered for use with a valid permit issued under § 665.21 of this part and not used to fish on the high seas within the Convention Area must be marked in accordance with either:

(i) Sections 300.14 and 300.217 of this title, or

(ii) Paragraph (b) of this section.

(3) A vessel that is registered for use with a valid permit issued under §§ 665.41, 665.61, 665.81, or 665.602 of this part must be marked in accordance with paragraph (b) of this section.

(b) *Identification.* Each vessel subject to this section must be marked as follows:

(1) The vessel's official number must be affixed to the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck, so as to be visible from enforcement vessels and aircraft. Marking must be legible and of a color that contrasts with the background.

(2) For fishing and receiving vessels of 65 ft (19.8 m) LOA or longer, the official number must be displayed in block Arabic numerals at least 18 inches (45.7 cm) in height, except that vessels subject to § 665.81 that are 65 ft (19.8 m) LOA or longer must be marked in block Arabic numerals at least 14 inches (35.6 cm) in height.

(3) For all other vessels, the official number must be displayed in block Arabic numerals at least 10 inches (25.4 cm) in height.

* * * * *

[FR Doc. E9–17073 Filed 7–16–09; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 74, No. 136
Friday, July 17, 2009

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 COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Industry and Security (BIS).

Title: Chemical Weapons Convention, Amendment to the Export Administration Regulations.

OMB Control Number: 0694–0117.

Form Number(s): None.

Type of Request: Regular submission.

Burden Hours: 17.

Number of Respondents: 33.

Average Hours Per Response: 30 minutes to 1 hour.

Needs and Uses: This collection of information is required by the Chemical Weapons Convention. The U.S. is under obligation by this international treaty to impose certain trade controls. States Parties (countries that have signed the Treaty and ratified the Treaty through their legislatures) may only export Schedule 1 chemicals to other States Parties, must provide advance notification of exports of any quantity of a Schedule 1 chemical, and must submit annual reports of exports of such chemicals during the previous calendar year. The Convention also requires that prior to the export of a Schedule 2 or Schedule 3 chemicals to a non-States Party, the exporter obtain an End-Use Certificate issued by the government of the importing country.

Affected Public: Individuals or households; business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Jasmeet Seehra, (202) 395–3123.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov).*

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Jasmeet Seehra, OMB Desk Officer, Fax number (202) 395–5167 or via the Internet at *Jasmeet_K._Seehra@omb.eop.gov.*

Dated: July 13, 2009.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9–16960 Filed 7–16–09; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Alaska Rockfish Pilot Program.

OMB Control Number: 0648–0545.

Form Number(s): None.

Type of Request: Regular submission.

Number of Respondents: 55.

Average Hours per Response: Applications for cooperative fishing quota, limited access fishery, entry-level fishery, and application to opt out of rockfish fishery, 2 hours each; application for inter-cooperative transfer of cooperative quota, 1 hour; cooperative catch report, 30 minutes; annual cooperative report, 40 hours; rockfish cooperative termination of fishing declaration, 15 minutes; vessel check-in/check out reports, 20 minutes; appeals, 4 hours.

Burden Hours: 496.

Needs and Uses: As part of planning by the North Pacific Fishery Management Council under the Magnuson-Stevens Fishery Conservation and Management Act, the Rockfish Pilot Program was developed for management of three rockfish fisheries in the Central Gulf of Alaska (CGOA) in the Exclusive Economic Zone off the coast of Alaska. The Program was implemented in order to improve the economic efficiency of the CGOA rockfish fisheries and was designed to result in a slower-paced fishery that would allow the harvester to choose when to fish and therefore avoid poor weather and also to provide greater stability for processors by spreading production over a greater period of time. The Rockfish Pilot Program is scheduled to end December 31, 2011.

Affected Public: Business or other for-profit organizations.

Frequency: Annually and on occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov.*

Dated: July 14, 2009.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9–17031 Filed 7–16–09; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Groundfish Tagging Program.

OMB Control Number: 0648–0276.

Form Number(s): None.

Type of Request: Regular submission.

Number of Respondents: 175.

Average Hours per Response: 5 minutes for a regular tag; 30 minutes for an archival (implanted electronic) tag.

Burden Hours: 41.

Needs and Uses: The North Pacific Fishery Management Council (Council) has prepared groundfish Fishery Management Plans (FMP) for the following fisheries in the exclusive economic zone (EEZ) off Alaska: Groundfish fisheries in the Gulf of Alaska (GOA) EEZ under the Fishery Management Plan for Groundfish of the Gulf of Alaska and groundfish fisheries in the Bering Sea and Aleutian Islands EEZ under the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area. These FMPs are implemented by regulations at 50 CFR part 679. General regulations that also pertain to these fisheries appear in subpart H of 50 CFR part 600.

As part of these plans, the Groundfish Tagging Program provides scientists with information necessary for effective conservation, management, and scientific understanding of the groundfish fishery off Alaska and the Northwest Pacific. The program area includes the Pacific Ocean off Alaska (the Gulf of Alaska, the Bering Sea and Aleutian Islands Area, the Alexander Archipelago of Southeast Alaska), California, Oregon, and Washington. Distribution, movement rates and direction, growth, recruitment and mortality estimated from tag recoveries are important parameters used in groundfish population assessment models and in developing allocation systems.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov.*

Dated: July 14, 2009.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9–17042 Filed 7–16–09; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

Proposed Information Collection; Comment Request; Quarterly Survey of Financial Services Transactions Between U.S. Financial Services Providers and Foreign Persons

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before 5 p.m. September 15, 2009.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230, or via the Internet at *dhynek@doc.gov.*

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information or copies of the survey instrument(s) and instructions to Christopher Emond, Chief, Special Surveys Branch, Balance of Payments Division, (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; *phone:* (202) 606–9826; *fax:* (202) 606–5318; or via the Internet at *christopher.emond@bea.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Form BE–185, Quarterly Survey of Financial Services Transactions between U.S. Financial Services Providers and Foreign Persons, obtains quarterly data from U.S. financial services providers whose sales of covered financial services to foreign persons exceeded $20 million for the previous fiscal year or are expected to exceed that amount during the current fiscal year, or whose purchases of covered financial services from foreign persons exceeded $15 million for the previous fiscal year or are expected to exceed that amount during the current fiscal year. The data collected are cut-off sample data. In addition, estimates are developed based upon previously reported or estimated data for non-respondents, including those U.S. financial services companies that fall below the reporting threshold for the quarterly survey but reported on a previous benchmark survey.

The data are needed to monitor U.S. international trade in financial services, analyze its impact on the U.S. and foreign economies, compile and improve the U.S. economic accounts, support U.S. commercial policy on trade in financial services, conduct trade promotion, and improve the ability of U.S. businesses to identify and evaluate market opportunities.

Responses will be due within 45 days after the close of each calendar quarter, except for the respondents' final quarter of their fiscal year, when reports are due within 90 days after the close of the quarter. The data from the survey are primarily intended as general purpose statistics. They are needed to answer any number of research and policy questions related to cross-border trade in financial services.

The BE–185 Form remains the same. No changes in the data collected or in exemption levels are proposed.

II. Method of Collection

The surveys are sent to the respondents by U.S. mail; the surveys are also available from our Web site. Respondents return the surveys one of four ways: U.S. mail, electronically using BEA's electronic collection system (eFile), fax, or e-mail.

III. Data

OMB Control Number: 0608–0065.

Form Number: BE–185.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 2,500.

Estimated Time per Response: 10 hours per mandatory response; and 1 hour per other responses.

Estimated Total Annual Burden Hours: 16,900.

Estimated Total Annual Cost to Public: $0.

Respondent's Obligation: Mandatory.

Legal Authority: The International Investment and Trade in Services Survey Act, 22 U.S.C. 3101–3108, as amended and by Section 5408 of the Omnibus Trade and Competitiveness Act of 1988.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information

is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: July 13, 2009.

Gwellnar Banks,

Management Analyst, Office of Chief Information Officer.

[FR Doc. E9–16963 Filed 7–16–09; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

Proposed Information Collection; Comment Request; Quarterly Survey of Transactions in Selected Services and Intangible Assets With Foreign Persons

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before 5 p.m. September 15, 2009.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230, or via the Internet at *dhynek@doc.gov.*

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information or copies of the survey and instructions to Christopher Emond, Chief, Special Surveys Branch, Balance of Payments Division, (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone: (202) 606–9826; fax: (202) 606–5318; or via the Internet at *christopher.emond@bea.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Form BE–125, Quarterly Survey of Transactions in Selected Services and Intangible Assets with Foreign Persons, obtains quarterly data from U.S. companies whose sales of covered services or intangible assets to foreign persons exceeded $6 million for the previous fiscal year or are expected to exceed that amount during the current fiscal year, or whose purchases of covered services or intangible assets from foreign persons exceeded $4 million for the previous fiscal year or are expected to exceed that amount during the current fiscal year. The data collected are cut-off sample data. In addition, estimates are developed based upon previously reported or estimated data for non-respondents, including those U.S. persons who fall below the reporting threshold for the quarterly survey but reported on a previous benchmark survey.

The data are needed to monitor U.S. international trade in these transactions, analyze its impact on the U.S. and foreign economies, compile and improve the U.S. economic accounts, support U.S. commercial policy on trade in selected services and intangible assets, conduct trade promotion, and improve the ability of U.S. businesses to identify and evaluate market opportunities.

Responses will be due within 45 days after the close of each calendar quarter, except for the final quarter of the respondents' fiscal year, when reports are due within 90 days after the close of the quarter. The data from the survey are primarily intended as general purpose statistics. They are needed to answer any number of research and policy questions related to cross-border trade in services and intangible assets.

The BE–125 Form remains the same. No changes in the data collected or in exemption levels are proposed.

II. Method of Collection

The surveys are sent to the respondents by U.S. mail; the surveys are also available from our Web site. Respondents return the surveys one of four ways: U.S. mail, electronically using BEA's electronic collection system (eFile), fax, or e-mail.

III. Data

OMB Control Number: 0608–0067.

Form Number: BE–125.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations; not-for-profit institutions.

Estimated Number of Respondents: 8,800.

Estimated Time Per Response: 16 hours per mandatory response; and 1 hour per other responses.

Estimated Total Annual Burden Hours: 98,800.

Estimated Total Annual Cost to Public: $0.

Respondent's Obligation: Mandatory.

Legal Authority: The International Investment and Trade in Services Survey Act, 22 U.S.C. 3101–3108, as amended.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: July 13, 2009.

Gwellnar Banks,

Management Analyst, Office of Chief Information Officer.

[FR Doc. E9–16964 Filed 7–16–09; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 071003556–81194–02]

RIN 0648–XQ22

Fisheries off West Coast States; Pacific Coast Groundfish Fishery; Amendment 15

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

ACTION: List of Limited Entry Trawl Vessels Issued Pacific Whiting Vessel Licenses.

SUMMARY: Regulatory provisions to implement Amendment 15 to the Pacific Coast Groundfish Fishery Management Plan (FMP) became effective on April 9, 2009. Amendment 15 revised the FMP to include provisions for a vessel license limitation program for the non-tribal sectors of the Pacific whiting fishery. Amendment 15 is intended to serve as an interim measure to limit potential participation in the Pacific whiting fishery within the U.S. West Coast Exclusive Economic Zone until implementation of a trawl rationalization program under Amendment 20 to the Groundfish FMP. This notice announces the list of vessels that were approved for Pacific whiting vessel licenses.

FOR FURTHER INFORMATION CONTACT: Becky Renko at 206–526–6110.

SUPPLEMENTARY INFORMATION: Amendment 15 to the Pacific Coast groundfish Fishery management plan was approved by NMFS on June 18, 2008. NMFS published a proposed rule to implement Amendment 15 on July 11, 2008 (73 FR 39930); followed with a final rule on March 10, 2009 (74 RF 10189;) and, a final rule with a correction to the on March 20, 2009 (74 FR 11880). In the preamble of the proposed rule NMFS informed the public that a list of vessels that qualified for the Pacific whiting vessel license would be published in the **Federal Register** following the application period.

Each Pacific whiting vessel license indicates the sector or sectors for which the vessel has qualified. To participate in any of the non-tribal whiting sectors after May 11, 2009, a harvesting vessel would be required to be registered for use with both a groundfish limited entry permit and a Pacific whiting vessel license. The license is associated with the vessel, not with a limited entry permit. A mothership vessel that processes whiting, but does not harvest, would only be required to have a whiting vessel license for the mothership sector. The Pacific whiting vessel license will not be re-issued unless it has been lost, or unless there is some change in the vessel owner information for the vessel to which it is registered. Consistent with the intent of Amendment 15, Pacific whiting vessel license holders will not be allowed to transfer the licenses to any other vessels.

Effective May 12, 2009, until implementation of a trawl rationalization program, unless modified, superseded or rescinded, only the following vessels shall be issued a Pacific whiting vessels license and be eligible to:

(1) Harvest and process catch in the catcher/processor sector of the Pacific whiting fishery:

ALASKA OCEAN (U.S. documentation number 637856)
AMERICAN DYNASTY (U.S. documentation number 951307)
AMERICAN TRIUMPH (U.S. documentation number 646737)
ISLAND ENTERPRISE (U.S. documentation number 610290)
KODIAK ENTERPRISE (U.S. documentation number 579450)
NORTHERN EAGLE (U.S. documentation number 506694)
NORTHERN JAEGER (U.S. documentation number 521069)
PACIFIC GLACIER (U.S. documentation number 933627)
SEATTLE ENTERPRISE (U.S. documentation number 904767)

(2) Process catch in the mothership sector of the Pacific whiting fishery:

ARCTIC FJORD (U.S. documentation number 940866)
ARCTIC STORM (U.S. documentation number 903511)
EXCELLENCE (U.S. documentation number 967502)
GOLDEN ALASKA (U.S. documentation number 651041)
Ocean Phoenix (U.S. documentation number 296779)
OCEAN ROVER (U.S. documentation number 552100)

(3) Harvest catch only in the mothership sector of the Pacific whiting fishery:

CAITLIN ANN (U.S. documentation number 960836)
LESLIE LEE (U.S. documentation number 584873)
MAR-GUN (U.S. documentation number 525608)
MORNING STAR (U.S. documentation number 618797)
PACIFIC FURY (U.S. documentation number 561934)
PACIFIC PRINCE (U.S. documentation number 697280)
WESTERN DAWN (U.S. documentation number 524423)

(4) Harvest catch only in the shore-based sector of the Pacific whiting fishery:

ANNETTE (U.S. documentation number 562157)
BAY ISLANDER (U.S. documentation number 521200)
CHELLISSA (U.S. documentation number 617797)
COLLIER BROTHERS (U.S. documentation number 593809)
DEFIANT (U.S. documentation number 619236)
EXCALIBUR (U.S. documentation number 578930)
FISHWISH (U.S. documentation number 655151)
GEORGE ALLEN (U.S. documentation number 528842)
GRUMPY J (U.S. documentation number 514665)
JEANETTE MARRIE (U.S. documentation number 928882)
JAMIE MARIE (U.S. documentation number 932586)
LAST STRAW (U.S. documentation number 532419)
MASTER CHARGE (U.S. documentation number 530215)
MISS BERDIE (U.S. documentation number 913277)
MISS SUE (U.S. documentation number 580055)
MORNING STAR (U.S. documentation number 1037811)
NEW LIFE (U.S. documentation number 504299)
NICOLE (U.S. documentation number 923632)
OCEAN HUNTER (U.S. documentation number 926699)
PACIFIC (U.S. documentation number 626917)
PACIFIC FUTURE (U.S. documentation number 612155)
SEA CLIPPER (U.S. documentation number 553396)
STARWARD (U.S. documentation number 617807)
STORMIE C (U.S. documentation number 936611)
WARRIOR II (U.S. documentation number 539091)
WESTERN SEAS (U.S. documentation number 516880)

(5) Harvest catch only in the either the mothership or shore-based sector of the Pacific whiting fishery:

ALEUTIAN CHALLENGER (U.S. documentation number 603820)
AMERICAN BEAUTY (U.S. documentation number 613847)
BLUE FOX (U.S. documentation number 979437)
CAPE KIWANDA (U.S. documentation number 618158)
LISA-MELINDA (U.S. documentation number 584360)
MARATHON (U.S. documentation number 596156)
MARK I (U.S. documentation number 509552)
MESSIAH (U.S. documentation number 610150)
MISS SARAH (U.S. documentation number 921578)
MUIR MILACH (U.S. documentation number 611524)
NEAHKAHNIE (U.S. documentation number 599534)
NORDIC FURY (U.S. documentation number 542651)
OCEAN LEADER (U.S. documentation number 561518)
PACIFIC CHALLENGER (U.S. documentation number 518937)

PACIFIC RAM (U.S. documentation number 589115)
PEGASUS (U.S. documentation number 565120)
PERSEVERANCE (U.S. documentation number 536873)
PREDATOR (U.S. documentation number 547390)
RAVEN (U.S. documentation number 629499)
SEADAWN (U.S. documentation number 548685)
SEA STORM (U.S. documentation number 628959)
SEEKER (U.S. documentation number 924585)
TRAVELER (U.S. documentation number 929356)

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

Dated: July 13, 2009.

Kristen C. Koch,

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

[FR Doc. E9–17069 Filed 7–16–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

(Docket T–1–2009)

Foreign–Trade Zone 134 Chattanooga, TN, Application for Temporary/Interim Manufacturing Authority, Volkswagen Group of America Chattanooga Operations, LLC (Motor Vehicles), Chattanooga, TN

An application has been submitted to the Executive Secretary of the Foreign–Trade Zones Board (the Board) by the Chattanooga Chamber Foundation, grantee of FTZ 134, requesting temporary/interim manufacturing (T/IM) authority within FTZ 134 at the Volkswagen Group of America Chattanooga Operations, LLC (VGACO) facility in Chattanooga, Tennessee. The application was filed on July 10, 2009.

The VGACO facility (approx. 2,000 employees, 1,187 acres, 2.1 million sq.ft., 150,000 unit capacity) is located at 7351 Enterprise South Boulevard within the Enterprise South Industrial Park in Chattanooga (Hamilton County), Tennessee (Site 3). Under T/IM procedures, the company has requested authority to produce light–duty passenger vehicles (sedans, sport utility vehicles, minivans) (HTSUS 8703.23, 8703.24, 2.5%). Foreign components that would be used in production (representing about 25% of total material inputs) include: plastic tubes/pipes/hoses (3917.31, 3917.40), plastic sheets/strips/plates (3919.90, 3921.90), rubber tubes/hoses (4009.11), tires (4011.20), gaskets/washers/o–rings (4016.93, 4016.99), safety glass (7007.11, 7007.21), mirrors (7009.10), tube fittings (7307.22, 7307.99), fasteners (7318.14), locks/keys (8301.20, 8301.40), engines (8407.34), engine parts (8409.91), pumps (8413.30), valves (8481.80), and bumpers (8708.10) (duty rates: free 6.5%). T/IM authority could be granted for a period of up to two years.

FTZ procedures could exempt VGACO from customs duty payments on the foreign components used in export production. The company anticipates that some 20 percent of the plant's shipments will be exported. On its domestic sales, VGACO would be able to choose the duty rate that applies to finished passenger vehicles (2.5%) for the foreign inputs noted above. Certain logistical/supply chain management savings would also be realized through FTZ procedures. Customs duties also could possibly be deferred or reduced on foreign status production equipment. The application indicates that the savings from FTZ procedures would help improve the facility's international competitiveness.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the following address: Office of the Executive Secretary, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230–0002. The closing period for receipt of comments is August 17, 2009.

A copy of the application will be available for public inspection at the Office of the Foreign–Trade Zones Board's Executive Secretary at the address listed above, and in the ''Reading Room'' section of the Board's website, which is accessible via www.trade.gov/ftz. For further information, contact Pierre Duy at pierre__duy@ita.doc.gov or (202) 482–1378.

Dated: July 10, 2009.

Andrew McGilvray,

Executive Secretary.

[FR Doc. E9–17075 Filed 7–16–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

(Docket 27–2009)

Foreign–Trade Zone 234 Gregg County, Texas, Application for Reorganization under Alternative Site Framework

An application has been submitted to the Foreign–Trade Zones (FTZ) Board (the Board) by Gregg County, Texas, grantee of FTZ 234, requesting authority to reorganize the zone under the alternative site framework (ASF) adopted by the Board (74 FR 1170, 01/12/09; correction 74 FR 3987, 01/22/09). 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 July 7, 2009.

The grantee's proposed service area under the ASF would be Gregg County, Texas. If approved, the grantee would be able to serve sites throughout the service area based on companies' needs for FTZ designation. The proposed service area is adjacent to the Shreveport–Bossier City Customs and Border Protection port of entry.

FTZ 234 was approved by the FTZ Board in 1998 (Board Order 1003, 63 FR 63671, 11/16/1998) and expanded in 2008 (Board Order 1590, 73 FR 76611, 12/17/2008). The applicant is requesting to include the following current sites in the reorganized zone as ''magnet'' sites: Proposed Site 1 (239 acres)-Gregg County Airport, 269 Terminal Circle, Longview; Proposed Site 2 (60 acres)-warehouse facility, 1320 East Harrison Road, Longview; and, Proposed Site 3 (217 acres)-Synergy Park, 1000 Synergy Boulevard, Elder Lake. The applicant proposes that Site 1 be exempt from ''sunset'' time limits that otherwise apply to sites under the ASF. No usage–driven sites are being proposed at this time.

In accordance with the Board's regulations, Kathleen Boyce 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 September 15, 2009. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to September 30, 2009).

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 website, which is accessible via www.trade.gov/ftz. For further information, contact Kathleen Boyce at Kathleen__Boyce@ita.doc.gov or 202–482–1346.

Dated: July 8, 2009.

Andrew McGilvray,

Executive Secretary.

[FR Doc. E9–17076 Filed 7–16–09; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XO71

Incidental Takes of Marine Mammals During Specified Activities; Low-Energy Marine Seismic Survey in the Northeast Pacific Ocean, July 2009

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

ACTION: Notice; issuance of an incidental take authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) regulations, notification is hereby given that NMFS has issued an Incidental Harassment Authorization (IHA) to Scripps Institution of Oceanography (SIO), a part of the University of California San Diego (UCSD), for the take of small numbers of marine mammals, by Level B harassment only, incidental to conducting a marine seismic survey in the Northeast Pacific Ocean during July 2009.

DATES: Effective July 14, 2009, through August 14, 2009.

ADDRESSES: A copy of the IHA and the application are available by writing to P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225 or by telephoning the contact listed here. A copy of the application containing a list of the references used in this document may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications.* Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Howard Goldstein or Ken Hollingshead, Office of Protected Resources, NMFS, 301–713–2289.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of marine mammals by United States citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization for incidental taking shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''* * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as:

> any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [''Level A harassment'']; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [''Level B harassment''].

16 U.S.C. 1362(18).

Section 101(a)(5)(D) establishes a 45-day time limit for NMFS' review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On March 9, 2009, NMFS received an application from SIO for the taking, by Level B harassment only, of small numbers of marine mammals incidental to conducting, under cooperative agreement with the National Science Foundation (NSF), a low-energy marine seismic survey in the Northeast Pacific Ocean. The funding for the survey is provided by the NSF. The proposed survey will occur in an overall area between approximately 44° and 45° N. and 124.5° and 126° W. within the Exclusive Economic Zone (EEZ) of the U.S.A., and is scheduled to occur from July 14–20, 2009. The survey will use a single Generator Injector (GI) airgun with a discharge volume of 45 in^3. Some minor deviation from these dates is possible, depending on logistics and weather.

The survey is virtually identical to one conducted by SIO in 2007 under an IHA issued in September 2007 (NMFS, 2007). The SIO 2009 IHA application contains minor updates to the project description, updated marine mammal population sizes based on the most recent NMFS annual stock assessment, an assessment of the relevance of the marine mammal density and distribution data contained in the SIO 2007 IHA application based on cruise reports from the NMFS SWFSC ORCAWHALE 2008 cruise, and updated information on effects of airguns on marine mammals (see Appendix A of SIO's application).

Description of the Specified Activity

SIO plans to conduct an ocean bottom seismograph (OBS) deployment and a magnetic, bathymetric, and seismic survey. The planned survey will involve one source vessel, the R/V *Wecoma* (*Wecoma*), and will occur in the Northeast Pacific Ocean off the coast of Oregon.

The purpose of the research program is to record micro-earthquakes in the

forearc to determine whether seismicity on the plate boundary is characteristic of a locked or a freely slipping fault plane. Several earthquakes large enough to be recorded on land-based seismic nets have occurred along this segment in the past several years. The occurrence of ''repeating earthquakes'' (earthquakes with identical waveforms indicating repeated rupture of almost the same fault patch) suggests that this region is at a boundary between a freely slipping and a locked portion of the fault. Some models suggest that the forearc basin north of the seismically active zone may be locked; others suggest that portion of the fault is slipping freely. OBSs have been deployed for a year, and a seismic survey will be used to characterize the shallow sediment structure around the instruments. Also, included in the research is the use of a magnetometer and sub-bottom profiler.

The source vessel, the *Wecoma,* will deploy a single low-energy GI airgun as an energy source (with a discharge volume of 45 in^3) and a 300 m (984 ft), 16 channel, towed hydrophone streamer. Sixteen OBSs were deployed in July and September, 2008. They will continue to acquire data during this cruise, and will be recovered before returning to port. The energy to the GI airgun is compressed air supplied by compressors onboard the source vessel. As the GI airgun is towed along the survey lines, the receiving systems will receive the returning acoustic signals.

The seismic program will consist of approximately 21 km (13 mi) of surveys over each of the 16 OBSs (see Figure 1 of SIO's application). Water depths at the seismic survey locations rang from just less than 100 m (328 ft) to almost 3,000 m (9,842 ft) (see Figure 1 of SIO's application). The GI airgun will be operated on a small grid for approximately two hours at each of the 16 OBS sites. There will be additional seismic operations associated with equipment testing, start-ups, and repeat coverage of any areas where initial data quality is substandard.

All planned geophysical data acquisition activities will be conducted by SIO with on-board assistance by the scientists who have proposed the study. The Chief Scientist is Dr. Anne Trehu of Oregon State University. The vessel will be self-contained, and the crew will live aboard the vessel for the entire cruise.

In addition to the seismic operations of the single GI airgun, a 3.5 and 12 kHz sub-bottom profiler will be used continuously throughout the cruise, and a magnetometer may be run on the transit between OBS locations.

Vessel Specifications

The *Wecoma* has a length of 56.4 m (185 ft), a beam of 10.1 m (33.1 ft), and a maximum draft of 5.6 m (18.4 ft). The ship is powered by a single 3,000-hp EMD diesel engine driving a single, controllable-pitch propeller through a clutch and reduction gear, and an electric 350-hp azimuthing bow thruster. An operations speed of 11.1 km/hour (6 knots) will be used during seismic acquisition. When not towing seismic survey gear, the *Wecoma* cruises at 22.2 km/hour (12 knots) and has a maximum speed of 26 km/hour (14 knots). It has a normal operating range of approximately 13,300 km. The *Wecoma* will also serve as the platform from which vessel-based Marine Mammal Visual Observers (MMVO) will watch for animals before and during GI airgun operations.

Acoustic Source Specifications

Seismic Airguns

During the proposed survey, the *Wecoma* will tow a single GI airgun, with a volume of 45 in^3, and a 300 m long streamer containing hydrophones along predetermined lines. Seismic pulses will be emitted at intervals of 10 seconds. At a speed of 6 knots (11.1 km/hour), the 10 second shot spacing corresponds to a shot interval of approximately 31 m (101.7 ft).

The generator chamber of the GI airgun, the one responsible for introducing the sound pulse into the ocean, is 45 in^3. The larger (105 in^3) injector chamber injects air into the previously-generated bubble to maintain its shape, and does not introduce more sound into the water. The 45 in^3 GI airgun will be towed 21 m (68.9 ft) behind the *Wecoma* at a depth of 4 m (13.1 ft). The sound pressure field of that GI airgun variation at a tow depth of 2.5 m has been modeled by Lamont-Doherty Earth Observatory (L–DEO) in relation to distance and direction for the GI airgun.

As the GI airgun is towed along the survey line, the towed hydrophone array in the 300 m streamer receives the reflected signals and transfers the data on the on-board processing system. Given the relatively short streamer length behind the vessel, the turning rate of the vessel while the gear is deployed is much higher than the limit of five degrees per minute for a seismic vessel towing a streamer of more typical length (much greater than 1 km). Thus, the maneuverability of the vessel is not limited much during operations.

The root mean square (rms) received levels that are used as impact criteria for marine mammals are not directly comparable to the peak (pk or 0-pk) or peak-to-peak (pk-pk) values normally used to characterize source levels of airgun arrays. The measurement units used to describe airgun sources, peak or peak-to-peak decibels, are always higher than the ''root mean square'' (rms) decibels referred to in biological literature. A measured received level of 160 dB re 1 μPa (rms) in the far field would typically correspond to a peak measurement of approximately 170 to 172 dB, and to a peak-to-peak measurement of approximately 176 to 178 dB, as measured for the same pulse received at the same location (Greene, 1997; McCauley *et al.,* 1998, 2000). The precise difference between rms and peak or peak-to-peak values depends on the frequency content and duration of the pulse, among other factors. However, the rms level is always lower than the peak or peak-to-peak level for an airgun-type source.

Received sound levels have been modeled by L–DEO for a number of airgun configurations, including one 45 in^3 GI airgun, in relation to distance from the airgun(s) (see Figure 2 of SIO's application). The model does not allow for bottom interactions, and is most directly applicable to deep water. Based on modeling, estimates of the maximum distances from the GI airgun where sound levels of 190, 180, and 160 dB re 1 μPa (rms) are predicted to be received in deep (>1,000 m) water are shown in this **Federal Register** notice (reprinted from Table 1 of SIO's application). Because the model results are for a 2.5 m tow depth, the distances in Table 1 slightly underestimate the distances for the 45 in^3 GI airgun towed at 4 m depth.

Sub-bottom Profiler

Along with the GI airgun operations, one additional acoustical data acquisition system will be operated throughout the cruise. The ocean floor will be mapped with a Knudsen Engineering Model 320BR 12 kHz and 3.5 kHz sub-bottom profiler (SBP). Multi-beam sonar will not be used.

The Knudsen Engineering Model 320BR SBP is a dual-frequency transceiver designed to operate at 3.5 and/or 12 kHz. It is used to provide data about the sedimentary features that occur below the sea floor. The energy from the sub-bottom profiler is directed downward via a 12 kHz transducer (EDO 323B) or a 3.5 kHz array of 16 ORE 137D transducers in a 4x4 arrangement. The maximum power output of the 320BR is 10 kilowatts for the 3.5 kHz section and 2 kilowatts for the 12 kHz section.

The pulse length for the 3.5 kHz section of the 320 BR is 0.8–24 ms,

controlled by the system operator in regards to water depth and reflectivity of the bottom sediments, and will usually be 12 or 24 ms in this survey. The system produces one sound pulse and then waits for its return before transmitting again. Thus, the pulse interval is directly dependent upon water depth, and in this survey is 4.5–8 seconds. Using the Sonar Equations and assuming 100 percent efficiency in the system (impractical in real world applications), the source level for the 320BR is calculated to be 211 dB re 1 Pam. In practical operation, the 3.5 kHz array is seldom driven at more than 80 percent of maximum, usually less than 50 percent.

Safety Radii

NMFS has determined that for acoustic effects, using acoustic thresholds in combination with corresponding safety radii is an effective way to consistently apply measures to avoid or minimize the impacts of an action, and to quantitatively estimate the effects of an action. Thresholds are used in two ways: (1) To establish a mitigation shut-down or power-down zone, *i.e.,* if an animal enters an area calculated to be ensonified above the level of an established threshold, a sound source is powered down or shut down; and (2) to calculate take, in that a model may be used to calculate the area around the sound source that will be ensonified to that level or above, then, based on the estimated density of animals and the distance that the sound source moves, NMFS can estimate the number of marine mammals that may be ''taken.''

As a matter of past practice and based on the best available information at the time regarding the effects of marine sound compiled over the past decade, NMFS has used conservative numerical estimates to approximate where Level A harassment from acoustic sources begins: 180 dB re 1 µPa (rms) level for cetaceans and 190 dB re 1 µPa (rms) for pinnipeds. A review of the available scientific data using an application of science-based extrapolation procedures (Southall *et al.,* 2007) strongly suggests that Level A harassment (as well as TTS) from single sound exposure impulse events may occur at much higher levels than the levels previously estimated using very limited data. However, for purposes of this proposed action, SIO's application sets forth, and NMFS is using, the more conservative 180 and 190 dB re 1 µPa (rms) criteria. NMFS also considers 160 dB re 1 µPa (rms) as the criterion for estimating the onset of Level B harassment from acoustic sources like impulse sounds used in the seismic survey.

Empirical data concerning the 180 and 160 dB distances have been acquired based on measurements during the acoustic verification study conducted by L–DEO in the northern Gulf of Mexico from May 27 to June 3, 2003 (Tolstoy *et al.,* 2004). Although the results are limited the data showed that radii around the airguns where the received level would be 180 dB re 1 µPa (rms), the safety criterion applicable to cetaceans (NMFS, 2000), vary with water depth. Similar depth-related variation is likely in the 190 dB distances applicable to pinnipeds. Correction factors were developed for water depths 100–1,000 m and <100 m.

The empirical data indicate that, for deep water (>1,000 m), the L–DEO model tends to overestimate the received sound levels at a given distance (Tolstoy *et al.,* 2004). However, to be precautionary pending acquisition of additional empirical data, it is proposed that safety radii during GI airgun operations in deep water will be values predicted by L–DEO's model (see Table 1 below). Therefore, the assumed 180 and 190 dB radii are 23 m (75.5 ft) and 8 m (26 ft), respectively.

Empirical measurements indicated that in shallow water (<100 m), the L–DEO model underestimates actual levels. In previous L–DEO projects, the exclusion zones were typically based on measured values and ranged from 1.3 to 15x higher than the modeled values depending on the size of the airgun array and the sound level measured (Tolstoy *et al.,* 2004). During the proposed cruise, similar factors will be applied to derive appropriate shallow water radii from the modeled deep water radii for the GI airgun (see Table 1 below).

Empirical measurements were not conducted for intermediate depths (100–1,000 m). On the expectation that results will be intermediate between those from shallow and deep water, a 1.5x correction factor is applied to the estimates provided by the model for deep water situations. This is the same factor that was applied to the model estimates during L–DEO cruises in 2003. The assumed 180 and 190 dB radii in intermediate depth water are 35 m (115 ft) and 12 m (39.4 ft), respectively (see Table 1 below).

TABLE 1—PREDICTED DISTANCES TO WHICH SOUND LEVELS ≥190, 180, AND 160 DB RE 1 µPA MIGHT BE RECEIVED IN SHALLOW (<100 M; 328 FT), INTERMEDIATE (100–1,000 M; 328–3,280 FT), AND DEEP (>1,000 M; 3,280 FT) WATER FROM THE SINGLE 45 IN^3 GI AIRGUN USED DURING THE SEISMIC SURVEYS IN THE NORTHEASTERN PACIFIC OCEAN DURING JULY 2009

[Distances are based on model results provided by L–DEO]

Source and volume	Tow depth (m)	Water depth	Predicted RMS distances (m)		
			190 dB	180 dB	160 dB
Single GI airgun 45 in^3	4	Deep (>1,000 m)	8	23	220
		Intermediate (100–1,000 m)	12	35	330
		Shallow (<100 m)	95	150	570

Dates, Duration, and Region of Activity

The *Wecoma* is scheduled to depart from Newport, Oregon, on July 14, 2009, and to return on July 20, 2009. The GI airgun will be used for approximately two hours at each of 16 OBS locations. The program will consist of approximately 7 days of seismic acquisition. The exact dates of the activities may vary by a few days because of weather conditions, repositioning, streamer operations, and adjustments, GI airgun deployment, or the need to repeat some lines if data quality is substandard. The seismic surveys will take place off the Oregon coast in the northeastern Pacific Ocean (see Figure 1 of SIO's application). The overall area within which the seismic surveys will occur is located between approximately 44° and 45° N. and 124.5° and 126° W. (see Figure 1 of SIO's application). The surveys will take place in water depths just less than 100 m and to almost 3,000 m, entirely

within the Exclusive Economic Zone (EEZ) of the U.S.

Comments and Responses

A notice of receipt of the SIO application and proposed IHA was published in the **Federal Register** on May 26, 2009 (74 FR 24799). During the comment period, NMFS received comments from the Marine Mammal Commission (Commission). Following are comments from the Commission and NMFS' responses.

Comment 1: The Commission recommends that the NMFS issue the requested authorization provided that the authorization includes all of the proposed monitoring and mitigation measures to minimize the likelihood of serious injury to the potentially affected marine mammal species.

Response: NMFS concurs with the Commission's recommendations and has included requirements to these effects in the IHA.

Comment 2: The Commission recommends that the NMFS issue the requested authorization provided that the NMFS clarify when the use of night vision devices (NVDs) will be required and provide additional justification for its implied conclusion that observers will be able to achieve a high nighttime detection rate.

Response: NVDs are used at night and during some low-light conditions. Though it depends on the lights on the ship, the sea state, and thermal factors, MMVOs estimated that visual detection is effective out to between 150 and 250 m (492 to 820 ft) using NVDs and about 30 m (98 ft) with the naked eye. Depending on water depth, the relevant safety zones for this survey range from 8 m to 150 m (26 to 492 ft) (see Table 1 above) and NMFS believes that MMVOs are effective at visually detecting marine mammals within these distances.

Marine seismic surveys may continue into night and low-light hours if such segment(s) of the survey is initiated when the entire relevant safety zones are visible and can be effectively monitored. No initiation of airgun array operations is permitted from a shut-down position at night or during low-light hours (such as in dense fog or heavy rain) when the entire relevant safety zone cannot be effectively monitored by MMVOs on duty aboard the *Wecoma.* NMFS has included a requirement to this effect in the IHA issued to SIO.

Comment 3: The Commission recommends that the NMFS issue the requested authorization provided that the authorization requires that operations be suspended immediately, pending review by the NMFS, if a dead or seriously injured marine mammal is found in the vicinity of the operations and the death or injury could have occurred incidental to the seismic survey.

Response: NMFS concurs with the Commission's recommendations and has included a requirement to this effect in the IHA.

Description of Marine Mammals in the Proposed Activity Area

A total of 32 marine mammal species may occur or have been documented to occur in the marine waters off Oregon and Washington, excluding extralimital sightings or strandings (Fiscus and Niggol, 1965; Green *et al.,* 1992, 1993; Barlow, 1997, 2003; Mangels and Gerrodette, 1994; Von Saunder and Barlow, 1999; Barlow and Taylor, 2001; Buchanan *et al.,* 2001; Calambokidis *et al.,* 2004; Calambokidis and Barlow, 2004). The species include 19 odontocetes (toothed cetaceans, such as dolphins), 7 mysticetes (baleen whales), 5 pinnipeds, and sea otters. Six of the species that may occur in the project area are listed under the Endangered Species Act (ESA) as Endangered, including sperm, humpback, sei, fin, blue, and North Pacific right whales. Another species, the Steller sea lion, is listed as Threatened and may occur in the project area.

The study area is located approximately 25 to 110 km (15.5 to 68.4 mi) offshore from Oregon over water depths from just less than 100 m to almost 3,000 m. Two of the 32 species, gray whales and sea otters, are not expected in the project area because their occurrence off Oregon is limited to very shallow, coastal waters. Three other species, California sea lions, Steller sea lions, and harbor seals, are mainly coastal, and would be rare at most at the OBS locations. Information on the habitat, abundance, and conservation status of the species that may occur in the study area is given in Table 2 (below, see Table 2 of SIO's application). Vagrant ringed seals, hooded seals, and ribbon seals have been sighted or stranded on the coast of California (see Mead, 1981; Reeves *et al.,* 2002) and presumably passed through Oregon waters. A vagrant beluga whale was seen off the coast of Washington (Reeves *et al.,* 2002). Those seven species are not addressed in detail in the summaries in SIO's application.

The six species of marine mammals expected to be most common in the deep pelagic or slope waters of the project area, where most of the survey sites are located, include the Pacific white-sided dolphin, northern right whale dolphin, Risso's dolphin, short beaked common dolphin, Dall's porpoise, and northern fur seal (Green *et al.,* 1992, 1993; Buchanan *et al.,* 2001; Barlow, 2003; Barlow and Forney, 2007; Carretta *et al.,* 2007). The fin whale, Dall's porpoise, and the northern elephant seal were the species sighted most often off Oregon and Washington during the ORCAWALE 2008 surveys (NMFS, 2008).

Table 2 below outlines the marine mammal species, their habitat, abundance, density, and conservation status in the proposed project area. Additional information regarding the distribution of these species expected to be found in the project area and how the estimated densities were calculated was included in the notice of the proposed IHA (74 FR 24799, May 26, 2009) and may be found in SIO's application.

TABLE 2—THE OCCURRENCE, HABITAT, REGIONAL ABUNDANCE, BEST AND MAXIMUM DENSITY ESTIMATES, NUMBER OF MARINE MAMMALS THAT COULD BE EXPOSED TO SOUND LEVEL AT OR ABOVE 160DB RE 1μPA, BEST ESTIMATE OF NUMBER OF INDIVIDUALS EXPOSED, AND BEST ESTIMATE OF NUMBER OF EXPOSURES PER MARINE MAMMAL IN OR NEAR THE PROPOSED LOW-ENERGY SEISMIC SURVEY AREA IN THE NORTHEAST PACIFIC OCEAN

[See Tables 2–4 in SIO's application for further detail]

Species	Habitat	Regional population size [e]	Density/1000 km² (best) [b]	Density/1000 km² (max) [c]	Number of indiv. exposed to ≥160 dB	Percent of estimated population exposed to ≥160 dB
Mysticetes						
Eastern Pacific gray whale (*Eschrichtius robustus*).	Coastal	17,752	NA	NA	0	0
North Pacific right whale (*Eubalaena japonica*).	Pelagic and coastal.	NA (Probably less than 100) [f].	0	0	0	0
Humpback whale (*Megaptera novaeangliae*).	Mainly nearshore waters and banks.	1,396	0.69	1.50	1	0.07
Minke whale (*Balaenoptera acutorostrata*).	Pelagic and coastal.	898	0.68	1.1	0	0
Sei whale (*Balaenoptera borealis*)	Primarily offshore, pelagic.	43	0.13	0.5	1	2.33
Fin whale (*Balaenoptera physalus*).	Continental slope, mostly pelagic.	3,454	0.95	1.3	1	0.03
Blue whale (*Balaenoptera musculus*).	Pelagic and coastal.	1,186	0.19	0.4	1	0.08
Odontocetes						
Sperm whale (*Physeter macrocephalus*).	Usually pelagic and deep seas.	2,265	1.39	0.58	1	0.04
Pygmy sperm whale (*Kogia breviceps*).	Deep waters off shelf.	NA	1.24	2.8	1	NA
Dwarf sperm whale (*Kogia sima*)	Deep waters off the shelf.	NA	0	0	0	0
Cuvier's beaked whale (*Ziphius cavirostris*).	Pelagic	2,171	0	0	0	0
Baird's beaked whale (*Berardius bairdii*).	Pelagic	313	1.64	0.60	0	0
Blainville's beaked whale (*Mesoplodon densirostris*).	Slope, offshore	1,024 [g]	0	0	0	0
Hubb's beaked whale (*Mesoplodon carlhubbsi*).	Slope, offshore	1,024 [g]	0	0	0	0
Stejneger's beaked whale (*Mesoplodon stejnegeri*).	Slope, offshore	1,024 [g]	0	0	0	0
Offshore bottlenose dolphin (*Tursiops truncatus*).	Offshore, slope	3,257	0	0	0	0
Striped dolphin (*Stenella coeruleoalba*).	Off continental shelf.	23,883	0.04	0.1	0	0
Short-beaked common dolphin (*Delphinus delphis*).	Shelf and pelagic, seamounts.	487,622	14.14	35	4	<0.01
Pacific white-sided dolphin (*Lagenorhynchus obliquidens*).	Offshore, slope	25,233	24.84	33.2	6	0.02
Risso's dolphin (*Grampus griseus*).	Shelf, slope, seamounts.	12,093	12.91	17.3	3	0.02
Northern right whale dolphin (*Lissodelphis borealis*).	Slope, offshore waters.	15,305	19.39	26.7	5	0.03
False killer whale (*Pseudorca crassidens*).	Pelagic, occasionally inshore.	NA	0	0	0	0
Killer whale *(Orcinus orca*)	Widely distributed.	422 (Offshore)	1.62	2.7	0	0
Short-finned pilot whale (*Globicephala macrorhynchus*).	Mostly pelagic, high-relief topography.	245	0	0	0	0
Harbor porpoise (*Phocoena phocoena*).	Coastal and inland waters.	37,745 (OR/WA)	NA	NA	0	0

TABLE 2—THE OCCURRENCE, HABITAT, REGIONAL ABUNDANCE, BEST AND MAXIMUM DENSITY ESTIMATES, NUMBER OF MARINE MAMMALS THAT COULD BE EXPOSED TO SOUND LEVEL AT OR ABOVE 160DB RE 1μPA, BEST ESTIMATE OF NUMBER OF INDIVIDUALS EXPOSED, AND BEST ESTIMATE OF NUMBER OF EXPOSURES PER MARINE MAMMAL IN OR NEAR THE PROPOSED LOW-ENERGY SEISMIC SURVEY AREA IN THE NORTHEAST PACIFIC OCEAN—Continued

[See Tables 2–4 in SIO's application for further detail]

Species	Habitat	Regional population size [e]	Density/1000 km² (best) [b]	Density/1000 km² (max) [c]	Number of indiv. exposed to ≥160 dB	Percent of estimated population exposed to ≥160 dB
Dall's porpoise (*Phocoenoides dalli*).	Shelf, slope, offshore.	57,549	150.17	250.9	39	0.07
Pinnipeds						
Northern fur seal (*Callorhinus ursinus*).	Pelagic, offshore	721,935 [f]	10	100	3	<0.01
California sea lion (*Zalophus californianus*).	Coastal, shelf ...	238,000	NA	NA	2	<0.01
Harbor seal (*Phoca vitulina richardsi*).	Coastal	24,732 (OR/WA)	13	NA	1	<0.01
Steller sea lion (*Eumetopias jubatus*).	Coastal, shelf	48,519 Eastern U.S. [f].	11	NA	1	<0.01
Northern elephant seal (*Mirounga angustirostris*).	Coastal, pelagic when migrating.	124,000 (CA)	20	200	5	0.01

NA—Data not available or species status was not assessed, CA = California, OR = Oregon, WA = Washington.
[a] U.S. Endangered Species Act: EN = Endangered, T = Threatened, NL = Not listed.
[b] Best estimate as listed in Table 3 of the application.
[c] Maximum estimate as listed in Table 3 of the application.
[d] The numbers of at-sea sightings of California sea lions and northern elephant seals were too small to provide meaningful density estimates (Bonnell *et al.,* 1992); density of northern elephant seals was estimated based on sightings during the ORCAWALE 2008 surveys.
[e] Abundance given for U.S. Eastern North Pacific, or CA/OR/WA stock, whichever is included in the 2007 U.S. Pacific Marine Mammal Stock Assessments (Carretta *et al.,* 2007), unless otherwise stated.
[f] Angliss and Outlaw (2008).
[g] All mesoplodont whales.

Potential Effects on Marine Mammals

Potential Effects of Airguns

The effects of sounds from airguns might result in one or more of the following: Tolerance, masking of natural sounds, behavioral disturbances, temporary or permanent hearing impairment, and non-auditory physical or physiological effects (Richardson *et al.,* 1995; Gordon *et al.,* 2004; Nowacek *et al.,* 2007; Southall *et al.,* 2007). Permanent hearing impairment, in the unlikely event that it occurred, would constitute injury, but temporary threshold shift (TTS) is not an injury (Southall *et al.,* 2007). With the possible exception of some cases of temporary threshold shift in harbor seals, it is unlikely that the project would result in any cases of temporary or especially permanent hearing impairment, or any significant non-auditory physical or physiological effects. Some behavioral disturbance is expected, but this would be localized and short-term.

The notice of the proposed IHA (74 FR 24799, May 26, 2009) included a discussion of the effects of sounds from airguns on mysticetes, odontocetes, and pinnipeds, including tolerance, masking, behavioral disturbance, hearing impairment, and other non-auditory physical effects. Additional information on the behavioral reactions (or lack thereof) by all types of marine mammals to seismic vessels can be found in SIO's application and associated EA.

The notice of the proposed IHA also included a discussion of the potential effects of the sub-bottom profiler. Because of the shape of the beams of these sources and their power, NMFS believes it unlikely that marine mammals will be exposed to either the sub-bottom profiler at levels at or above those likely to cause harassment. Further, NMFS believes that the brief exposure of cetaceans to a few signals from the sub-bottom profiler sonar system is not likely to result in the harassment of marine mammals.

Estimated Take by Incidental Harassment

The notice of the proposed IHA (74 FR 24799, May 26, 2009) included an in-depth discussion of the methods used to calculate the densities of the marine mammals in the area of the seismic survey and the take estimates. Additional information was included in SIO's application. A summary is included here.

All anticipated takes would be ''takes by harassment,'' involving temporary changes in behavior. The monitoring and mitigation measures are expected to minimize the possibility of injurious takes. (However, as noted earlier, there is no specific information demonstrating that injurious ''takes'' would occur even in the absence of the planned monitoring and mitigation measures.) The sections below describe methods to estimate ''take by harassment'', and present estimates of the numbers of marine mammals that might be affected during the proposed seismic program. The estimates of ''take by harassment'' are based on (1) data concerning marine mammal densities (numbers per unit area) obtained during surveys off Oregon and Washington during 1996, 2001, and 2005 (cetaceans), or 1989 to 1990 (pinnipeds) by NMFS Southwest Fisheries Science Center (SWFSC), and (2) estimates of the size of the 160 dB isolpeths where takes could potentially occur from the proposed seismic survey off the coast of Oregon in the northeastern Pacific Ocean.

Extensive systematic aircraft and ship-based surveys have been conducted for marine mammals offshore of Oregon and Washington (Bonnell *et al.,* 1992; Green *et al.,* 1992, 1993;

Barlow 1997, 2003; Barlow and Taylor, 2001; Calambokidis and Barlow, 2004; Barlow and Forney in prep.). The most comprehensive and recent density data available for cetacean species in slope and offshore waters of Oregon are from the 1996, 2001, and 2005 NMFS SWFSC ''ORCAWALE'' or ''CSCAPE'' ship surveys as synthesized by Barlow and Forney (2007). The surveys were conducted up to approximately 550 km (342 mi) offshore from June or July to November or December. Systematic, offshore, at-sea survey data for pinnipeds are more limited. The most comprehensive such studies are reported by Bonnell *et al.* (1992) based on systematic aerial surveys conducted in 1989–1990.

Oceanographic conditions, including occasional El Niño and La Niña events, influence the distribution and numbers of marine mammals present in the Northeast Pacific Ocean, including Oregon, resulting in considerable year-to-year variation in the distribution and abundance of many marine mammal species (Forney and Barlow, 1998; Buchanan *et al.,* 2001; Escorza-Treviño, 2002; Ferrero *et al.,* 2002; Philbrick *et al.,* 2003). Thus, for some species the densities derived from recent surveys may not be representative of the densities that will be encountered during the proposed seismic survey. For this IHA application, cruise reports from the ORCAWALE 2008 surveys (NMFS, 2008) were inspected to assess whether there were any observable changes from the previous surveys of the same area.

Table 3 of SIO's application (reprinted as Table 2 in this **Federal Register** notice) gives the average and maximum densities for each species of cetacean reported off Oregon and Washington, corrected for effort, based on the densities reported for the 1996, 2001, and 2005 surveys (Barlow and Forney, 2007). The densities from those studies had been corrected by the original authors for both detectability bias and availability bias. Detectability bias is associated with diminishing sightability with increasing lateral distance from the trackline. Availability bias refers to the fact that there is <100 percent probability of sighting an animal that is present along the survey trackline.

Table 3 of SIO's application (Table 2 in this **Federal Register** notice) also includes mean density information for three of the five pinniped species that occur off Oregon and Washington and mean and maximum densities for one of those species, from Bonnell *et al.* (1992). Densities were not calculated for the other two species because of the small number of sightings on systematic transect surveys. One of those, the northern elephant seal, was the dominant seal sighted during the ORCAWALE 2008 surveys (29 of 33 pinnipeds sighted off Oregon and Washington), so it was included at a density set at twice that of the northern fur seal, the other species sighted during the ORCAWALE 2008 surveys.

It should be noted that the following estimates of ''takes by harassment'' assume that the surveys will be undertaken and completed; in fact, the planned number of line kms has been increased by 25 percent to accommodate lines that may need to be repeated, equipment testing, etc. As is typical on offshore ship surveys, inclement weather and equipment malfunctions are likely to cause delays and may limit the number of useful line kms of seismic operations that can be undertaken. Furthermore, any marine mammal sightings within or near the designated safety zones will result in the shut-down of seismic operations as a mitigation measure. Thus, the following estimates of the numbers of marine mammals potentially exposed to 160 dB are precautionary, and probably overestimate the actual numbers of marine mammals that might be involved. These estimates assume that there will be no weather, equipment, or mitigation delays, which is highly unlikely.

There is some uncertainty about the representativeness of the data and the assumption used in the calculations. However, the approach used is believed to be the best available approach. Also, to provide some allowance for these uncertainties ''maximum estimates'' as well as ''best estimates'' of the numbers potentially affected have been derived. Best and maximum estimates are based on the average and maximum estimates of densities reported primarily by Barlow and Forney (2007) and Bonnell *et al.* (1992) described above. The estimated numbers of potential individuals exposed are presented below based on the 160 dB re 1 μPa (rms) Level B harassment criterion for all cetaceans and pinnipeds. It is assumed that a marine mammal exposed to airgun sounds this strong might change their behavior sufficiently to be considered ''taken by harassment.''

The number of different individuals that may be exposed to GI airgun sounds with received levels ≥160 dB re 1 μPa (rms) on one or more occasions was estimated by considering the total marine area that would be within the 160 dB radius around the operating airgun array on at least one occasion. The proposed seismic lines do not run parallel to each other in close proximity, which minimizes the number of times an individual mammal may be exposed during the survey. The best estimates in this section are based on the averages of the densities from the 1996, 2001, and 2005 NMFS surveys, and maximum estimates are based on the highest of the three densities. Table 4 of SIO's application and Table 2 of this **Federal Register** notice show the best and maximum estimates of the number of marine mammals that could potentially be affected during the seismic survey.

The number of different individuals potentially exposed to received levels ≥160 dB re 1 μPa (rms) was calculated by multiplying:

- The expected species density, either ''mean'' (*i.e.,* best estimate) or ''maximum,'' times; and
- The area anticipated to be ensonified to that level during GI airgun operations.

The area expected to be ensonified was determined by entering the planned survey lines into a MapInfo Geographic Information System (GIS), using the GIS to identify the relevant areas by ''drawing'' the applicable 160 dB buffer around each seismic line (depending on water and tow depth) and then calculating the total area within the buffers. Areas where overlap occurred (because of intersecting lines) were included only once to determine the area expected to be ensonified. In the proposed survey, there is minimal overlap (5 percent for 160 dB), so virtually no marine mammal would be ensonified above those thresholds more than once.

Applying the approach described above, approximately 208 km² (80.3 mi²) would be within the 160 dB isopleth on one or more occasions during the surveys at all 16 OBS locations. For inshore OBS locations, approximately 60 km² (23 mi²) would be within the 160 dB isopleths; that area was used for calculations for the pinniped species that could occur only at those locations. This approach does not allow for turnover in the mammal populations in the study area during the course of the surveys. That might underestimate actual numbers of individuals exposed, although the conservative distances used to calculate the area may offset this. In addition, the approach assumes that no cetaceans will move away or toward the trackline as the *Wecoma* approaches, in response to increasing sound levels prior to the time the levels reach 160 dB. Another way of interpreting the estimates that follow in Table 3 (below) is that they represent the number of individuals that are expected (in the absence of a seismic program) to occur in the waters that will be exposed to ≥160 dB re 1 μPa (rms).

Table 3 (see below) outlines the species, estimated stock population (minimum and best), and estimated percentage of the stock exposed to seismic pulses in the project area. Additional information regarding the status, abundance, and distribution of the marine mammals in the area and how densities were calculated was included in Table 2 (see above), the notice of the proposed IHA (74 FR 24799, May 26, 2009) and may be found in SIO's application.

TABLE 3—THE ESTIMATES OF THE POSSIBLE NUMBERS OF MARINE MAMMALS EXPOSED TO SOUND LEVELS GREATER THAN OR EQUAL TO 160 DB DURING SIO'S PROPOSED SEISMIC SURVEY OFF OREGON IN JULY 2009. THE PROPOSED SOUND SOURCE IS A SINGLE GI AIRGUN. RECEIVED LEVELS ARE EXPRESSED IN DB RE 1 µPA (RMS) (AVERAGED OVER PULSE DURATION), CONSISTENT WITH NMFS' PRACTICE. NOT ALL MARINE MAMMALS WILL CHANGE THEIR BEHAVIOR WHEN EXPOSED TO THESE SOUND LEVELS, BUT SOME MAY ALTER THEIR BEHAVIOR WHEN LEVELS ARE LOWER (SEE TEXT)

[See Tables 2–4 in SIO's application for further detail]

Species	Number of individuals exposed (best) [1]	Number of individuals exposed (max) [1]	Approx. % Regional Population (best) [2]
Mysticetes			
Eastern Pacific gray whale (*Eschrichtius robustus*)	0	0	0
North Pacific right whale (*Eubalaena japonica*)	0	0	0
Humpback whale (*Megaptera novaeangliae*)	1	2	0.07
Minke whale (*Balaenoptera acutorostrata*)	0	0	0
Sei whale (*Balaenoptera borealis*)	1	0	2.33
Fin whale (*Balaenoptera physalus*)	1	1	0.03
Blue whale (*Balaenoptera musculus*)	1	1	0.08
Odontocetes			
Sperm whale (*Physeter macrocephalus*)	1	8	0.04
Pygmy sperm whale (*Kogia breviceps*)	0	1	NA
Dwarf sperm whale (*Kogia sima*)	0	0	0
Cuvier's beaked whale (*Ziphius cavirostris*)	0	0	0
Baird's beaked whale (*Berardius bairdii*)	0	1	0
Blainville's beaked whale (*Mesoplodon densirostris*)	0	0	0
Hubb's beaked whale (*Mesoplodon carlhubbsi*)	0	0	0
Stejneger's beaked whale *(Mesoplodon stejnegeri)*	0	0	0
Mesoplodon sp. (unidentified) [3]	0	1	0
Offshore bottlenose dolphin (*Tursiops truncatus*)	0	0	0
Striped dolphin (*Stenella coeruleoalba*)	0	0	0
Short-beaked common dolphin (*Delphinus delphis*)	4	9	<0.01
Pacific white-sided dolphin (*Lagenorhynchus obliquidens*)	6	9	0.02
Northern right-whale dolphin (*Lissodelphis borealis*)	5	7	0.02
Risso's dolphin (*Grampus griseus*)	3	4	0.03
False killer whale (*Pseudorca crassidens*)	0	0	NA
Killer whale *(Orcinus orca*)	0	1	0
Short-finned pilot whale (*Globicephala macrorhynchus*)	0	0	0
Harbor porpoise (*Phocoena phocoena*)	0	0	0
Dall's porpoise (*Phocoenoides dalli*)	39	65	0.07
Pinnipeds			
Northern fur seal (*Callorhinus ursinus*)	3	26	<0.01
California sea lion (*Zalophus californianus*)	2	NA	<0.01
Steller sea lion (*Eumetopias jubatus*)	1	NA	<0.01
Harbor seal (*Phoca vitulina richardsi*)	1	NA	<0.01
Northern elephant seal (*Mirounga angustirostris*)	5	52	0.01

NA—Data not available or species status was not assessed.
[1] Best estimate and maximum estimate density are from Table 3 of SIO's application.
[2] Regional population size estimates are from Table 2 (above).

Table 4 of SIO's application (Table 3 in this **Federal Register** notice) shows the best and maximum estimates of the number of exposures and the number of individual marine mammals that potentially could be exposed to greater than or equal to 160 dB re 1 µPa (rms) during the different legs of the seismic survey if no animals move away from the survey vessel.

The ''best'' of the number of individual marine mammals that could be exposed to seismic sounds with received levels greater than or equal to 160 dB re 1 µPa (rms) (but below Level A harassment thresholds) during the survey is shown in Table 4 of SIO's application and Table 3 (shown above). The maximum estimates have been requested by SIO. The ''best estimate'' total includes 4 baleen whale individuals. These estimates were derived from the best density estimates calculated for these species in the area (see Table 4 of SIO's application). In addition, 1 sperm whale (0.35 percent of

the regional population) as well as 0 beaked whales (0 percent of the regional population). Based on the best estimates, most (93 percent) of the marine mammals potentially exposed are dolphins and porpoises; short-beaked common, Pacific white-sided, Northern right-whale, Risso's dolphins and Dall's porpoises are estimated to be the most common species in the area, with best estimates of 4 (<0.01 percent of the regional population), 6 (0.02 percent), 5 (0.03 percent), 3 (0.02 percent), and 39 (0.07 percent) exposed to greater than or equal to 160 dB re µPa (rms), respectively. The remainder of the marine mammals that may be potentially exposed are pinnipeds; Northern fur, harbor, and Northern elephant seals, and Steller sea lions are estimated to be the most common species in the area, with best estimates of 3 (<0.01 percent), 1 (<0.01 percent), 5 (0.01 percent), and 1 (<0.01 percent) exposed to greater than or equal to 160 dB re µPa (rms), respectively. Haul-outs of California sea lions and harbor seals are known to be located in the Newport, Oregon area. All of these numbers are considered small relative to the population sizes of the affected species or stocks.

Potential Effects on Habitat

A detailed discussion of the potential effects of this action on marine mammal habitat, including physiological and behavioral effects on marine fish and invertebrates, was included in the proposed IHA (74 FR 24799, May 26, 2009). Based on the discussion in the proposed IHA notice and the nature of the activities (limited duration), the authorized operations are not expected to have any habitat-related effects that could cause significant or long-term consequences for individual marine mammals or their populations or stocks. Similarly, any effects to food resources are expected to be negligible.

The SIO seismic survey will not result in any permanent impact on habitats used by marine mammals, or on the food sources they use. The main impact issue associated with the proposed activity will be temporarily elevated noise levels and the associated direct effects on marine mammals, as described above.

Subsistence Activities

There is no subsistence hunting for marine mammals in the waters off of the coast of Oregon that implicates MMPA Section 101(a)(5)(D).

Mitigation and Monitoring

Mitigation and monitoring measures for the seismic survey have been developed and refined during previous SIO and NSF-funded seismic studies and associated environmental assessments (EAs), IHA applications, and IHAs. The mitigation and monitoring measures described herein represent a combination of procedures required by past IHAs for other similar projects and recommended best practices in Richardson *et al.* (1995), Pierson *et al.* (1998), and Weir and Dolman (2007). The measures are described in detail below.

Mitigation measures that will be adopted during the proposed survey include:

(1) Speed or course alteration, provided that doing so will not compromise operational safety requirements;

(2) GI airgun shut-down procedures;

(3) Special procedures for situations or species of particular concern, *e.g.,* emergency shut-down procedures for North Pacific right whales, avoidance of concentrations of beaked whales (if visually sighted), and minimization of approaches to slopes, if possible, to avoid beaked whale habitat; and

(4) Additional mitigation measures (see ''additional mitigation measures'' below).

Two other common mitigation measures, airgun array power-down and airgun array ramp-up, are not possible because only one, low-volume GI airgun will be used for the surveys. The thresholds for estimating Level A harassment take are also used in connection with proposed mitigation.

Vessel-Based Visual Monitoring

Marine Mammal Visual Observers (MMVOs) will be based aboard the seismic source vessel and will watch for marine mammals near the vessel during daytime airgun operations and during start-ups of airguns at night. MMVOs will also watch for marine mammals near the seismic vessel for at least 30 minutes prior to the start of airgun operations and after an extended shut down of the airguns. When feasible MMVOs will also make observations during daytime periods when the seismic system is not operating for comparison of sighting rates and animal behavior with vs. without airgun operations. Based on MMVO observations, the GI airgun will be shut down (see below) when marine mammals are detected within or about to enter a designated EZ that corresponds to the 180 or 190 dB re 1 µPa (rms) isopleths, depending on whether the animal is a cetacean or a pinniped. The MMVOs will continue to maintain watch to determine when the animal(s) are outside the EZ, and airgun operations will not resume until the animal has left that EZ. The predicted distances for the 180 and 190 dB EZs are listed according to the water depth in Table 1 above.

During seismic operations off of the coast of Oregon, at least two MMVOs will be based aboard the *Wecoma.* MMVOs will be appointed by SIO with NMFS concurrence. At least one MMVO will monitor the EZ for marine mammals during ongoing daytime GI airgun operations and nighttime startups of the airguns. MMVO(s) will be on duty in shifts no longer than 4 hours duration. The vessel crew will also be instructed to assist in detecting marine mammals and implementing mitigation measures (if practical). Before the start of the seismic survey the crew will be given additional instruction regarding how to do so.

The *Wecoma* is a suitable platform for marine mammal observations. Observing stations will be on the bridge wings, with observers' eyes approximately 6.5 m (21.3 ft) above the waterline and a 180 degree view outboard from either side, on the whaleback deck in front of the bridge, with observers' eyes approximately 7 m (23 ft) above the waterline and approximately 200 degrees view forward, and on the aft control station, with observer's eyes approximately 5.5 m (18 ft) above the waterline and a approximately 180 degree view aft that includes the 40 m (131 ft) (180 dB) radius area around the GI airgun. The eyes of the bridge watch will be at a height of approximately 6.5 m; MMOs will move to the enclosed bridge during any inclement weather.

During the daytime, the MMVO(s) will scan the area around the vessel systematically with reticle binoculars (*e.g.,* 7x50), Big-eye binoculars (25x150), optical range finders, and with the naked eye. During darkness, night vision devices will be available, when required. The MMVOs will be in wireless communication with ship's officers on the bridge and scientists in the vessel's operations laboratory, so they can advise promptly of the need for avoidance maneuvers or GI airgun shut down.

Speed or Course Alteration—If a marine mammal is detected outside the EZ but is likely to enter based on its position and the relative movement of the vessel and animal, and if safety and scientific objectives allow, the vessel speed and/or course may be adjusted to minimize the likelihood of the animal entering the EZ. Typically, during seismic operations, major course and speed adjustments are often impractical when towing long seismic streamers and

large source arrays, but are possible in this case because only one GI airgun and a short streamer will be used.

Shut-down Procedures—The operating airguns(s) will be shut-down if a marine mammal is detected within or approaching the EZ for the single GI airgun source. Following a shut-down, GI airgun activity will not resume until the marine mammal is outside the EZ for the full array. The animal will be considered to have cleared the EZ if it:

- Is visually observed to have left the EZ;
- Has not been seen within the EZ for 15 min in the case of species with shorter dive durations—small odontocetes (*i.e.,* dolphins) and pinnipeds; and
- Has not been seen within the EZ for 30 min in the case of species with longer dive durations—mysticetes and large odontocetes (*i.e.,* sperm, pygmy sperm, dwarf sperm, killer, and beaked whales).

Procedures for Situations or Species of Particular Concern—Special mitigation procedures will be used for certain situations and species as follows:

(1) The GI airgun will be shut-down if a North Pacific right whale is sighted at any distance from the vessel;

(2) To avoid beaked whale habitat, approach to slopes will be minimized, if possible, during the proposed survey. Avoidance of airgun operations over or near submarine canyons has become a standard mitigation measure, but there are none within or near the study area. Four of the 16 OBS locations are on the continental slope, but the GI airgun is low volume and it will operate only for a short time (approximately 2 hours at each location).

(3) If visually sighted, avoidance of concentrations of beaked whales.

Additional Mitigation Measures

(1) To the maximum extent practicable, SIO will schedule seismic operations in inshore or shallow waters during daylight hours, and OBS operations during nighttime hours.

SIO and NSF will coordinate the planned marine mammal monitoring program associated with the seismic survey off the coast of Oregon with applicable U.S. agencies (*e.g.,* NMFS), and will comply with their requirements.

Reporting

MMVO Data and Documentation

MMVOs will record data to estimate the numbers of marine mammals exposed to various received sound levels and to document apparent disturbance reactions or lack thereof. Data will be used to estimate numbers of animals potentially 'taken' by harassment (as defined in the MMPA). They will also provide information needed to order a shutdown of the seismic source when a marine mammal or sea turtle is within or near the EZ.

When a sighting is made, the following information about the sighting will be recorded:

(1) Species, group size, and age/size/sex categories (if determinable); behavior when first sighted and after initial sighting; heading (if consistent), bearing, and distance from seismic vessel; sighting cue; apparent reaction to the seismic source or vessel (*e.g.,* none, avoidance, approach, paralleling, etc.); and behavioral pace.

(2) Time, location, heading, speed, activity of the vessel, sea state, visibility, cloud cover, and sun glare.

The data listed (time, location, etc.) will also be recorded at the start and end of each observation watch, and during a watch whenever there is a change in one or more of the variables.

All observations, as well as information regarding seismic source shut-down, will be recorded in a standardized format. Data accuracy will be verified by the MMVOs at sea, and preliminary reports will be prepared during the field program and summaries forwarded to the operating institution's shore facility and to NSF weekly or more frequently. MMVO observations will provide the following information:

(1) The basis for decisions about shutting down airgun arrays.

(2) Information needed to estimate the number of marine mammals potentially 'taken by harassment.' These data will be reported to NMFS.

(3) Data on the occurrence, distribution, and activities of marine mammals in the area where the seismic study is conducted.

(4) Data on the behavior and movement patterns of marine mammals seen at times with and without seismic activity.

A report will be submitted to NMFS within 90 days after the end of the cruise. The report will describe the operations that were conducted and sightings of marine mammals near the operations. The report will be submitted to NMFS, providing full documentation of methods, results, and interpretation pertaining to all monitoring. The 90-day report will summarize the dates and locations of seismic operations, and all marine mammal sightings (dates, times, locations, activities, associated seismic survey activities). The report will also include estimates of the amount and nature of potential ''take'' of marine mammals by harassment or in other ways.

All injured or dead marine mammals (regardless of cause) will be reported to NMFS as soon as practicable. The report should include species or description of animal, condition of animal, location, time first found, observed behaviors (if alive) and photo or video, if available.

Endangered Species Act (ESA)

Pursuant to Section 7 of the ESA, NSF has consulted with the NMFS, Office of Protected Resources, Endangered Species Division on this seismic survey. NMFS has also consulted internally pursuant to Section 7 of the ESA on the issuance of an IHA under section 101(a)(5)(D) of the MMPA for this activity. On July 13, 2009, NMFS concluded consultation with NMFS and NSF, and issued a Biological Opinion (BiOp), which concluded that the proposed action and issuance of an IHA are not likely to jeopardize the continued existence of North Pacific right, blue, fin, sei, humpback, and sperm whales, and leatherback (*Dermochelys coriacea*), green (*Chelonia mydas*), loggerhead (*Caretta caretta*), hawksbill (*Eretmochelys imbricate*), and olive ridley (*Lepidochelys olivacea*) sea turtles. The BiOp also concluded that designated critical habitat for these species does not occur in the action area and would not be affected by the survey. Relevant Terms and Conditions of the Incidental Take Statement in the BiOp have been incorporated into the IHA.

National Environmental Policy Act (NEPA)

NSF prepared an Environmental Assessment titled ''Marine Seismic Survey in the Northeast Pacific, July 2009.'' NSF's draft EA incorporates an ''Environmental Assessment (EA) of a Planned Low-Energy Marine Seismic Survey by the Scripps Institution of Oceanography in the Northeast Pacific Ocean, July 2009,'' prepared by LGL Limited, Environmental Research Associates, on behalf of NSF and SIO. NMFS adopted NSF's EA and prepared a Finding of No Significant Impact on the issuance of the IHA.

Determinations

NMFS has determined that the impact of conducting the low-energy marine seismic survey in the Northeast Pacific Ocean may result, at worst, in a temporary modification in behavior (Level B harassment) of small numbers of marine mammals. Further, this activity is expected to result in a negligible impact on the affected species or stocks. The provision requiring that the activity not have an unmitigable

impact on the availability of the affected species or stock for subsistence uses is not implicated for this action.

For reasons stated previously in this document, the negligible impact determination is supported by:

(1) The likelihood that, given sufficient ''notice'' through relatively slow ship speed, marine mammals are expected to move away from a noise source that is annoying prior to its becoming potentially injurious;

(2) The fact that cetaceans would have to be closer than 23 m (75 ft) in deep water, 35 m (115 ft) in intermediate depths, and 150 m (492 ft) in shallow water when the GI airgun is in use from the vessel to be exposed to levels of sound (180 dB) believed to have even a minimal chance of causing PTS;

(3) The fact that pinnipeds would have to be closer than 8 m (26 ft) in deep water, 12 m (39 ft) in intermediate depths, and 95 m (312 ft) in shallow water when the GI airgun is in use from the vessel to be exposed to levels of sound (190 dB) believed to have even a minimal chance of causing PTS;

(4) The fact that marine mammals would have to be closer than 220 m (ft) in deep water, 330 m at intermediate depths, and 570 m (ft) in shallow water when the GI airgun is in use from the vessel to be exposed to levels of sound (160 dB) believed to have even a minimal chance at causing TTS; and

(5) The likelihood that marine mammal detection ability by trained observers is high at that short distance from the vessel, enabling the implementation of shut-downs to avoid injury, serious injury, or mortality. As a result, no take by injury or death is anticipated, and the potential for temporary or permanent hearing impairment is very low and will be avoided through the incorporation of the proposed mitigation measures.

While the number of marine mammals potentially incidentally harassed will depend on the distribution and abundance of marine mammals in the vicinity of the survey activity, the number of potential harassment takings is estimated to be small, less than one percent of any of the estimated population sizes, and has been mitigated to the lowest level practicable through incorporation of the measures mentioned previously in this document.

Authorization

As a result of these determinations, NMFS issued an IHA to SIO for conducting a low-energy marine seismic survey in the Northeast Pacific Ocean in July, 2009, including the previously mentioned mitigation, monitoring, and reporting requirements.

Dated: July 13, 2009.

James H. Lecky,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E9–17067 Filed 7–16–09; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

RIN 0648–XF79

Marine Mammals and Endangered Species; National Marine Fisheries Service File No. 932–1905; U.S. Fish and Wildlife Service File No. MA–009526

AGENCIES: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce; Fish and Wildlife Service, Interior.

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that the NMFS Marine Mammal Health and Stranding Response Program (MMHSRP), Silver Spring, MD (Dr. Teri Rowles, Principal Investigator), has been issued a permit to conduct enhancement and research activities on marine mammals.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East–West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 713–0376; and

U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203 (1–800–358–2104).

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Kristy Beard, NMFS Office of Protected Resources, (301) 713–2289.

SUPPLEMENTARY INFORMATION: The subject permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*); the regulations governing the taking and importing of marine mammals (50 CFR parts 18 and 216); the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*); the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 17 and 222–226); and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

Permit No. 932–1905/MA–009526 authorizes the MMHSRP to: (1) Carry out response, rescue, rehabilitation, and release of threatened and endangered marine mammals under NMFS jurisdiction [Cetacea and Pinnipedia (excluding walrus)] under sections 109(h) and 112(c) and Title IV of the MMPA; and carry out such activities as enhancement under section 10 the ESA; (2) Conduct health–related scientific research studies on marine mammals and marine mammal parts under NMFS jurisdiction under section 104 of the MMPA and section 10 of the ESA; (3) Conduct Level B harassment on marine mammals under NMFS and U.S. Fish and Wildlife Service (USFWS) jurisdiction [West Indian manatee (*Trichechus manatus*), walrus (*Odobenus rosmarus*), polar bear (*Ursus maritimus*), and sea otters (*Enhydra lutris*)] incidental to all MMHSRP activities in the United States; (4) Collect, salvage, receive, possess, transfer, import, export, analyze, and curate marine mammal specimens under NMFS jurisdiction for purposes delineated in numbers (1) and (2) above; and (5) Salvage (from dead stranded animals), receive, possess, transfer, import, export, analyze, and curate marine mammal specimens under USFWS jurisdiction [including dugong and manatees (Sirenia), walrus, polar bear, marine otter (*Lontra felina*), sea otter] for purposes consistent with Title IV of the MMPA and section 10 of the ESA. The permit has been issued for a 5-year period.

The NMFS MMHSRP has prepared a Final Programmatic Environmental Impact Statement (FPEIS) in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321*et seq.*), which covers the entirety of the MMHSRP program's activities, including those covered by the issued permit. The FPEIS was published on March 6, 2009 (74 FR 9817). The ROD was signed on April 21, 2009. The FPEIS is available on the following web site: *http://www.nmfs.noaa.gov/pr/health/eis.htm*.

Issuance of this permit, as required by the ESA, was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: July 10, 2009.

Tammy C. Adams,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

Dated: July 10, 2009.

Timothy J. Van Norman,

Chief, Branch of Permits, Division of Management Authority, U.S. Fish and Wildlife Service.

[FR Doc. E9–17087 Filed 7–16–09; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN: 0648–XQ31

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council(s (Council) Herring Oversight Committee will meet to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Thursday, August 6, 2009, at 9:30 a.m.

ADDRESSES: The meeting will be held at the Holiday Inn, 31 Hampshire Street, Mansfield, MA 02048; telephone: (508) 339–2200; fax: (508) 339–1040.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The items of discussion in the committee(s agenda are as follows:

Agenda

1. Review and discuss results of Transboundary Resource Assessment Committee (TRAC) 2009 stock assessment of Atlantic herring complex;

2. Discuss development of 2010–12 Atlantic herring fishery specifications;

3. Review and discuss ongoing research regarding catch monitoring programs, maximized retention, and other monitoring tools applied in other fisheries; and

4. Continue development of catch monitoring alternatives for inclusion in Amendment 5 to the Atlantic Herring Fishery Management Plan (FMP), which may include but are not limited to: specific monitoring and reporting requirements for herring vessels and processors, observer coverage and at-sea monitoring, shoreside/dockside monitoring and sampling, electronic reporting, video-based monitoring, maximized retention, catch monitoring and control plans, and vessel monitoring system (VMS) requirements.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council(s intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

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

Dated: July 14, 2009.

Tracey L. Thompson,

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

[FR Doc. E9–17017 Filed 7–16–09; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Addition and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Addition to and Deletions From Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete services previously furnished by such agencies.

Comments Must Be Received on or Before: 8/17/2009.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Addition

If the Committee approves the proposed addition, the entities of the Federal Government identified in this notice for a service will be required to procure that service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service to the Government.

2. If approved, the action will result in authorizing small entities to furnish the service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following service is proposed for addition to Procurement List for production by the nonprofit agency listed:

Service

Service Type/Location: Food Service Attendants, CMSGT Emerson E. Williams Dining Facility, 417 Polifka Drive, Shaw AFB, SC.

NPA: Goodwill Industries of Lower South Carolina, Inc., North Charleston, SC.

Contracting Activity: Dept of the Air Force, FA4803 20 CONS COS, Shaw AFB, SC.

Deletions

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a

substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. If approved, the action may result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for deletion from the Procurement List.

End of Certification

The following services are proposed for deletion from the Procurement List:

Services

Service Type/Location: Janitorial/Custodial, U.S. Army Reserve Center, 355 Anderson Highway, Clemson, SC.
NPA: Pickens County Board of Disabilities and Special Needs, Easley, SC.
Contracting Activity: Dept of the Army, XR W40M Natl Region Contract OFC, Washington, DC.
Service Type/Location: Parking Facility Attendant, VA Medical Center, 2215 Fuller Road, Ann Arbor, MI.
NPA: Washtenaw County Community Support and Treatment Services, Ann Arbor, MI.
Contracting Activity: Veterans Affairs, Department of, NAC, Hines, IL.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. E9–17019 Filed 7–16–09; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and Deletions from Procurement List.

SUMMARY: This action adds to the Procurement List products and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List products and services previously furnished by such agencies.

DATES: *Effective Date:* August 17, 2009.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 5/1/2009 and 5/22/2009, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (74 FR 20289–20291 and 74 FR 23999–24000, respectively) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and services and impact of the additions on the current or most recent contractors, the Committee has determined that the products and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. The action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives, which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products and services are added to the Procurement List:

Products: Advanced Combat Shirt

NSN: 8415–01–548–7187.
NSN: 8415–01–548–7201.
NSN: 8415–01–548–7206.
NSN: 8415–01–548–7209.
NSN: 8415–01–548–7215.
NSN: 8415–01–548–7232.
NSN: 8415–01–548–7236.
NPAs: Winston-Salem Industries for the Blind, Winston-Salem, NC; San Antonio Lighthouse for the Blind, San Antonio, TX.
Contracting Activity: Dept. of the Army, XR W2DF RDECOM ACQ CTR NATICK, MA.
Coverage: C–List for 25% of the requirements of Research, Development and Engineering Command (RDECOM), Natick, MA.
NSN: 7530–01–346–4849—Pad, Writing Paper (Yellow 3x5 Note).
NSN: 7530–01–425–4088—Pad, Writing Paper (4x5 Phone Message).
NPA: Assoc. f/t Blind & Visually Impaired & Goodwill Ind. of Greater Rochester, Rochester, NY.
Contracting Activity: Federal Acquisition Service, GSA/FSS OFC SUP CTR—Paper Products, New York, NY.
Coverage: A–List for the total Government requirement as aggregated by the General Services Administration.
NSN: 7530–01–033–8891—Paper, Copying, Xerographic Process.
NPA: Louisiana Association for the Blind, Shreveport, LA.
Contracting Activity: Federal Acquisition Service, GSA/FSS OFC SUP Ctr—Paper Products, New York, NY.
Coverage: A–List for the total Government requirement as aggregated by the General Services Administration.

Services

Service Type/Location: Food Service Attendant, Rickenbacker Reserve, Redtail Building Reserve Base, 7370 Minuteman Way, Columbus, OH.
NPA: Goodwill Columbus Outsource Solutions, Columbus, OH.
Contracting Activity: Dept. of the Army, XRAW7NU USPFO Activity OH ARNG, Columbus, OH.
Service Type/Location: Base Supply Center/Individual Equipment Element/Hazmat, (BSC/IEE/HAZMAT) Forbes Field, KS, ISPFO for Kansas, 2737 S. Kansas Avenue, Topeka, KS.
NPA: Industries for the Blind, Inc., West Allis, WI.
Contracting Activity: DOD/Department of the Air Force, Kirtland AFB, NM.
Service Type/Location: Custodial Services, Ellington Field, 14555 Scholl Street, Houston, TX.
NPA: On Our Own Services, Inc., Houston, TX.
Contracting Activity: Dept. of the Army, XR W6BB ACA Presidio of Monterey, CA.
Service Type/Location: Recycling Services, Martinsburg Computing Center, 250 Murall Drive, Kearneysville, WV.
NPA: NW Works, Inc., Winchester, VA.
Contracting Activity: Internal Revenue Service, Dept. of Treasury, IRS, Office of Procurement Operations, Oxon Hill, MD.

Deletions

On 5/22/2009, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (74 FR 23999–24000), of proposed deletions from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the products listed below are no longer suitable for procurement by the Federal Government

under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives, which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products deleted from the Procurement List.

End of Certification

Accordingly, the following products are deleted from the Procurement List:

Products

NSN: 7520–01–484–5262—Pen, Retractable, Transparent, Cushion Grip ''VISTA''.
NPA: Industries of the Blind, Inc., Greensboro, NC.
Contracting Activity: GSA/FSS OFC SUP Ctr—Paper Products, New York, NY.
NSN: 7520–01–445–0734—File, Horizontal Desk.
NSN: 7520–01–445–0737—File, Horizontal Desk.
NSN: 7520–01–445–0738—File, Horizontal Desk.
NSN: 7520–01–445–0740—File, Horizontal Desk.
NSN: 7520–01–445–0742—File, Horizontal Desk.
NSN: 7520–01–452–1559—File, Horizontal Desk.
NPA: Occupational Development Center, Inc., Thief River Falls, MN.
Contracting Activity: GSA/FSS OFC SUP Ctr—Paper Products, New York, NY.
NSN: 7520–01–483–8987—Presentation Sheets, ''SmartChart Economy''.
NSN: 7520–01–483–8976—Presentation Sheets, ''SmartChart'', Refill Roll.
NPA: The Lighthouse for the Blind, Inc. (Seattle Lighthouse), Seattle, WA.
Contracting Activity: GSA/FSS OFC SUP Ctr—Paper Products, New York, NY.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. E9–17020 Filed 7–16–09; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2009–OS–0102]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness), DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense (Personnel and Readiness) announces the following proposed extension of a public information collection and seeks public comment on the provisions thereof. 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 burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 15, 2009.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

• *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Office of the Under Secretary of Defense (Personnel and Readiness) (Program Integration) Legal Policy, ATTN: Lt Col Williams, 4000 Defense Pentagon, Washington, DC 20301–4000 or call at (703) 697–3387.

Title, Associated Form, and OMB Control Number: Application for Correction of Military Record Under the Provisions of Title 10, U.S. Code, Section 1552, DD Form 149, OMB Control Number 0704–0003.

Needs and Uses: This information collection requirement is necessary for all Service personnel (current and former Service members) to apply to their respective Boards for Correction of Military Records (BCMR) for a correction of their military records under Title 10, United States Code 1552. The BCMRs of the Services are the highest administrative boards and appellate review authorities in the Services for the resolution of military personnel disputes. The Service Secretaries, acting through the BCMRs, have broad powers and are duty bound to correct records if an error or injustice exists. The range of issues includes, but is not limited to, awards, clemency petitions (of courts-martial sentences), disabilities, evaluation reports, home of record, memoranda of reprimands, promotions, retirements, separations, survivor benefit plans, and titling decisions by law enforcement authorities.

Information collection is needed to provide current and former Service members with a method through which to request correction of a military record and to provide the Services with the basic data needed to process the request.

Affected Public: Individuals or Households.

Annual Burden Hours: 16,500.

Number of Respondents: 33,000.

Responses per Respondent: 1.

Average Burden per Response: 30 Minutes.

Frequency: On Occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The respondents for this information collection are current and former Service members requesting correction to their military records. The Service member submits to the respective BCMR a DD Form 149, ''Application for Correction of Military Record Under the Provisions of Title 10, U.S. Code Section 1552.'' The information from the DD Form 149 is used by the respective Service BCMR in processing the applicant's request authorized by Title 10 U.S.C. 1552. The DD Form 149 was devised to standardize applications to the BCMRs. This information is used to identify and secure the appropriate official military and medical records from the appropriate records storage

facilities. Information on the form is used by the BCMRs to identify the issues and arguments raised by applicants, identify any counsel representing applicants, and determine if the applicants filed their petitions within the three-year statute of limitations established by Congress.

Dated: June 30, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–17061 Filed 7–16–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2009–OS–0103]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, DoD.

ACTION: Notice

In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995*, the Office of the Under Secretary of Defense for Personnel and Readiness announces the following proposed extension of a public information collection and seeks public comment on the provisions thereof. 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 burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 15, 2009.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

• *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Principal Deputy Under Secretary of Defense for Personnel and Readiness, Morale, Welfare and Recreation Policy Directorate, 1525 Wilson Blvd, Ste 225, Arlington, VA 22209–2411; ATTN: James.Ellis, e-mail: *james.ellis@osd.mil*; telephone (703) 588–0877.

Title and OMB Control Number: Letter of Application to Solicit on DoD Installations; OMB Control Number 0704–0439.

Needs and Uses: This information collection is necessary to ensure established annual procedures for the DoD registration requirement for the sale of insurance and securities on DoD installations are met. The letter received from the applicants provides information relative to the areas they intend to do business in, attests to their company's ability to pay claims as well as their rating within the insurance industry for the preceding business year. It also attests to their compliance with Department policies and procedures.

The purpose of this information collection is to assist the Secretary of Defense and secretaries of the Military Departments in ensuring that established procedures are in place to protect our Service personnel from unscrupulous business people who would take advantage through the sale of insurance and financial products that may not meet their needs.

Affected Public: Business or other-for profit; Federal government.

Annual Burden Hours: 5.

Number of Respondents: 10.

Responses Per Respondent: 1.

Average Burden Per Response: 20 minutes.

Frequency: Annually.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents will be completing a standard letter application signed by the President, Vice President, or designated official of the insurance company and forwarded to the Principal Deputy Under Secretary of Defense for Personnel and Readiness. The letter contains certifying statements that the company is in compliance with the application requirements.

Dated: May 28, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–17066 Filed 7–16–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2009–OS–0105]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness), DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense (Personnel and Readiness) announces the following proposed extension of a public information collection and seeks public comment on the provisions thereof. 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 burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 15, 2009.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

• *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://*

www.regulations.gov as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Office of the Under Secretary of Defense (Personnel and Readiness) (Military Personnel Policy/Accession Policy), ATTN: Mr. Dennis Drogo, 4000 Defense Pentagon, Washington, DC 20301–4000 or call at (703) 697–9268.

Title, Associated Form, and OMB Control Number: DOD Loan Repayment Program (LRP); DD Form 2475, OMB Number 0704–0152.

Needs and Uses: This information collection requirement is necessary because the military Services are authorized to repay student loans for individuals who meet certain criteria and who enlist for active military service or who enter Reserve service for a specific obligated period. Applicants who qualify for the program forward the DD Form 2475, ''DOD Loan Repayment Program (LRP) Annual Application,'' to their Military Service Personnel Office for processing. The Military Service Personnel Office verifies the information and fills in the loan repayment date, address, and phone number. For the Reserve Components, the Military Service Personnel Office forwards the DD Form 2475 to the lending institution. For active-duty Service, the Service mails the form to the lending institution. The lending institution confirms the loan status and certification and mails the form back to the military Service Personnel Office.

Affected Public: Business or other for-profit.

Annual Burden Hours: 17,500.

Number of Respondents: 2,917.

Responses Per Respondent: 1.

Average Burden Per Response: 10 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Public Laws 99–145 and 100–180 authorizes the Military Services to repay student loans for individuals who agree to enter the military in specific occupational areas for a specified obligation period. The legislation requires the Services to verify the status of the individual's loan prior to repayment. The DD Form 2475, ''DOD Loan Repayment Program (LRP) Annual Application,'' is used to collect the necessary verification data from the lending institution.

Dated: July 10, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–17065 Filed 7–16–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2009–OS–0101]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness), DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense (Personnel and Readiness) announces the following proposed extension of a public information collection and seeks public comment on the provisions thereof. 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 burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by September 15, 2009.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Office of the Under Secretary of Defense (Personnel and Readiness) Military Personnel Policy/Armed Forces Chaplains Board, ATTN: Jonathan M. Frusti, 4000 Defense Pentagon, Washington, DC 20301–4000 or call at (703) 697–9015.

Title, Associated Form, and OMB Control Number: 0704–0190, Appointment of Chaplains for the Military Services, DD Form 2088.

Needs and Uses: This information collection will provide certification that a Religious Ministry Professional is professionally qualified to become a chaplain.

Affected Public: Not-for-profit institutions.

Annual Burden Hours: 750 hours.

Number of Respondents: 200.

Responses per Respondent: 5.

Average Burden per Response: 45 minutes.

Frequency: On Occasion; Annually.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The DD 2088 is used to verify the professional and ecclesiastical qualifications of Religious Ministry Professionals for initial appointment or chaplains change of career status appointments as chaplains in the Military Service. This form is an essential element of a chaplain's professional qualifications and will become a part of a chaplain's military personnel record.

DoD listed endorsing agents utilize the form to endorse military chaplains representing their organizations.

Dated: May 28, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–17064 Filed 7–16–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2009–OS–0104]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness), DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork

Reduction Act of 1995, the Office of the Under Secretary of Defense (Personnel and Readiness) announces the following proposed extension of a public information collection and seeks public comment on the provisions thereof. 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 burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received 60 days from publication of this notice in the **Federal Register**.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Office of the Under Secretary of Defense (Personnel and Readiness) (Program Integration) Legal Policy, ATTN: Lt Col Williams, 4000 Defense Pentagon, Washington, DC 20301–4000, or call (703) 697–3387; facsimile (703) 693–6708.

Title, Associated Form, and OMB Control Number: Application for the Review of Discharge from the Armed Forces of the United States; DD Form 293; OMB Control Number 0704–0004.

Needs and Uses: Former members of the Armed Forces who received an administrative discharge have the right to appeal the characterization or reason for separation. Title 10 of the U.S. Code, section 1553, and DoD Directive 1332.28 established a Board of Review consisting of five members to review appeals of former members of the Armed Forces. The DD Form 293, *Application for Review of Discharge from the Armed Forces of the United States,* provides the respondent a vehicle to present to the Board their reasons/justifications for a discharge upgrade as well as providing the Services the basic data needed to process the appeal.

Affected Public: Individuals or households.

Annual Burden Hours: 6,000.

Number of Respondents: 8,000.

Responses Per Respondent: 1.

Average Burden Per Response: 45 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Under section 1553 of Title 10 United States Code, the Secretary of a Military Department established a Board of Review, consisting of five members, to review appeals of former members of the Armed Forces. This information collection allows an applicant to request a change in the type of military discharge issued. Applicants are former members of the Armed Forces (or if the former member is deceased or incompetent, the surviving spouse, next-of-kin, or legal representative who is acting on behalf of the former members) who have been discharged or dismissed (other than a discharge or dismissal by sentence of a general court-martial). The DD Form 293, *Application for Review of Discharge from the Armed Forces of the United States,* provides the former member an avenue to present to their respective Service Discharge Review Board their reasons/justifications for a discharge upgrade as well as providing the Service the basic data needed to process the appeal.

Dated: July 10, 2009.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E9–17063 Filed 7–16–09; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Request

AGENCY: Department of Education.

ACTION: Correction Notice.

SUMMARY: On July 9, 2009, the Department of Education published a comment period notice in the **Federal Register** (Page 32896, Column 3) for the information collection, ''Requests for Title I, Part A Waivers''. Written comments regarding the emergency review should be electronically mailed to *oira_submission@omb.eop.gov.* The IC Clearance Official, Regulatory Information Management Services, Office of Management, hereby issues a correction notice as required by the Paperwork Reduction Act of 1995.

Dated: July 13, 2009.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

[FR Doc. E9–17037 Filed 7–16–09; 8:45 am]

BILLING CODE P

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Overview Information; Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities—National Center on Postsecondary Outcomes for Students With Disabilities; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2009.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.326U.

DATES:

Applications Available: July 17, 2009.

Deadline for Transmittal of Applications: August 17, 2009.

Deadline for Intergovernmental Review: August 26, 2009.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities program is to promote academic achievement and to improve results for children with disabilities by providing technical assistance (TA), supporting model demonstration projects, disseminating useful information, and implementing activities that are supported by scientifically based research.

Priority: In accordance with 34 CFR 75.105(b)(2)(v), this priority is from allowable activities specified in the statute (see sections 663 and 681(d) of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. 1400 *et seq.*).

Absolute Priority: For FY 2009 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this

priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities—National Center on Postsecondary Outcomes for Students With Disabilities.

Background: In order to monitor and assess the effectiveness of programs and services provided under Part B of IDEA, and to improve postsecondary outcomes for students with disabilities (such as competitive employment or enrollment in some type of postsecondary school), collection, organization, and analysis of accurate data on postsecondary outcomes are necessary at both the Federal and State levels. A U.S. Government Accountability Office (GAO) study (GAO–03–773) entitled ''Special Education: Federal Actions Can Assist States in Improving Postsecondary Outcomes for Youth,'' released on July 30, 2003, underscored the need for more information to assess postsecondary outcomes for students with disabilities. This study found that while a majority of students receiving IDEA services completed high school with a diploma, a lack of accurate data has made it difficult to determine what happens to these students after they leave high school.

In their IDEA Annual Performance Reports (APRs), States are currently required to report postsecondary outcome data on students who received IDEA services (in response to Indicator 14). The outcome data must include all students who received IDEA services and are no longer in secondary school, including those who have been competitively employed, are enrolled in some type of postsecondary school, or both, within one year after leaving high school (20 U.S.C. 1416(a)(3)(B)). In order to address Indicator 14, States must gather data on the competitive employment and postsecondary education experiences of these students, including students who have dropped out or aged out, one year after leaving school, either by: (a) Conducting a census (surveying all students who received IDEA services and are no longer in secondary school (referred to in this document as ''school leavers'')); or (b) using sampling techniques to establish a target group of respondents. The following Web site provides more information on Indicator 14: *http://www.ed.gov/policy/speced/guid/idea/bapr/index.html.*

For a number of years, the Department's Office of Special Education Programs (OSEP) has supported States in their ongoing efforts to develop and improve systems to collect and use postsecondary outcome data for accountability, decisionmaking, and program improvement purposes. For example, in 2004, OSEP funded the National Post-School Outcomes Center for Students with Disabilities to help States develop and implement practical, efficient, cost-effective, and sustainable strategies to collect and use outcome data to improve secondary education, transition, and postsecondary outcomes for students with disabilities. The following Web site provides more information on the work of the National Post-School Outcomes Center: *http://www.psocenter.org/.*

In addition, with the enactment of the American Recovery and Reinvestment Act of 2009 (ARRA), Congress and the new Administration recently signaled their collective interest in ensuring that States and local educational agencies (LEAs) take steps to improve the collection and use of data. Specifically, in order to be eligible for funding under the State Fiscal Stabilization Fund (SFSF), Governors must submit an application containing an assurance that ''the State will establish a longitudinal data system that includes the elements described in section 6401(e)(2)(D) of the America COMPETES Act (20 U.S.C. 9871).'' Through the ARRA, Congress also appropriated $250 million for the Department's Statewide Longitudinal Data Systems (SLDS) grant program.[1] These funds may be used ''for Statewide data systems that include postsecondary and workforce information.''

While not all States have yet developed and implemented such statewide longitudinal data systems, between the assurances required under the SFSF and the additional $250 million appropriated for the SLDS program under the ARRA, the Department anticipates a great deal of State-level activity in this area over the next few years. As States work to develop and expand longitudinal data systems, it will be important that such systems are designed to collect and produce valid, reliable, and accurate data that meet the information needs, to the extent feasible, for implementing and reporting on Federal programs—including data related to programs and services under Part B of IDEA, such as the post-school outcome data required for purposes of Indicator 14.

In accordance with the goals recently identified by the Administration under the SFSF and ARRA, States and other entities should move away from their reliance on stand-alone data collections and move toward more centralized and cost-effective data collections. Meanwhile, though, States must continue collecting and submitting required annual data on key outcomes under Federal programs, including Part B of the IDEA.

For purposes of collecting Indicator 14 data, while States have made progress in developing and implementing data collection and dissemination systems to conduct survey research and collect, analyze, and disseminate the results from this survey research in a timely manner, there is still an ongoing need for technical assistance to support State efforts to produce valid, reliable, and accurate postsecondary outcome data.

To obtain the necessary data for Indicator 14, roughly half of States currently use sampling techniques to establish a target group of respondents and the rest employ census methods (surveying all school leavers). However, across both sampling and census methods, States have faced ongoing difficulty securing a response rate that will ensure that the responding group is representative of the State's school leavers—that is, representative in terms of racial demographics, disability group, and circumstances for leaving school. To address such technical challenges, States continue to need support in: (a) Improving and implementing data systems that will help them attain a group of respondents who are representative of the State's school leavers; and (b) overcoming challenges in contacting these school leavers, including students who have dropped out of school. In addition, States need support in disaggregating and utilizing postsecondary outcome data at the local level for accountability, decisionmaking, and program improvement purposes.

For these reasons, the Department proposes to support a new National Center on Postsecondary Outcomes that will: (1) Provide ongoing support to help States overcome challenges associated with existing data collections that are used to obtain post-school outcome data for Indicator 14; and (2) support and promote State efforts to ensure that data for Indicator 14 may eventually be collected through consolidated (or linkable) statewide longitudinal data systems.

[1] The purpose of the SLDS grant program is to support States that seek to plan, develop, implement, or expand a statewide longitudinal data system. Such expansion may include, but is not limited to, developing interoperability with postsecondary data systems, creating consolidated P–16 data systems, and importing workforce data. The following Web site provides more information on the SLDS grant program: *http://nces.ed.gov/programs/SLDS/index.asp.*

Priority: The purpose of this priority is to fund a cooperative agreement to support the establishment and operation of a National Center on Postsecondary Outcomes for Students with Disabilities (Center) that will provide technical assistance and disseminate useful information to States on: (1) Improving the efficiency, cost-effectiveness, and technical adequacy of postsecondary outcome data collections and implementing the improved data collections; (2) producing valid, reliable, and accurate data for reporting on Indicator 14; (3) collecting data for Indicator 14 from State longitudinal data systems; and (4) using postsecondary outcome data to strengthen accountability, decisionmaking, and program improvement systems related to improving postsecondary outcomes for students receiving IDEA services.

To be considered for funding under this absolute priority, applicants must meet the application requirements contained in this priority. The project funded under this absolute priority also must meet the programmatic and administrative requirements specified in the priority.

Application Requirements. An applicant must include in its application—

(a) A logic model that depicts, at a minimum, the goals, activities, outputs, and outcomes of the proposed project. A logic model communicates how a project will achieve its outcomes and provides a framework for both the formative and summative evaluations of the project;

Note: The following Web site provides more information on logic models and lists multiple online resources: *http://www.cdc.gov/eval/resources.htm.*

(b) A plan to implement the activities described in the *Project Activities* section of this priority;

(c) A plan, linked to the proposed project's logic model, for a formative evaluation of the proposed project's activities. The plan must describe how the formative evaluation will use clear performance objectives to ensure continuous improvement in the operation of the proposed project, including objective measures of progress in implementing the project and ensuring the quality of products and services;

(d) A budget for attendance at the following:

(1) A one and one half day kick-off meeting to be held in Washington, DC, within four weeks after receipt of the award, and an annual planning meeting held in Washington, DC, with the OSEP Project Officer during each subsequent year of the project period.

(2) A three-day Project Directors' Conference in Washington, DC, during each year of the project period.

(3) A four-day Technical Assistance and Dissemination (TA&D) Conference in Washington, DC, during each year of the project period.

(4) One two-day trip annually to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP; and

(e) A line item in the proposed budget for an annual set-aside of five percent of the grant amount to support emerging needs that are consistent with the proposed project's activities, as those needs are identified in consultation with OSEP.

Note: With approval from the OSEP Project Officer, the Center must reallocate any remaining funds from this annual set-aside no later than the end of the third quarter of each budget period.

Project Activities. To meet the requirements of this priority, the Center, at a minimum, must conduct the following activities:

Knowledge Development Activities.

(a) Review annually the technical adequacy of all States' Indicator 14 data collection methods. For States using sampling methods, this includes ensuring that the States' samples, or target groups of respondents, are representative of the State's respective school leavers—that is, in terms of racial demographics, disability group, age, gender, and circumstances for leaving. The results of this analysis must be shared with the OSEP Project Officer and used by the Center to determine the type of TA that States need.

(b) Design a plan to support all States in gathering and reporting Indicator 14 data from a consolidated or linkable State data warehouse of longitudinal data (*e.g.*, SLDS).

(c) Identify specific student level data elements needed to accurately report Indicator 14 data in open source resources such as the voluntary standards and guidelines of the National Center for Education Statistics and the specifications of the Schools Interoperability Framework Association to ensure valid, reliable, and accurate data.

Technical Assistance and Dissemination Activities.

(a) Provide general TA to States to assist them with:

(1) Improving their data collection and dissemination systems used to obtain accurate postsecondary outcome data.

(2) Developing and implementing effective procedures for collecting postsecondary outcome data from LEAs and helping States utilize these procedures.

(3) Disaggregating and analyzing the postsecondary outcome data collected on students receiving IDEA services to drive decisionmaking at the local level that will lead to valid, reliable, and accurate data and program improvement.

(b) Analyze State SPP/APR Indicator 14 submissions to determine those States that lack firmly established data collection and dissemination systems and thus have the most need for TA.

(c) Provide TA to States, including States with projects funded under the SLDS grants program. This TA must be designed to help ensure that statewide data systems include data concerning students receiving IDEA services for the Part B Indicator 14 collection and for reporting on post-school outcomes required by IDEA. TA may be provided through the use of video conferences, teleconferences, or onsite meetings.

(d) Conduct two regional meetings each year of the project period focused on providing training and information related to data collection and the use of data to make informed decisions to improve secondary education, transition, and postsecondary outcomes to State educational agency (SEA) and LEA staff.

(e) Identify a minimum of five States to partner with in each year of the project period. The Center must obtain approval from OSEP before making the final selection of partnering States. Once a State is selected as a partner, the Center will continue working with the State for the entire project period. (The Center will work intensively with five States the first year, five more States the second year, etc. so that at the end of the project period, it is working or has worked with 25 States in total.) The Center must provide each partnering State with TA in its first year of working with the Center. This TA must include a thorough analysis of the State's needs as well as frequent communication between the Center and the State in determining how these needs can be met. The TA may be provided through multiple site visits, videoconferencing, or other means. After providing the first year of TA to the State, the Center must analyze the State's Indicator 14 data annually for the remaining project period to determine the level of TA the State needs.

(f) Provide a continuum of general TA&D activities (*e.g.*, managing Web sites, listservs, and communities of practice, and holding conferences and

training institutes) on evidence-based practices that promote the use of postsecondary outcome data for accountability, decisionmaking, and program improvement.

(g) Maintain a Web site that meets government or industry-recognized standards for accessibility and that links to the Web site operated by OSEP's Technical Assistance Coordination Center (TACC).

(h) Prepare and disseminate reports and other materials on data collection, accountability, decisionmaking, program improvement, and related topics as requested by OSEP. In consultation with the OSEP Project Officer, make selected reports, documents, and other materials available for parents, educators, service providers, members of professional organizations and advocacy groups, researchers, and others, as appropriate.

(i) Develop materials and guidance for States and provide targeted TA related to their SPP and APR performance and compliance indicator(s), as requested by OSEP.

Leadership and Coordination Activities.

(a) Sponsor a series of joint meetings with representatives from the Data Quality Campaign, the Council of Chief State School Officers' Education Information Management Advisory Consortium (EIMAC), the Longitudinal Student Data Systems Task Force and its Special Education Subcommittee, the U.S. Department of Education's Family Policy and Compliance Office, the U.S. Department of Labor, vocational rehabilitation services, postsecondary institutions and other stakeholders to discuss and identify:

(1) Methods to obtain data on students who leave the State for postsecondary education, employment, or other purposes.

(2) Standards and best practices necessary to allow States to share data on Indicator 14 by querying their higher education and unemployment databases.

(3) Available databases that could potentially provide Indicator 14 data, including unemployment system and wage records, the National Student Clearinghouse, and other systems related to data collection and the use of data to make informed decisions to improve secondary education, transition, and postsecondary outcomes.

(b) Compile and share data from States' APRs and updated SPPs for IDEA Part B Indicator 14 by—

(1) Reviewing relevant sections of each State's APR and updated SPP and summarizing the data on this indicator;

(2) Developing a summary report for Indicator 14 that includes information about States' progress in meeting targets for the indicator as well as any revisions made to States' data collection; and

(3) Providing this summary report to OSEP in a timely manner and participating in OSEP-requested teleconferences to discuss the findings of the summary report.

(c) Establish and maintain an advisory committee to review the activities and outcomes of the Center and provide programmatic support and advice throughout the project period. At a minimum, the advisory committee must meet on an annual basis in Washington, DC, and consist of representatives from SEAs and LEAs, large scale data specialists, individuals with disabilities, educators, parents of individuals with disabilities, vocational rehabilitation, labor and postsecondary representatives, and service providers that work with transitioning youth and adults with disabilities. The Center must submit the names of proposed members of the advisory committee to OSEP for approval within eight weeks after receipt of the award.

(d) Communicate and collaborate, on an ongoing basis, with other projects funded by the Office of Special Education and Rehabilitative Services, including the National Dropout Prevention Center for Students with Disabilities, the National Secondary Transition Technical Assistance Center, the National High School Center (jointly funded with the Office of Elementary and Secondary Education), Parent Centers, the Regional Resource Centers, the Data Accountability Center (DAC), IDEA Partnership Project, and related projects funded by the Rehabilitation Services Administration, the National Institute on Disability and Rehabilitation Research, and IES. This collaboration could include the joint development of products, the coordination of TA services, and the planning and carrying out of TA meetings and events. The Center must collaborate with DAC on the analysis of the technical adequacy of States' Indicator 14 sampling plans.

(e) Participate in, organize, or facilitate, as directed by OSEP, communities of practice (CoP) that are aligned with the Center's objectives as a way to support discussions and collaboration among key stakeholders. The following Web site provides information on CoP: *http://www.tacommunities.org/.*

(f) Prior to developing any new product, whether paper or electronic, submit to the OSEP Project Officer and the Proposed Product Advisory Board at OSEP's TACC for approval a proposal describing the content and purpose of the product.

(g) Coordinate with the National Dissemination Center for Individuals with Disabilities to develop an efficient and high quality dissemination system that reaches broad audiences. The Center must report to the OSEP Project Officer the outcomes of these coordination efforts.

(h) Contribute, on an ongoing basis, updated information on the Center's services to OSEP's Technical Assistance and Dissemination Matrix (*matrix.rrfcnetwork.org/*), which provides current information on Department-funded TA services to a range of stakeholders.

(i) Maintain ongoing communication with the OSEP Project Officer through monthly phone conversations and e-mail communication.

(j) Conduct a summative evaluation of the Center in collaboration with the Center to Improve Project Performance (CIPP) as described in the following paragraphs. This summative evaluation must examine the outcomes or impact of the Center's activities in order to assess the effectiveness of those activities.

Note: The major tasks of CIPP are to guide, coordinate, and oversee the summative evaluations conducted by selected Technical Assistance, Personnel Development, Parent Training and Information Center, and Technology projects that individually receive $500,000 or more funding from OSEP annually. The efforts of CIPP are expected to enhance individual project evaluations by providing expert and unbiased assistance in designing evaluations, conducting analyses, and interpreting data.

To fulfill the requirements of the summative evaluation to be conducted under the guidance of CIPP, the Center must—

(1) Hire or designate, with the approval of the OSEP Project Officer, a project liaison staff person with sufficient dedicated time, experience in evaluation, and knowledge of the Center to work with CIPP on the following tasks:

(i) Planning the Center's summative evaluation (*e.g.*, selecting evaluation questions, developing a timeline for the evaluation, locating sources of relevant data, and refining the logic model used for the evaluation).

(ii) Developing the summative evaluation design and instrumentation (*e.g.*, determining quantitative or qualitative data collection strategies, selecting respondent samples, and pilot testing instruments).

(iii) Coordinating the evaluation timeline with the implementation of the Center's activities.

(iv) Collecting summative data; and

(v) Writing reports of summative evaluation findings;

(2) Cooperate with CIPP staff in order to accomplish the tasks described in paragraph (1) of this section; and

(3) Dedicate $40,000 of the annual budget request for this project to cover the costs of carrying out the tasks described in paragraphs (1) and (2) of this section, implementing the Center's formative evaluation and traveling to Washington, DC, in the second year of the project period for the Center's review for continued funding.

Fourth and Fifth Years of the Project: In deciding whether to continue funding the Center for the fourth and fifth years, the Secretary will consider the requirements of 34 CFR 75.253(a), and in addition—

(a) The recommendation of a review team consisting of experts selected by the Secretary. This review will be conducted during a one-day intensive meeting in Washington, DC, that will be held during the last half of the second year of the project period. The Center must budget for travel expenses associated with this one-day intensive review;

(b) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the Center; and

(c) The quality, relevance, and usefulness of the Center's activities and products and the degree to which the Center's activities and products have contributed to changed practices in SEA and LEA accountability, decisionmaking, and program improvement in the area of postsecondary outcomes for students with disabilities.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed priorities and requirements. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the priority in this notice.

Program Authority: 20 U.S.C. 1463 and 1481.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 86, 97, 98, and 99.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

II. Award Information

Type of Award: Cooperative Agreement.

Estimated Available Funds: $800,000.

Maximum Award: We will reject any application that proposes a budget exceeding $800,000 for a single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* SEAs; LEAs, including public charter schools that are considered LEAs under State law; IHEs; other public agencies; private nonprofit organizations; outlying areas; freely associated States; Indian tribes or tribal organizations; and for-profit organizations.

2. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

3. *Other: General Requirements*—(a) The projects funded under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

(b) Applicants and grant recipients funded under this competition must involve individuals with disabilities or parents of individuals with disabilities ages birth through 26 in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Address to Request Application Package:* Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone, toll free: 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *http://www.ed.gov/pubs/edpubs.html* or at its e-mail address: *edpubs@inet.ed.gov.*

If you request an application package from ED Pubs, be sure to identify this program or competition as follows: CFDA number 84.326U.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.*, Braille, large print, audiotape, or computer diskette) by contacting the person or team listed under *Accessible Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit the application narrative to the equivalent of no more than 70 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, the references, or the letters of support. However, the page limit does apply to all of the application narrative section (Part III).

We will reject your application if you exceed the page limit or if you apply other standards and exceed the equivalent of the page limit.

3. *Submission Dates and Times:*

Applications Available: July 17, 2009.

Deadline for Transmittal of Applications: August 17, 2009.

Applications for grants under this competition may be submitted electronically using the Electronic Grant Application System (e-Application) accessible through the Department's e-Grants site, or in paper format by mail or hand delivery. For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery, please refer to section IV. 6. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an

individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: August 26, 2009.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Applications for grants under this program may be submitted electronically or in paper format by mail or hand delivery.

a. *Electronic Submission of Applications.*

If you choose to submit your application to us electronically, you must use e-Application, accessible through the Department's e-Grants Web site at: *http://e-grants.ed.gov.*

While completing your electronic application, you will be entering data online that will be saved into a database. You may not e-mail an electronic copy of a grant application to us.

Please note the following:

• Your participation in e-Application is voluntary.

• You must complete the electronic submission of your grant application by 4:30:00 p.m., Washington, DC time, on the application deadline date. E-Application will not accept an application for this competition after 4:30:00 p.m., Washington, DC time, on the application deadline date. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the application process.

• The hours of operation of the e-Grants Web site are 6:00 a.m. Monday until 7:00 p.m. Wednesday; and 6:00 a.m. Thursday until 8:00 p.m. Sunday, Washington, DC time. Please note that, because of maintenance, the system is unavailable between 8:00 p.m. on Sundays and 6:00 a.m. on Mondays, and between 7:00 p.m. on Wednesdays and 6:00 a.m. on Thursdays, Washington, DC time. Any modifications to these hours are posted on the e-Grants Web site.

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you submit your application in paper format.

• You must submit all documents electronically, including all information you typically provide on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. You must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified in this paragraph or submit a password protected file, we will not review that material.

• Your electronic application must comply with any page limit requirements described in this notice.

• Prior to submitting your electronic application, you may wish to print a copy of it for your records.

• After you electronically submit your application, you will receive an automatic acknowledgment that will include a PR/Award number (an identifying number unique to your application).

• Within three working days after submitting your electronic application, fax a signed copy of the SF 424 to the Application Control Center after following these steps:

(1) Print SF 424 from e-Application.

(2) The applicant's Authorizing Representative must sign this form.

(3) Place the PR/Award number in the upper right hand corner of the hard-copy signature page of the SF 424.

(4) Fax the signed SF 424 to the Application Control Center at (202) 245–6272.

• We may request that you provide us original signatures on other forms at a later date.

Application Deadline Date Extension in Case of System Unavailability: If you are prevented from electronically submitting your application on the application deadline date because e-Application is unavailable, we will grant you an extension of one business day to enable you to transmit your application electronically, by mail, or by hand delivery. We will grant this extension if—

(1) You are a registered user of e-Application and you have initiated an electronic application for this competition; and

(2)(a) E-Application is unavailable for 60 minutes or more between the hours of 8:30 a.m. and 3:30 p.m., Washington, DC time, on the application deadline date; or

(b) E-Application is unavailable for any period of time between 3:30 p.m. and 4:30:00 p.m., Washington, DC time, on the application deadline date.

We must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension or to confirm our acknowledgment of any system unavailability, you may contact either (1) the person listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT** (see VII. Agency Contact) or (2) the e-Grants help desk at 1–888–336–8930. If e-Application is unavailable due to technical problems with the system and, therefore, the application deadline is extended, an e-mail will be sent to all registered users who have initiated an e-Application.

Extensions referred to in this section apply only to the unavailability of e-Application. If e-Application is available, and, for any reason, you are unable to submit your application electronically or you do not receive an automatic acknowledgment of your submission, you may submit your application in paper format by mail or hand delivery in accordance with the instructions in this notice.

b. *Submission of Paper Applications by Mail.*

If you submit your application in paper format by mail (through the U.S. Postal Service or a commercial carrier), you must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.326U), LBJ Basement Level 1, 400 Maryland Avenue, SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before

relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you submit your application in paper format by hand delivery, you (or a courier service) must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.326U), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this grant notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are listed in the application package.

2. *Review and Selection Process:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The Standing Panel requirements under IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that, for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within the specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications. However, if the Department decides to select an equal number of applications in each group for funding, this may result in different cut-off points for fundable applications in each group.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *http://www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the Department has established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities program. These measures focus on the extent to which projects provide high quality products and services, the relevance of project products and services to educational and early intervention policy and practice, and the use of products and services to improve educational and early intervention policy and practice.

Grantees will be required to provide information related to these measures.

Grantees also will be required to report information on their project's performance in annual reports to the Department (34 CFR 75.590).

VII. Agency Contact

For Further Information Contact: Selete Avoke, U.S. Department of Education, 400 Maryland Avenue, SW., room 4120, Potomac Center Plaza (PCP), Washington, DC 20202–2550. Telephone: (202) 245–7260.

If you use a TDD, call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.*, braille, large print, audiotape, or computer diskette) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD, call the FRS, toll free, at 1–800–877–8339.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Delegation of Authority: The Secretary of Education has delegated authority to Andrew J. Pepin, Executive Administrator for the Office of Special Education and Rehabilitative Services to perform the functions of the Assistant Secretary for Special Education and Rehabilitative Services.

Dated: July 14, 2009.

Andrew J. Pepin,

Executive Administrator for Special Education and Rehabilitative Services.

[FR Doc. E9–17126 Filed 7–16–09; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2816–041]

North Hartland, LLC; Notice of Application Accepted for Filing, Soliciting Motions To Intervene and Protests, and Soliciting Comments, Recommendations, Terms and Conditions

July 10, 2009.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of license to install a bypass flow turbine generator unit.

b. *Project No.:* 2816–041.

c. *Date Filed:* January 6, 2009.

d. *Applicant:* North Hartland, LLC (North Hartland)

e. *Name of Project:* North Hartland.

f. *Location:* The North Hartland Project is located at the U.S. Army Corps of Engineers' (Corps) North Hartland Dam on the Ottauquechee River in Windsor County, Vermont.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Richard Norman, Essex Hydro Associates, L.L.C., 55 Union Street, Boston, MA 02108. Tel: (617) 367–0032.

i. *FERC Contact:* Vedula Sarma, telephone (202) 502–6190, and e-mail address *vedula.sarma@ferc.gov.*

j. Deadline for filing motions to intervene and protests, comments, recommendations, preliminary terms and conditions is 60 days from the issuance of this notice; reply comments are due 105 days from the issuance date of this notice.

Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-filing'' link. The Commission strongly encourages electronic filings.

All documents (original and eight copies) filed by paper should be sent to: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (P–2816–041) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

k. *Description of Request:* North Hartland proposes to install a bypass flow turbine with a maximum capacity of 137.5 kW to utilize a portion of the minimum flow discharge requirement of 40 cfs that is not currently used for generating purposes. The project's hydraulic capacity would increase from 810 cfs to 835 cfs, and the annual energy production would increase by approximately 600,000 kWh.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers.

p. *Agency Comments:* Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–16992 Filed 7–16–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 6597–012]

Monadnock Paper Mills, Inc; Notice of Intent To File License Application, Filing of Pre-Application Document, Commencement of Licensing Proceeding, Scoping Meetings, Solicitation of Comments on the PAD and Scoping Document, and Identification of Issues and Associated Study Requests

July 10, 2009.

a. *Type of Filing:* Notice of Intent to File License Application for a New License and Commencing Licensing Proceeding.

b. *Project No.:* 6597–012.

c. *Date Filed:* May 11, 2009.

d. *Submitted by:* Monadnock Paper Mills, Inc.

e. *Name of Project:* Monadnock Hydroelectric Project.

f. *Location:* Contoocook River in the communities of Peterborough, Greenfield, Hancock, and Bennington in Hillsborough County, New Hampshire. No federal lands are involved.

g. *Filed Pursuant to:* 18 CFR Part 5 of the Commission's Regulations.

h. *Applicant Contact:* Michelle Hamm, Monadnock Paper Mills, Inc., 117 Antrim Road, Bennington, NH 03442. *mhamm@mpm.com* or (603) 588–3311 ext 255.

i. *FERC Contact:* Kenneth Hogan, *Kenneth.Hogan@ferc.gov*, (202) 502–8434.

j. We are asking federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the environmental document. Agencies who would like to request cooperating status

should follow the instructions for filing comments described in paragraph o below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See*, 94 FERC ¶ 61,076 (2001).

k. *With this notice, we are initiating informal consultation with:* (a) The U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR Part 402; and (b) the State Historic Preservation Officer, as required by Section 106, National Historical Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Monadnock Paper Mills, Inc. as the Commission's non-federal representative for carrying out informal consultation, pursuant to Section 7 of the Endangered Species Act and Section 106 of the National Historic Preservation Act.

m. Monadnock Paper Mills, Inc. filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations. The Commission issued a Scoping Document on July 10, 2009.

n. A copy of the PAD and the scoping document are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, of for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in paragraph h.

Register online at *http://ferc.gov/esubscribenow.htm* to be notified via e-mail of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. With this notice, we are soliciting comments on the PAD and the scoping document, as well as study requests. All comments on the PAD and the scoping document, and study requests should be sent to the address above in paragraph h. In addition, all comments on the PAD and the scoping document, study requests, requests for cooperating agency status, and all communications to and from Commission staff related to the merits of the potential application (original and eight copies) must be filed with the Commission at the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. All filings with the Commission must include on the first page, Monadnock Hydroelectric Project and number (P–6597–012), and bear the heading ''Comments on Pre-Application Document,'' ''Study Requests,'' ''Comments on Scoping Document 1,'' ''Request for Cooperating Agency Status,'' or ''Communications to and from Commission Staff.'' Any individual or entity interested in submitting study requests, commenting on the PAD or the scoping document, and any agency requesting cooperating status must do so by September 8, 2009.

Comments on the PAD and the scoping document, study requests, requests for cooperating agency status, and other permissible forms of communications with the Commission may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-filing'' link.

p. Our current intent is to prepare a single environmental assessment (EA). These meetings will satisfy the NEPA scoping requirements, irrespective of whether an EA or an Environmental Impact Statement is issued by the Commission.

Scoping Meetings

Commission staff will hold two scoping meetings in the vicinity of the project at the time and place noted below. The evening meeting is primarily for receiving input from the public and the daytime meeting will focus on resource agency, Indian tribes, and non-governmental organization concerns. We invite all interested individuals, organizations, and agencies to attend one or both of the meetings, and to assist staff in identifying particular study needs, as well as the scope of environmental issues to be addressed in the environmental document. The times and locations of these meetings are as follows:

Evening Scoping Meeting

Date: Tuesday August 4, 2009.

Time: 7 p.m. (EST).

Location: Veterans for Foreign Wars Hall, 9 Hancock Street, Bennington, NH 03442.

Contact person: Michelle Hamm at (603) 588–3311 ext. 255.

Daytime Scoping Meeting

Date: Wednesday August 5, 2009.

Time: 9 a.m. (EST).

Location: Veterans for Foreign Wars Hall, 9 Hancock Street, Bennington, NH 03442.

Contact person: Michelle Hamm at (603) 588–3311 ext. 255.

The scoping document, which outlines the subject areas to be addressed in the environmental document, was mailed to the individuals and entities on the Commission's mailing list. Copies of the scoping document will be available at the scoping meetings, or may be viewed on the Web at *http://www.ferc.gov*, using the ''eLibrary'' link. Follow the directions for accessing information in paragraph n. Depending on the extent of comments received, Scoping Document 2 may or may not be issued.

Site Visit

Monadnock Paper Mills, Inc. will conduct a site visit of the project at 1 p.m. on Tuesday August 4, 2009. All participants should meet at the location of the offices for Monadnock Paper Mills, Inc. at 117 Antrim Road, Bennington, NH 03442. All participants are responsible for their own transportation. Anyone with questions about the site visit should contact Michelle Hamm at (603) 588–3311 ext. 255.

Scoping Meeting Objectives

At the scoping meetings, staff will: (1) Initiate scoping of the issues; (2) review and discuss existing conditions and resource management objectives; (3) review and discuss existing information and identify preliminary information and study needs; (4) review and discuss the process plan and schedule for pre-filing activity that incorporates the time frames provided for in Part 5 of the Commission's regulations and, to the extent possible, maximizes coordination of federal, state, and tribal permitting and certification processes; and (5) discuss the appropriateness of any federal or state agency or Indian tribe acting as a cooperating agency for development of an environmental document.

Meeting participants should come prepared to discuss their issues and/or concerns. Please review the PAD in preparation for the scoping meetings. Directions on how to obtain a copy of the PAD and the scoping document are included in paragraph n.

Meeting Procedures

The meetings will be recorded by a stenographer and will become part of

the formal record of the Commission proceeding on the project.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–16973 Filed 7–16–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

Klickitat Hatchery Program

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS) and a floodplain and wetland assessment.

SUMMARY: BPA intends to prepare an EIS in accordance with the National Environmental Policy Act (NEPA) on funding proposed changes to the existing salmon and steelhead hatchery program in the Klickitat subbasin in Klickitat and Yakima counties, Washington. As mitigation under the Pacific Northwest Electric Power Planning and Conservation Act, BPA proposes to upgrade and improve the Klickitat Hatchery, a Mitchell Act artificial production facility built and funded by the National Oceanic and Atmospheric Administration Fisheries (NOAA Fisheries), located seven miles east of Glenwood, Washington, at river mile 42 of the Klickitat River. The proposed changes would also involve construction, of a new Wahkiacus Hatchery and Acclimation Facility located at river mile 17 on the Klickitat River in Wahkiacus, Washington, and a steelhead acclimation facility at McCreedy Creek at river mile 70. With this Notice of Intent, BPA is initiating the public scoping process for the EIS. BPA is requesting comments about potential environmental impacts that it should consider as it prepares the EIS for the proposed changes to the program, as well as comments on alternatives that meet fish production objectives for the Klickitat Hatchery Program. Further details are provided in the **SUPPLEMENTARY INFORMATION** section below.

In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements, BPA will prepare a floodplain and wetlands assessment to avoid or minimize potential harm to or within any affected floodplains and wetlands. The assessment will be included in the EIS.

DATES: Written scoping comments are due to the address below no later than August 18th, 2009. Comments may also be made at the EIS scoping meeting to be held on August 4th, 2009, from 6 p.m. to 8:30 p.m. at the Lyle Community Center.

ADDRESSES: Send letters with comments and suggestions on the proposed scope of the Draft EIS, and requests to be placed on the project mailing list, to Bonneville Power Administration, Public Affairs Office—DKE–7, P.O. Box 14428, Portland, OR 97293–4428, or by fax to 503 230–3285. You also may call BPA's toll free comment line at 800 622–4519 and leave a message (please include the name of this project); or submit comments online at *http://www.bpa.gov/comment.* BPA will post all comment letters in their entirety on BPA's Web site at *http://www.bpa.gov/comment.*

On Tuesday August 4th, 2009, an open-house scoping meeting will be held from 6 p.m. to 8:30 p.m. at the Lyle Community Center, Lyle, Washington. At this informal meeting, we will provide maps and other information about the project and have members of the project team available to answer questions and accept oral and written comments. You may stop by anytime during the open house.

FOR FURTHER INFORMATION CONTACT: Rosy Mazaika, Environmental Coordinator, Bonneville Power Administration—KEC–4, P.O. Box 3621, Portland, Oregon 97208–3621; toll-free telephone 1–800–282–3713; direct telephone 503–230–5869; or e-mail *rxmazaika@bpa.gov.* You may also contact Patricia Smith, Project Manager, Bonneville Power Administration—KEWL–4, P.O. Box 3621, Portland, Oregon 97208–3621; toll-free telephone 1–800–282–3713; direct telephone 503–230–7349; or e-mail *prsmith@bpa.gov.* Additional information can be found at BPA's Web site: *http://www.efw.bpa.gov.*

SUPPLEMENTARY INFORMATION: Fisheries programs in the Klickitat River subbasin are co-managed by the Yakama Nation and the Washington Department of Fish and Wildlife (WDFW), and include the Yakima/Klickitat Fisheries Project (YKFP) funded by BPA. The YKFP uses state-of-the-art artificial propagation methods designed to re-establish, supplement, or increase natural production and harvest opportunities of anadromous salmonids while maintaining the long-term fitness of target species and minimizing ecological and genetic impacts on non-target species. The YKFP has been developed to:

- Enhance existing stocks of anadromous fish in the Yakima and Klickitat river basins, while maintaining genetic and ecological resources; and
- Apply the knowledge gained through supplementation throughout the Columbia River Basin.

The YKFP also pursues the protection and restoration of habitat important to health and restoration of anadromous fish stocks.

Under the YKFP, in 2008, the Yakama Nation revised the Klickitat River Anadromous Fisheries Master Plan [1] in response to comments from the Northwest Power and Conservation Council (NPCC) and its Independent Scientific Review Panel.[2] Master plans are submitted as step one of the NPCC's three-step process [3] for the review of artificial propagation project proposals for funding by the BPA. Included in the plan are details and the scientific basis for proposed production goals, facilities, monitoring and evaluation, and habitat improvements necessary to manage endemic spring Chinook and steelhead and hatchery coho and fall Chinook in the Klickitat subbasin. Because

1. The facilities and habitat work are proposed to benefit more than one target species,

2. Artificial production work will require BPA and NOAA Fisheries to coordinate efforts at the proposed various facilities, and

3. Proposed changes to production practices for single species could affect other target species,

the Yakama Nation developed the Klickitat Subbasin Anadromous Fishery Hatchery Plan (''Master Plan'') to address all species, as well as Pacific lamprey.

According to the master plan prepared by the Yakama Nation and WDFW, the existing Klickitat Hatchery facilities, completed in 1954, need repair to meet current building codes and up-to-date artificial production guidelines. The Tribe operates the Klickitat Hatchery and NOAA Fisheries provides annual operation and maintenance funding using appropriations to the Mitchell Act program. Under the 2008 Columbia Basin Fish Accords Memorandum of Agreement between the three Treaty Tribes and Federal Columbia River Power System Action Agencies (The

[1] *http://www.nwcouncil.org/dropbox/YKFP_03-31-08%20Draft%20Master%20Plan.pdf.*

[2] *http://www.nwppc.org/library/isrp/isrp2008-6.pdf.*

[3] Northwest Power and Conservation Council, Three-Step Review Process (Nov. 2006) *http://www.nwcouncil.org/Library/2006/2006-21.pdf.*

Accords)[4] the Yakama Nation will actively seek congressional appropriations during fiscal years 2010 and 2011 for additional Mitchell Act funding for the new Wahkiacus facility. Under the Accords, BPA made funding available, pending satisfactory results from its environmental compliance efforts, to fund hatchery facility improvements to increase production in the Klickitat Basin as described in alternative one below.

The master plan was developed in concert with salmonid production and harvest agreements pursuant to *U.S.* v. *Oregon,* which is the primary forum for decisions related to salmon and steelhead fisheries management for the Columbia River Basin. *U.S.* v. *Oregon* is landmark litigation over Indian treaty fishing rights. The Federal district court that initially decided the case has retained continuing jurisdiction to assure the development of harvest and production plans follow the court's decisions. Through the on-going *U.S.* v. *Oregon* process, the parties develop and update the Columbia River Fish Management Plan which addresses management of Chinook, coho, and steelhead in the Klickitat basin, including hatchery production at the Klickitat Hatchery. Current programs focus on harvest augmentation for coho and fall Chinook and on supplementation for spring Chinook and summer steelhead.

The proposed Yakama Nation-Klickitat Hatchery Program EIS would respond to these master plan objectives. BPA, therefore, will prepare an EIS under NEPA to assist the agency as it decides whether to fund the proposed changes to the existing salmon and steelhead hatchery program in the Klickitat subbasin and, if a decision is made to fund the changes, which alternative to meet the master plan objectives should be chosen.

Alternatives Proposed for Consideration. BPA will consider three action alternatives to meet master plan objectives for salmon and steelhead in the Klickitat Basin. One alternative, the Master Plan, would involve the fisheries managers increasing the production of Klickitat spring Chinook and steelhead at the existing Klickitat Hatchery and transferring artificial production of coho and fall Chinook to a new hatchery facility at Wahkiacus. This would free up water and space at the Klickitat Hatchery, ensuring optimal rearing densities for spring Chinook and summer steelhead at that facility. Transferring coho and fall Chinook production downstream would minimize the impact of these species on the spawning and rearing of wild spring Chinook and steelhead by reducing species interactions and competition for habitat in the 26.5-mile reach between Wahkiacus and Klickitat. A second alternative would evaluate meeting the same production objectives but at the Klickitat Hatchery alone. A third alternative would examine a phased approach to the proposed production changes, with a partial build-out at the Wahkiacus facility. The current Wahkiacus facility design provides for acclimation of up to 1,000,000 coho pre-smolts and rearing and release of up to 2,000,000 fall Chinook. The partial build-out would consider a phased approach for accomplishing production objectives, with the associated phasing of the completion of project facilities. BPA will also consider a No-Action Alternative. Under the No-Action Alternative, production activities would continue as they do currently. Other alternatives may be identified through the scoping process.

BPA will be the lead agency for preparation of the EIS. BPA will formally invite the Yakama Nation, WDFW, NOAA Fisheries, Klickitat County, and Washington Department of Ecology to be cooperating agencies for the proposed Yakama Nation-Klickitat Hatchery Program EIS. Other potential cooperating agencies may be identified as the proposed project proceeds through the NEPA process. BPA will also coordinate with NOAA Fisheries which is preparing a programmatic EIS on the Mitchell Act hatchery facilities it funds throughout the Columbia River Basin.[5]

Public Participation and Identification of Environmental Issues. The potential environmental issues identified for the project are anticipated to include land use, socioeconomic concerns, cultural resources, visual resources, sensitive plants and animals, fisheries, soil erosion, wetlands, floodplains, water quality, water quantity, wild and scenic rivers, and recreation resources. BPA has established a 45-day scoping period during which tribes, affected landowners, concerned citizens, special interest groups, local governments, Federal agencies, and any other interested parties are invited to comment on the scope of the proposed EIS. Scoping will help BPA ensure that a full range of issues related to this proposal is addressed in the EIS, and also will identify significant or potentially significant impacts that may result from the proposed project. When completed, the Draft EIS will be circulated for review and comment, and BPA will hold at least one public meeting to hear comments. The Draft EIS is expected to be published in fall 2010. BPA will consider and respond to comments received on the Draft EIS in the Final EIS. The Final EIS is expected to be published in spring 2011. BPA's decision will be documented in a Record of Decision that will follow the Final EIS.

Issued in Portland, Oregon, on July 10, 2009.

Stephen J. Wright,

Administrator and Chief Executive Officer.

[FR Doc. E9–17034 Filed 7–16–09; 8:45 am]

BILLING CODE 6450–01–P

[4] *http://www.salmonrecovery.gov/Biological_opinions/FCRPS/2008_biop/docs/3-tribe-AA-MOA-Final.pdf.*

[5] *http://www.nwr.noaa.gov/Salmon-Harvest-Hatcheries/Hatcheries/Mitchell-Act-EIS.cfm.*

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No.: 2660–024]

Domtar Maine Corporation; Notice of Intent To Prepare an Environmental Assessment and Notice of Scoping Meetings and Site Visit and Soliciting Scoping Comments

July 10, 2009.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New License.

b. *Project No.:* 2660–024.

c. *Date Filed:* March 19, 2009.

d. *Applicant:* Domtar Maine Corporation.

e. *Name of Project:* Forest City Project.

f. *Location:* On Forest City Stream, a tributary of the St. Croix River in Washington and Aroostock Counties, Maine and Canada.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Mr. Scott Beal, Domtar Maine Corporation, 144 Main Street, Baileyville, Maine 04694 (207) 427–4004.

i. *FERC Contact:* John Costello, (202) 502–6119 or *john.costello@ferc.gov.*

j. *Deadline for filing scoping comments:* September 11, 2009.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission

to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Scoping comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

k. This application is not ready for environmental analysis at this time.

l. *Project Description:* The existing Forest City Project comprised an earth embankment dam containing a gated timber spillway and two impoundments (East Grand and North lakes). There are no generating facilities located at the project. Approximately one-quarter of the 544-foot-long dam (*i.e.,* approximately 147 feet) is within the United States; the remaining section of the dam is located in Canada. The United States (western) section of the dam is an earth embankment measuring approximately 110-feet-long with a maximum height of 12 feet. The center section of the dam (*i.e.,* that portion located in the river channel) contains a 55-foot-wide gated timber crib spillway structure with three wooden gates (gates 1 and 2 are located within the United States). The spillway is approximately 33-feet-wide with an elevation of 426.61 feet msl. A 5-foot-wide vertical slot design fishway is located in Canada. The eastern (Canadian) embankment is an earth structure approximately 397-feet-long, 30-feet-wide with a crest elevation of 437.27 feet msl. No new construction is planned.

m. *Locations of the Application:* A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction by contacting the applicant using the contact information in item (h) above.

You may also register online at *http://www.ferc.gov/esubscribenow.htm* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. *Scoping Process:* The Commission intends to prepare a single environmental assessment (EA) for the project which will include the West Branch Project (FERC No. P–2618– 020) (no draft EA would be prepared) in accordance with the National Environmental Policy Act. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed action.

Scoping Meetings

Commission staff will hold two scoping meetings in the vicinity of the project at the time and place noted below. The daytime meeting will focus on resource agency, Indian tribes, and non-governmental organization concerns, while the evening meeting is primarily for receiving input from the public. We invite all interested individuals, organizations, and agencies to attend one or both of these meetings and to assist staff in determining the scope of the environmental issues to be addressed in the environmental assessment. The times and locations of these meetings are as follows:

Daytime Scoping Meeting

Date: August 13, 2009.
Time: 10 a.m. (EST).
Place: Conference Room, Domtar Maine Administration Building.
Address: Domtar Maine Corporation, 144 Main Street, Baileyville, Maine 04694.

Evening Scoping Meeting

Date: August 13, 2009.
Time: 6 p.m. (EST).
Place: Conference Room, Domtar Maine Administration Building,
Address: Domtar Maine Corporation, 144 Main Street, Baileyville, Maine 04694.

The scoping document, which outlines the subject areas to be addressed in the environmental assessment, was mailed to the individuals and entities on the Commission's mailing list. Copies of the scoping document will be available at the scoping meetings or may be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link (see item m above). Based on all oral and written comments, a revised scoping document may be issued.

Site Visit

We will hold a site visit to the project on Wednesday, August 12, 2009, beginning at 9 a.m. (EST). To attend the site visit, meet at Domtar Maine Corporation's Administration Building located at 144 Main Street, Baileyville, Maine 04694. All participants are responsible for their own transportation and lunch. Anyone with questions about the site visit (or for directions) should contact Scott Beal at (207) 427–4004. Those individuals planning to participate in the site visit should notify Mr. Beal of their intent, no later than August 6, 2009.

Note that Commission staff may hold a site visit and/or meeting at the project at a later date to discuss any project-related effects to archaeological, historic, or traditional cultural properties.

Meeting Objectives

At the scoping meetings, staff will: (1) Summarize the environmental issues tentatively identified for analysis in the EA; (2) solicit from meeting participants all available information, especially quantifiable data, on the resources issues; (3) encourage statements from experts and the public on issues that should be analyzed in the EA, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the resource issues to be addressed in the EA; and (5) identify those issues that require a detailed analysis, as well as those issues that do not require a detailed analysis.

Meeting Procedures

Scoping meetings will be recorded by a stenographer and will become part of the Commission's formal record for this proceeding.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meetings and to assist staff in defining and clarifying the issues to be addressed in the EA.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–16991 Filed 7–16–09; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No.: 2618–020]

Domtar Maine Corporation; Notice of Intent To Prepare an Environmental Assessment and Notice of Scoping Meetings and Site Visit and Soliciting Scoping Comments

July 10, 2009.

Take notice that the following hydroelectric application has been filed

with the Commission and is available for public inspection.

a. *Type of Application:* New License.

b. *Project No.:* 2618–020.

c. *Date Filed:* March 19, 2009.

d. *Applicant:* Domtar Maine Corporation.

e. *Name of Project:* West Branch Project.

f. *Location:* On Grand Lake Stream, a tributary of the St. Croix River in Penobscot, Washington and Hancock Counties, Maine.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Scott Beal, Domtar Maine Corporation, 144 Main Street, Baileyville, Maine 04694, (207) 427–4004.

i. *FERC Contact:* John Costello, (202) 502–6119 or *john.costello@ferc.gov*.

j. *Deadline for filing scoping comments:* September 11, 2009.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Scoping comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

k. This application is not ready for environmental analysis at this time.

l. *Project Description:* The existing West Branch Project includes two developments (Sysladobsis and West Grand) comprising two dams and a dike. The 23,500 acre impounded waters are comprised of West Grand, Junior, Pocumcus, Pug, Bottle, Norway, and Scraggly lakes.

The Sysladobsis development includes the 250-foot-long by 9-foot-high Sysladobsis Dam (the furthest upstream), an earth embankment structure with a timber gate and fish facility. The dam impounds the 5,400-acres Sysladobsis Lake and discharges directly into the West Grand development.

The West Branch development includes the approximately 487-foot-long West Grand Dam comprises a 105.9-foot-long gate structure with five gates. A vertical slot design upstream fish passage facility is located adjacent to the dam's waste gate No.1

The West Grand development includes approximately 535-foot-long by 15-foot-high Farm Cove Dike is located approximately 3.5 miles west of the main outlet dam to West Grand Lake. The dike comprises a 10-foot-wide by 30-foot-long fishway. The dike has no gates or other flow controls; the only flow passing capability is through the fishway. No new construction is planned.

m. *Locations of the Application:* A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction by contacting the applicant using the contact information in item (h) above.

You may also register online at *http://www.ferc.gov/esubscribenow.htm* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. *Scoping Process:* The Commission intends to prepare a single environmental assessment (EA) for the project which will include the Forest City Project (FERC No. P–2660- 024) (no draft EA would be prepared) in accordance with the National Environmental Policy Act. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed action.

Scoping Meetings

Commission staff will hold two scoping meetings in the vicinity of the project at the time and place noted below. The daytime meeting will focus on resource agency, Indian tribes, and non-governmental organization concerns, while the evening meeting is primarily for receiving input from the public. We invite all interested individuals, organizations, and agencies to attend one or both of these meetings and to assist staff in determining the scope of the environmental issues to be addressed in the environmental assessment. The times and locations of these meetings are as follows:

Daytime Scoping Meeting

Date: August 13, 2009.
Time: 10 a.m. (EST)
Place: Conference Room, Domtar Maine Administration Building.
Address: Domtar Maine Corporation, 144 Main Street, Baileyville, Maine 04694.

Evening Scoping Meeting

Date: August 13, 2009.
Time: 6 a.m. (EST)
Place: Conference Room, Domtar Maine Administration Building.
Address: Domtar Maine Corporation, 144 Main Street, Baileyville, Maine 04694.

The scoping document, which outlines the subject areas to be addressed in the environmental assessment, was mailed to the individuals and entities on the Commission's mailing list. Copies of the scoping document will be available at the scoping meetings or may be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link (see item m above). Based on all oral and written comments, a revised scoping document may be issued.

Site Visit

We will hold a site visit to the project on Wednesday, August 12, 2009, beginning at 9 a.m. (EST). To attend the site visit, meet at Domtar Maine Corporation's Administration Building located at 144 Main Street, Baileyville, Maine 04694. All participants are responsible for their own transportation and lunch. Anyone with questions about the site visit (or for directions) should contact Scott Beal at (207) 427–4004. Those individuals planning to participate in the site visit should notify Mr. Beal of their intent, no later than August 6, 2009.

Note that Commission staff may hold a site visit and/or meeting at the project at a later date to discuss any project-related effects to archaeological, historic, or traditional cultural properties.

Meeting Objectives

At the scoping meetings, staff will: (1) Summarize the environmental issues tentatively identified for analysis in the EA; (2) solicit from meeting participants all available information, especially quantifiable data, on the resources issues; (3) encourage statements from experts and the public on issues that should be analyzed in the EA, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the resource issues to be addressed in the EA; and (5) identify those issues that require a detailed

analysis, as well as those issues that do not require a detailed analysis.

Meeting Procedures

Scoping meetings will be recorded by a stenographer and will become part of the Commission's formal record for this proceeding.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meetings and to assist staff in defining and clarifying the issues to be addressed in the EA.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–16990 Filed 7–16–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP09–420–000]

Gulf South Pipeline Company, LP; Notice of Intent To Prepare an Environmental Assessment for the Proposed Haynesville/Perryville Expansion Project and Request for Comments on Environmental Issues

July 10, 2009.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Haynesville/Perryville Expansion Project involving the construction and operation of facilities by Gulf South Pipeline Company, LP (''Gulf South'') in Bienville and Madison Parishes, Louisiana. The Haynesville/Perryville Expansion Project involves the construction of additional compression facilities at two existing compressor stations. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process we will use to gather input from the public and interested agencies on the project. Your input will help determine which issues need to be evaluated in the EA. Please note that the scoping period will close on August 10, 2009.

This notice is being sent to the Commission's current environmental mailing list for this project, which includes affected landowners; federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; parties to this proceeding; and local libraries and newspapers. State and local government representatives are asked to notify their constituents of this proposed project and to encourage them to comment on their areas of concern.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' was attached to the project notice Gulf South provided to landowners. This fact sheet addresses a number of typically asked questions, including how to participate in the Commission's proceedings. It is available for viewing on the FERC Web site (*http://www.ferc.gov*).

Summary of the Proposed Project

Gulf South proposes to construct on land owned by Gulf South two new turbine compressor units totaling 31,913 horsepower (HP) at their existing Hall Summit Compressor Station located in Bienville Parish, Louisiana, and one new turbine compressor unit rated at 17,558 HP at their existing Tallulah Compressor Station in Madison Parish, Louisiana. Associated yard and station piping would be constructed at each station. In addition, three existing compressors at the Tallulah Compressor Station would be re-wheeled, and several valves within the existing Tallulah Compressor Station yard and station piping would be replaced with similar valves capable of accepting higher discharge temperatures.

Maps showing the location of the proposed project are included as Appendix 1.[1]

Land Requirements for Construction

Construction would temporarily impact a total of approximately 42 acres for both compressor station sites combined. The new facilities would add a total of approximately 7 acres of permanent impacts to the existing station footprints. All temporary and permanent impacts would occur on land owned by Gulf South.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission staff requests public comments on the scope of the issues to address in the EA. All comments received will be considered during the preparation of the EA.

In the EA, we[2] will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- Land use;
- Water resources, fisheries and wetlands;
- Cultural resources;
- Vegetation and wildlife;
- Air quality and noise;
- Threatened and endangered species; and
- Public safety.

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to those on our environmental mailing list (see discussion on how to remain on our environmental mailing list on page 5). A comment period will be allotted for the review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission. To ensure your comments are considered, please carefully follow the instructions in the public participation section below.

With this notice, we are asking agencies with jurisdiction and/or special expertise with respect to environmental issues to formally cooperate with us in the preparation of the EA. These agencies may choose to participate once they have evaluated the proposal relative to their responsibilities. Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

[1] The appendix referenced in this notice is not being printed in the **Federal Register.** Copies of the appendix are available on the Commission's Web site at the ''eLibrary'' link or from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, or by calling (202) 502–8371. For instructions on connecting to eLibrary, refer to the ''Additional Information'' section of this notice. Copies of the appendix were sent to all those receiving this notice in the mail. Requests for detailed maps of the proposed facilities should be made directly to Gulf South.

[2] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the FERC's Office of Energy Projects.

Currently Identified Environmental Issues

We have already identified issues we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Gulf South. These issues include potential air quality and noise impacts from operation of the proposed compressor additions at each station.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send in your comments so that they will be received in Washington, DC on or before August 10, 2009.

For your convenience, there are three methods which you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has dedicated eFiling expert staff available to assist you at 202–502–8258 or *eFiling@ferc.gov*.

(1) You may file your comments electronically by using the *Quick Comment* feature, which is located at *http://www.ferc.gov* under the link called ''*Documents and Filings''*. A Quick Comment is an easy method for interested persons to submit text-only comments on a project;

(2) You may file your comments electronically by using the *eFiling* feature, that is listed under the ''*Documents and Filings''* link. eFiling involves preparing your submission in the same manner as you would if filing on paper, and then saving the file on your computer's hard drive. You will attach that file as your submission. New eFiling users must first create an account by clicking on ''*Sign up*'' or ''*eRegister.*'' You will be asked to select the type of filing you are making. A comment on a particular project is considered a ''Comment on a Filing;'' or

(3) You may file your comments with the Commission via mail by sending an original and two copies of your letter to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426.

In all instances please reference the project docket number (CP09–420–000) with your submission. Label one copy of the comments for the attention of Gas Branch 3, PJ–11.3.

Environmental Mailing List

An effort is being made to send this notice to all individuals, organizations, and government entities interested in and/or potentially affected by the project. This includes all landowners who own land within certain distances of the aboveground facilities (as defined in the Commission's regulations).

If you do not want to send comments at this time but still want to remain on the environmental mailing list, please return the Information Request (Appendix 2). If you do not return the Information Request, you will be taken off the mailing list.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an ''intervenor,'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in a Commission proceeding by filing a request to intervene. Instructions for becoming an intervenor are included in the User's Guide under the ''e-Filing'' link on the Commission's Web site.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the Internet at *http://www.ferc.gov* using the ''eLibrary'' link. Click on the eLibrary link, then on ''General Search'' and enter the docket number excluding the last three digits (*i.e.*, CP09–420) in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm*.

Finally, any public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–16993 Filed 7–16–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–862–011]

Entergy Power Ventures, L.P.; Notice of Filing

July 10, 2009.

Take notice that on July 9, 2009, Entergy Power Ventures, L.P. submitted a revised version of its market-based rate tariff reflecting the tariff requirements established in Order No. 697–A.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on July 14, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–16974 Filed 7–16–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. NJ08–3–002]

Southwestern Power Administration; Notice of Filing

July 10, 2009.

Take notice that on July 6, 2009, the Southwestern Power Administration filed revision to its non-jurisdictional open access transmission tariff, that incorporate changes to its Attachment O—Transmission Planning Process, pursuant to the Commission's May 21, 2009 Order, 127 FERC 61,173 (2009).

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on July 27, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–16977 Filed 7–16–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER98–4512–007; ER08–1164–002]

Consolidated Water Power Company; Escanaba Paper Company; Notice of Filing

July 10, 2009.

Take notice that on June 30, 2009, Consolidated Water Power Company and Escanaba Paper Company, tendered for filing their updated market power analysis and revised tariff sheets.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on July 21, 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–16976 Filed 7–16–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER09–1423–000]

Verde Energy USA, Inc.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

July 10, 2009.

This is a supplemental notice in the above-referenced proceeding of Verde Energy USA, Inc.'s application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 30, 2009.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by

clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–16975 Filed 7–16–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13489–000]

FFP Project 79, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

July 10, 2009.

On May 22, 2009, FFP Project 79, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Barfield Point Hydrokinetic Project, to be located on the Mississippi River, in Mississippi County, Arkansas and Lauderdale County, Tennessee.

The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed Barfield Point Hydrokinetic Project consists of: (1) 2,851 proposed 40 kilowatt Free Flow generating units having a total installed capacity of 114.04 megawatts; (2) a 3.5-mile-long, 69 kilovolt transmission line; and (3) appurtenant facilities. The proposed Barfield Point Hydrokinetic Project would have an average annual generation of 500 gigawatt-hours.

Applicant Contact: Ramya Swaminathan, Vice President of Development, Free Flow Power Corporation, 33 Commercial Street, Gloucester, MA 01930; phone: (978) 226–1531.

FERC Contact: Kim Carter, 202–502–6486.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.* More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13489) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–16982 Filed 7–16–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13491–000]

FFP Project 81, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

July 10, 2009.

On May 22, 2009, FFP Project 81, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Island 14 Bend Hydrokinetic Project, to be located on the Mississippi River, in Pemiscot County, Missouri and Lake County, Tennessee.

The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed Island 14 Bend Hydrokinetic Project consists of: (1) 3,295 proposed 40 kilowatt Free Flow generating units having a total installed capacity of 131.80 megawatts; (2) a 4.2-mile-long, 69 kilovolt transmission line; and (3) appurtenant facilities. The proposed Island 14 Bend Hydrokinetic Project would have an average annual generation of 577 gigawatt-hours.

Applicant Contact: Ramya Swaminathan, Vice President of Development, Free Flow Power Corporation, 33 Commercial Street, Gloucester, MA 01930; phone: (978) 226–1531.

FERC Contact: Kim Carter, 202–502–6486.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.* More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13491) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–16984 Filed 7–16–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13497–000]

FFP Project 66, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

July 10, 2009.

On May 22, 2009, FFP Project 66, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Saint Catherine Bend Hydrokinetic Project, to be located on the Mississippi River, in Concordia Parish, Louisiana and Adams County, Mississippi.

The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed Saint Catherine Bend Hydrokinetic Project consists of: (1) 4,752 proposed 40 kilowatt Free Flow generating units having a total installed capacity of 190.08 megawatts; (2) a 6.5-mile-long, 69 kilovolt transmission line; and (3) appurtenant facilities. The proposed Saint Catherine Bend Hydrokinetic Project would have an average annual generation of 833 gigawatt-hours.

Applicant Contact: Ramya Swaminathan, Vice President of Development, Free Flow Power Corporation, 33 Commercial Street, Gloucester, MA 01930; phone: (978) 226–1531.

FERC Contact: Kim Carter, 202–502–6486.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings, please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.* More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13497) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–16989 Filed 7–16–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13495–000]

FFP Project 85, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

July 10, 2009.

On May 22, 2009, FFP Project 85, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Missouri Sister Island Hydrokinetic Project, to be located on the Mississippi River, in Mississippi County, Missouri and Alexander County, Illinois.

The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed Missouri Sister Island Hydrokinetic Project consists of: (1) 4, 118 proposed 40 kilowatt Free Flow generating units having a total installed capacity of 164.72 megawatts; (2) a 5.5-mile-long, 69 kilovolt transmission line; and (3) appurtenant facilities. The proposed Missouri Sister Island Hydrokinetic Project would have an average annual generation of 721 gigawatt-hours.

Applicant Contact: Ramya Swaminathan, Vice President of Development, Free Flow Power Corporation, 33 Commercial Street, Gloucester, MA 01930; phone: (978) 226–1531.

FERC Contact: Kim Carter, 202–502–6486.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.* More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13495) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–16988 Filed 7–16–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13494–000]

FFP Project 84, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

July 10, 2009.

On May 22, 2009, FFP Project 84, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Twin Pond Hydrokinetic Project, to be located on the Mississippi River, in Mississippi County, Missouri and Carlisle County, Kentucky.

The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land

disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed Twin Pond Hydrokinetic Project consists of: (1) 1, 901 proposed 40-kilowatt Free Flow generating units having a total installed capacity of 76.04 megawatts; (2) a 2-mile-long, 69-kilovolt transmission line; and (3) appurtenant facilities. The proposed Twin Pond Hydrokinetic Project would have an average annual generation of 333 gigawatt-hours.

Applicant Contact: Ramya Swaminathan, Vice President of Development, Free Flow Power Corporation, 33 Commercial Street, Gloucester, MA 01930; phone: 978–226–1531.

FERC Contact: Kim Carter, 202–502–6486.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp*. More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–13494) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–16987 Filed 7–16–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13493–000]

FFP Project 83, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

July 10, 2009.

On May 22, 2009, FFP Project 83, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Slough Bend Hydrokinetic Project, to be located on the Mississippi River, in Lake County, Tennessee; New Madrid County, Missouri; and Fulton County, Kentucky.

The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed Slough Bend Hydrokinetic Project consists of: (1) 6,019 proposed 40-kilowatt Free Flow generating units having a total installed capacity of 240.76 megawatts; (2) a 8.5-mile-long, 69-kilovolt transmission line; and (3) appurtenant facilities. The proposed Slough Bend Hydrokinetic Project would have an average annual generation of 1,054 gigawatt-hours.

Applicant Contact: Ramya Swaminathan, Vice President of Development, Free Flow Power Corporation, 33 Commercial Street, Gloucester, MA 01930; phone: 978–226–1531.

FERC Contact: Kim Carter, 202–502–6486.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp*. More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–13493) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–16986 Filed 7–16–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13492–000]

FFP Project 82, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

July 10, 2009.

On May 22, 2009, FFP Project 82, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Little Cypress Bend Hydrokinetic Project, to be located on the Mississippi River, in Pemiscot County, Missouri and Lake County, Tennessee.

The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed Little Cypress Bend Hydrokinetic Project consists of: (1) 3,168 proposed 40-kilowatt Free Flow generating units having a total installed capacity of 126.72 megawatts; (2) a 4-mile-long, 69-kilovolt transmission line; and (3) appurtenant facilities. The proposed Little Cypress Bend Hydrokinetic Project would have an average annual generation of 555 gigawatt-hours.

Applicant Contact: Ramya Swaminathan, Vice President of Development, Free Flow Power Corporation, 33 Commercial Street, Gloucester, MA 01930; phone: 978–226–1531.

FERC Contact: Kim Carter, 202–502–6486.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp*. More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–13492) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–16985 Filed 7–16–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13435–000]

Hydrodynamics, Inc.; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

July 10, 2009.

On April 23, 2009, Hydrodynamics, Inc. filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the St. Mary Drops Project, located on the St. Mary Canal, a tributary of the St. Mary River that is a feature of the U.S. Bureau of Reclamation's Milk River Project, and discharging into the Milk River, in Glacier County, Montana. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A new 2.2-mile-long rubber-lined earthen canal extending from the existing St. Mary Canal approximately 27 miles downstream from the existing St. Mary Diversion Dam and bypassing five drop structures on the existing canal; (2) a new 15-foot-tall, 15-foot-wide, 10-foot-deep concrete intake structure with trashracks; (3) a new 10-foot-diameter, 1,200-foot-long steel penstock; (4) a new powerhouse containing two generating units with a combined capacity of 7.9 megawatts; (5) a new tailrace discharging flows into the Milk River; (6) a new substation; (7) a new 12.5-kilovolt, 2-mile-long transmission line; and (8) appurtenant facilities. The proposed project would have an average annual generation of 25 gigawatt-hours.

Applicant Contact: Ben Singer, Project Manager, Hydrodynamics, Inc., P.O. Box 1136, Bozeman, MT 59771; phone: (406) 587–5086.

FERC Contact: Dianne Rodman, (202) 502–6077.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp*. More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp*. Enter the docket number (P–13435) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–16980 Filed 7–16–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13398–000]

Arizona Independent Power, Inc.; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

July 10, 2009.

On March 7, 2009, Arizona Independent Power, Inc. filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Ford Canyon Pumped Storage Water Power Project, which comprises two dams located on the White Tank Mountain in Maricopa County, Arizona. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following features:

(1) A proposed, 250-foot-high, 1,970-foot-long, earth and rock-filled dam with an impervious core, creating a reservoir with a surface elevation of 150 acres and a volume of 16,000 acre-feet; (2) a proposed 210-foot-high, 2,160-foot-long, earth and rock-filled dam with an impervious core, creating a reservoir with a surface elevation of 140 acres, and a volume of 14,900 acre-feet; (3) two 14,070-foot-long penstocks with a diameter of 20 feet; (4) a 750-foot-long by 175-foot-high by 70-foot-wide powerhouse containing three new 267-megawatt Francis pump turbines; (5) two tailraces with diameters of 28 feet; (6) a proposed 40-mile-long, twin circuit, 500-kilovolt transmission line; and (7) appurtenant facilities. The proposed pumped storage project would utilize water from the Colorado River system conveyed to the project via the existing Central Arizona (aqueduct) Project and would have an average annual generation of 1,078 gigawatt-hours.

Applicant Contact: Frank L. Mazzone, President, Arizona Independent Power, Inc., 957 Fairway Drive, Sonoma, CA 95476; phone: (707) 996–2573.

FERC Contact: Emily Carter, 202–502–6512.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of

intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.* More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13398) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–16979 Filed 7–16–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13488–000]

FFP Project 78, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

July 10, 2009.

On May 22, 2009, FFP Project 78, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Island 35 Bend Hydrokinetic Project, to be located on the Mississippi River, in Mississippi County, Arkansas and Tipton County, Tennessee.

The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed Island 35 Bend Hydrokinetic Project consists of: (1) 4,689 proposed 40 kilowatt Free Flow generating units having a total installed capacity of 187.56 megawatts; (2) a 6.4-mile-long, 69 kilovolt transmission line; and (3) appurtenant facilities. The proposed Island 35 Bend Hydrokinetic Project would have an average annual generation of 821 gigawatt-hours.

Applicant Contact: Ramya Swaminathan, Vice President of Development, Free Flow Power Corporation, 33 Commercial Street, Gloucester, MA 01930; phone: (978) 226–1531.

FERC Contact: Kim Carter, 202–502–6486.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.* More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13488) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–16981 Filed 7–16–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13490–000]

FFP Project 80, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

July 10, 2009.

On May 22, 2009, FFP Project 80, LLC filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Linwood Bend Hydrokinetic Project, to be located on the Mississippi River, in Pemiscot County, Missouri and Dyer County, Tennessee.

The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed Linwood Bend Hydrokinetic Project consists of: (1) 3,928 proposed 40 kilowatt Free Flow generating units having a total installed capacity of 157.12 megawatts; (2) a 5.2-mile-long, 69 kilovolt transmission line; and (3) appurtenant facilities. The proposed Linwood Bend Hydrokinetic Project would have an average annual generation of 688 gigawatt-hours.

Applicant Contact: Ramya Swaminathan, Vice President of Development, Free Flow Power Corporation, 33 Commercial Street, Gloucester, MA 01930; phone: (978) 226–1531.

FERC Contact: Kim Carter, 202–502–6486.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit

these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.* More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13490) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–16983 Filed 7–16–09; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13381–000]

Jonathan & Jane Chase; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

July 10, 2009.

On March 3, 2009, Jonathan & Jane Chase filed an application pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Troy Hydroelectric Project No. 13381–000, to be located in the town of Troy on the Missisquoi River in Orleans County, Vermont.

The proposed Troy Hydroelectric Project would consist of: (1) An existing 10-foot-high, 180-foot-long concrete dam with a 134-foot-long spillway; (2) an existing 12-acre impoundment with a normal water surface elevation of 728.2 feet mean sea level; (3) an existing powerhouse containing one generating unit having an installed capacity of 1.0-megawatt; (4) an existing 600-kilovolt, 500-foot-long transmission line; and (5) appurtenant facilities. The project would have an estimated annual generation of 3,200 megawatt-hours.

Applicant Contact: Jonathan & Jane Chase, 361 Goodall Road, Derby Lane, VT 05830; (802) 895–4581.

FERC Contact: Patrick Murphy, (202) 502–8755.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For more information on how to submit these types of filings please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp.*

More information about this project can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–13381–000) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3372.

Kimberly D. Bose,

Secretary.

[FR Doc. E9–16978 Filed 7–16–09; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2008–0816; FRL–8932–3]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Voluntary Children's Chemical Evaluation Program (VCCEP); EPA ICR No. 2055.03, OMB Control No. 2070–0165

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 to renew an existing approved 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 August 17, 2009.

ADDRESSES: Submit your comments, referencing docket ID Number EPA–HQ–OPPT–2008–0816 to (1) EPA online using *http://www.regulations.gov* (our preferred method), by e-mail to *oppt.ncic@epa.gov* or by mail to: Document Control Office (DCO), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, Mail Code: 7407T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Barbara Cunningham, Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, Mailcode: 7408–M, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–554–1404; e-mail address: *TSCA–Hotline@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 December 24, 2008 (73 FR 79086), EPA sought comments on this renewal ICR pursuant to 5 CFR 1320.8(d). EPA received one comment from the Halogenated Solvents Industry Alliance (HSIA) during the comment period. Any comments related to 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–OPPT–2008–0816, which is available for online viewing at *http://www.regulations.gov,* or in person inspection at the OPPT 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 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 Pollution Prevention and Toxics Docket is 202–566–0280.

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

EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in *http://www.regulations.gov.* The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in www.regulations.gov. For further information about the electronic docket, go to *http://www.regulations.gov.*

Title: Voluntary Children's Chemical Evaluation Program (VCCEP).

ICR Numbers: EPA ICR No. 2055.03, OMB Control No. 2070–0165.

ICR Status: This ICR is currently scheduled to expire on July 31, 2009. 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, 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:* VCCEP is a voluntary program intended to provide data to enable the public to understand the potential health risks to children associated with certain chemical exposures. EPA has asked companies that manufacture and/or import 20 chemicals that have been found in human tissues and the environment to volunteer to sponsor their evaluation in VCCEP. VCCEP consists of three tiers that a sponsor may commit to separately. As part of their sponsorship, companies submit commitment letters, collect and/or develop health effects and exposure information on their chemical(s), integrate that information in a risk assessment, and develop a ''Data Needs Assessment.'' The Data Needs Assessment discusses the need for additional data, which could be provided by the next tier, to fully characterize the risks the chemical may pose to children.

The information submitted by the sponsor will be evaluated by a group of scientific experts with extensive, relevant experience in toxicity testing and exposure evaluations, a Peer Consultation Group. This Group will forward its opinions to EPA and the sponsor(s) concerning the adequacy of the assessments and the need for development of any additional information to fully assess risks to children. EPA will consider the opinions of the Peer Consultation and announce whether additional higher tier information is needed. Sponsors and the public will have an opportunity to comment on EPA's decision concerning data needs. EPA will consider these comments and issue a final decision. If the final decision is that additional information is needed, sponsors will be asked to volunteer to provide the next tier of information. If additional information is not needed, the risk communication and, if necessary, risk management phases of the program will be initiated.

Responses to the collection of information are voluntary. Respondents may claim all or part of a notice confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average about 549 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; 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: Entities potentially affected by this ICR are manufacturers or importers of certain chemicals who have volunteered to sponsor chemicals in the VCCEP.

Frequency of Collection: On occasion.

Estimated average number of responses for each respondent: 6.4.

Estimated No. of Respondents: 32.

Estimated Total Annual Burden on Respondents: 112,456 hours.

Estimated Total Annual Costs: $10,904,472.

Changes in Burden Estimates: There is an increase of 6,200 hours (from 106,256 hours to 112,456 hours) in the total estimated respondent burden compared with that currently in the OMB inventory. This change is an adjustment and is related to a projected increase to the estimated number of responses. The Supporting Statement provides additional detail concerning the changes in burden estimates.

Dated: July 13, 2009.

John Moses,

Director, Collection Strategies Division.

[FR Doc. E9–17047 Filed 7–16–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8585–4]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–1399 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed 07/06/2009 through 07/10/2009 Pursuant to 40 CFR 1506.9.

EIS No. 20090233, Final EIS, IBR, NM, Navajo-Gallup Water Supply Project, To Provide a Long-Term (Year 2040) Water Supply, Treatment and Transmission of Municipal and Industrial (M&I) Water to Navajo Nation and Jicarilla Apache Nation, City of Gallup, New Mexico, *Wait Period Ends:* 08/17/2009, *Contact:* Terry Stroh 970–248–0608.

EIS No. 20090234, Final EIS, AFS, SD, Slate Castle Project Area, Proposes to Implement Multiple Resource Management Actions, Mystic Ranger District, Black Hills National Forest, Pennington County, SD, *Wait Period Ends:* 08/17/2009, *Contact:* Katie Van Alstyne 605–343–1567.

EIS No. 20090235, Draft EIS, AFS, CA, Sugar Pine Adaptive Management Project, Proposal to Create a Network of Strategically Placed Landscape Area Treatments (SPLATs) and Defensible Fuels Profiles near Key Transportation Corridors to Reduce the Intensity and Spread of Wildfires across the landscape and near Communities, Madera and Mariposa Counties, CA, *Comment Period Ends:* 08/31/2009, *Contact:* Mark Lemon 559–877–2218 Ext. 3110.

EIS No. 20090236, Final EIS, FHW, CA, Orange County Gateway Project, To Provide Grade Separation Alternative Along the Burlington Northern Santa Fe railroad tracks from west of Bradford Avenue to west of Imperial Highway (State Route 90), Cities of

Placentia and Anaheim, Orange County, CA, *Wait Period Ends:* 08/17/2009, *Contact:* Scott K. McHenry 916–498–5854.

EIS No. 20090237, Draft EIS, UMC, NC, U.S. Marine Corps Grow the Force at MCB Camp Lejeune, MCAS New River, and MCAS Cherry Point, To Provide the Infrastructure to Support the Permanent Increases at these three Installations, U.S. Army Corps Section 404 and 10 Permits, City of Jacksonville, NC, *Comment Period Ends:* 09/01/2009, *Contact:* Michael H. Jones 757–322–4942.

EIS No. 20090238, Final EIS, USN, VA, Norfolk Harbor Channel, Proposed Dredging to Deepen Five Miles of the Federal Navigation Channel in the Elizabeth River from Lamberts Bend to the Norfolk Naval Shipyard (NNSY), Norfolk and Portsmouth, VA, *Wait Period Ends:* 08/17/2009, *Contact:* John Conway 904–542–6159.

EIS No. 20090239, Draft EIS, AFS, OR, Big Summit Allotment Management Plan, Proposes to Reauthorize Cattle Term Grazing Permits, Construct Range Improvements, and Restore Riparian Vegetation on Five Allotments, Lookout Mountain Ranger District, Ochoco National Forest, Crook County, OR, *Comment Period Ends:* 08/31/2009, *Contact:* Marcy Anderson 541–416–6463.

EIS No. 20090240, Final EIS, FhW, NC, NC–119 Relocation Project, Transportation Improvement from the I–185/40 Interchange Southwest of Mebane to Existing NC–119 south of NC–1918 (Mrs. White Lane) Mebane, Right-of-Way Acquisition, Alamance County, NC, *Wait Period Ends:* 08/17/2009, *Contact:* John F. Sullivan 919–856–4346 Ext. 122.

EIS No. 20090241, Draft EIS, IBR, KS, Aquifer Storage Recharge and Recovery Project, To Provide Municipal and Industrial (M&I) Water to City and Surrounding Region, Equus Beds Division, Wichita Project, Kansas, Harvey, Sedgwick, and Reno Counties, KS, *Comment Period Ends:* 09/11/2009, *Contact:* Charles Webster 405–470–4807.

EIS No. 20090242, Draft EIS, IBR, CA, Delta-Mendota Canal/California Aqueduct Intertie Project, Construction and Operation of a Pumping Plant and Pipeline Connection, San Luis Delta-Mendota Water Authority Project, Central Valley Project, Alameda and San Joaquin Counties, CA, *Comment Period Ends:* 08/31/2009, *Contact:* Sharon McHale 916–978–5086.

EIS No. 20090243, Final EIS, COE, FL, C–111 Spreader Canal Western Project, To Restore Ecosystem Function in Taylor Slough and Florida Bay Areas, Central and Southern Florida Project, Comprehensive Everglades Restoration Plan (CERP), Everglades National Park, Miami-Dade County, FL, *Wait Period Ends:* 08/17/2009, *Contact:* Alisa Zarbo 561–472–3516.

Amended Notices

EIS No. 20090170, Draft EIS, FHW, WI, Zoo Interchange Corridor Study, Reconstruction to I0–94 from 70th Street to 124th Street and on US 45 from Burleigh Street to I–894/US 45 and Lincoln Avenue in Milwaukee County, WI, *Comment Period Ends:* 08/10/2009, *Contact:* Allen Radliff 608–829–7500. Revision to FR Notice Published 05/29/2009: Extending Comment Period from 07/13/2009 to 08/10/2009.

EIS No. 20090232, Draft EIS, BIA, CA, Soboba Band of Luiseno Indians Horseshoe Grande Fee-to-Trust Project, Construction of a Hotel and Casino, City of San Jacinto, Riverside County, CA, *Comment Period Ends:* 09/15/2009, *Contact:* Pat O'Mallan 916–978–6044. Revision to FR Notice Published 07/10/2009: Correction to the Telephone number from 916–978–6043 to 916–978–6044.

Dated: July 14, 2009.

Clifford Rader,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. E9–17089 Filed 7–16–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8595–5]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202–564–7146.

An explanation of the ratings assigned to draft environmental impact statements (EISs) as follows:

Summary of Rating Definitions

Environmental Impact of the Action

LO—Lack of Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC—Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

EO—Environmental Objections

The EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU—Environmentally Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

Adequacy of the Impact Statement

Category 1—Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2—Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that is within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information,

data, analyses, or discussion should be included in the final EIS.

Category 3—Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that is outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

Draft EISs

EIS No. 20090133, ERP No. D–NPS–D61064–MD, Monocacy National Battlefield, General Management Plan, Implementation, Frederick County, MD.

Summary: EPA does not object to the proposed project. Rating LO.

EIS No. 20090145, ERP No. D–NPS–H61024–IA, Effigy Mounds National Monument General Management Plan, Implementation, Clayton and Allamakee Counties, IA.

Summary: EPA does not object to the proposed project. Rating LO.

EIS No. 20090151, ERP No. D–NPS–K65365–CA, Prisoners Harbor Coastal Wetland Restoration Project, Proposes to Restore a Functional, Self-Sustaining Ecosystem at a Coastal Wetland Site, Channel Islands National Park, Santa Cruz Island, Santa Barbara County, CA.

Summary: EPA does not object to the proposed project, but offered suggestions to reduce the impact of invasive species and dust during construction. Rating LO.

Final EISs

EIS No. 20090129, ERP No. F–AFS–K65346–CA, Round Valley Fuels Reduction and Vegetation Management Project, Proposes to Reduce Fuel and Manage Vegetation, Funding, Goosenest Ranger District, Klamath National Forest, Siskiyou County, CA.

Summary: No formal comment letter was sent to the preparing agency.

EIS No. 20090182, ERP No. F–USA–K11038–HI, Makua Military Reservation (MMR) Project, Proposed Military Training Activities, To Conduct the Necessary Type, Level, Duration, and Intensity of Live-Fire and other Military Training Activities, in Particular Company-Level Combined-Arms, Live-Fire Exercises (CALFEX), 25th Infantry Division (Light) and U.S. Army, HI.

Summary: EPA continues to have environmental concerns about the contamination of soil and water resources at Makua Military Reservation.

EIS No. 20090187, ERP No. F–CGD–A11083–00, PROGRAMMATIC—Future of the US Coast Guard Long Range Aids to Navigation (LORAN–C) Program, Implementation.

Summary: EPA does not object to the proposed action.

Dated: July 14, 2009.

Clifford Rader,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. E9–17090 Filed 7–16–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8931–2]

Casmalia Disposal Site; Notice of Proposed CERCLA Administrative De Minimis Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA) and section 7003 of the Resource Conservation and Recovery Act (RCRA), the EPA is hereby providing notice of a proposed administrative *de minimis* settlement concerning the Casmalia Disposal Site in Santa Barbara County, California (the Casmalia Disposal Site). Section 122(g) of CERCLA provides EPA with the authority to enter into administrative *de minimis* settlements. This settlement is intended to resolve the liabilities of 35 settling parties for the Casmalia Disposal Site under sections 106 and 107 of CERCLA and section 7003 of RCRA, and also to resolve their liability for response costs and potential natural resource damage claims by the United States Fish and Wildlife Service (USFWS), the National Oceanic and Atmospheric Administration (NOAA) and the United States Air Force (USAF). These parties, identified below, originally received settlement offers in 1999 or 2000 but raised an issue that has now been resolved. Most of those resolving their liability to the EPA have also elected to resolve their liability for response costs and potential natural resource damage claims by the USFWS, NOAA and the USAF. The settling parties sent 12,776,838 lbs. of waste to the Site, which represents 0.228% of total Site waste. This settlement requires these parties to pay over $1.25 million to EPA. EPA is simultaneously publishing another **Federal Register** Notice relating to another settlement with *de minimis* parties that had received offers between 2005 and 2008.

Settling Parties: Parties that have elected to settle their liability at this time are as follows: Advanced Coatings & Chemical; AK Steel Corporation, Successor by Merger to Armco, Inc.; Barron Anodizing & Paint; BioResearch, Inc.; C&W Pallet Enterprises, Inc.; City of San Jose; CTS Corporation (CTS Keene, Inc.); CTS Printex Inc.; E.C. Loomis & Son; General Atomics; Goleta Water District; Guadalupe Union School District; Kevex Corporation; Lear Siegler Diversified Holdings Corp.; Paccar, Inc.; Plessey Semiconductors, Inc.; Redevelopment Agency of the City of San Jose; Rosemary Farm; Santa Palm Car Wash; Saticoy Lemon Association; Siemens Communications, Inc.; Siemens Energy & Automation Inc.; Siemens Medical Systems, Inc., Oncology Care Systems Group; SMI Holding, LLC; Sweetwater Union High School District; Technitron Incorporated; Texas Instruments Tucson Corporation (f/k/a Burr-Brown Research Corporation); Tenneco Packaging, Inc. (n/k/a Pactiv Corporation); Thermo Finnigan LLC, Formerly Finnigan Corporation; Thermo Securities Corporation (as Successor to Cal-Doran Metallurgical Service); Thermo Separation Products, Inc.; U.S. Coast Guard; U.S. Department of Interior; U.S. Department of Veteran Affairs; U.S. Environmental Protection Agency.

DATES: EPA will receive written comments relating to the settlement until August 17, 2009. EPA will consider all comments it receives during this period, and may modify or withdraw consent to the settlement if any comments disclose facts or considerations indicating that the settlement is inappropriate, improper, or inadequate.

Public Meeting: In accordance with section 7003(d) of RCRA, 42 U.S.C. 6973(d), commenters may request an opportunity for a public meeting in the affected area. The deadline for requesting a public meeting is July 31, 2009. Requests for a public meeting may be made by contacting Karen Goldberg by e-mail at *goldberg.karen@epa.gov,* or by facsimile at (415) 947–3570. If a public meeting is requested, information about the date and time of the meeting will be published in the local newspaper, *The Santa Maria Times,* and will be sent to persons on the EPA's Casmalia Site mailing list. To be added to the mailing list, please contact: Jackie Lane at (415) 972–3236 or by e-mail at *lane.jackie@epa.gov.*

A copy of the settlement document may be obtained by calling (415) 369–0559 extension 10, and leaving a message with your name, phone number, and mailing address or e-mail address.

ADDRESSES: Written comments should be addressed to Karen Goldberg, U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street (mail code RC–3), San Francisco, California 94105–3901, or may be faxed to her at (415) 947–3570 or sent by e-mail to *goldberg.karen@epa.gov.* A copy of the comments should be sent to: Caroline Rudolph, Project Coordinator, DTSC, P.O. Box 806, Sacramento, California 95812–0806.

FOR FURTHER INFORMATION CONTACT: Additional information about the Casmalia Disposal Site and about the proposed settlement may be obtained on the Casmalia Web site at: *http://www.epa.gov/region09/casmalia* or by calling Karen Goldberg at (415) 972–3951.

Dated: July 2, 2009.

Keith Takata,

Director, Superfund Division, Region IX.

[FR Doc. E9–16863 Filed 7–16–09; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

July 13, 2009.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; 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.

DATES: Persons wishing to comment on this information collection should submit comments September 15, 2009. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), via fax at 202–395–5167, or via the Internet at *Nicholas_A._Fraser@omb.eop.gov* and to *Judith-B.Herman@fcc.gov,* Federal Communications Commission (FCC). To submit your comments by e-mail send them to: *PRA@fcc.gov.*

To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the Web page called ''Currently Under Review'', (3) click the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box and (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB Control Number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.

FOR FURTHER INFORMATION CONTACT: For additional information, send an e-mail to Judith B. Herman at 202–418–0214.

SUPPLEMENTARY INFORMATION: *OMB Control Number:* 3060–0681.

Title: Sections 52.101 through 52.110, Toll-Free Service Access Codes, CC Docket No. 95–155, 47 CFR Part 52, Subpart D).

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit and not-for-profit institutions.

Number of Respondents: 300 respondents; 300 responses.

Estimated Time Per Response: 15 hours.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection are contained in 47 U.S.C. 151, 154, 201–205, 218, 220 and 405 and 5 U.S.C. Sections 552 and 553.

Total Annual Burden: 4,500 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: Information of a proprietary nature submitted to Database Services Management, Inc. (DSMI) will not be disclosed, pursuant to DSMI's policy. The Commission, however, is granted access to information pertinent to determining that RespOrgs are abiding by Commission rules. The Commission is not requesting that the respondents submit confidential information to the FCC. Respondents may, however, request confidential treatment for information they believe to be confidential under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this information collection to the Office of Management and Budget (OMB) after this 60 day comment period in order to obtain the full three year clearance from them. The Commission is requesting an extension (no change in the reporting and/or third party disclosure requirements) of this information collection. There is no change to the estimated number of respondents/responses and annual burden hours. This information collection requires RespOrgs requesting that specific toll free numbers be placed in unavailable status to submit written requests, with appropriate documentation, to the toll free database administrator, Database Services Management, Inc. (DSMI). This requirement will hold those RespOrgs more accountable and will decrease abuses of lag time process. It will also prevent numbers from being held in an unavailable status without demonstrated reasons, and will make

more numbers available for subscribers who need and want them. If DSMI is uncertain whether a number should be placed in unavailable status, it should seek guidance from the Commission's Wireline Competition Bureau.

Current industry guidelines already require that RespOrgs requesting to place a toll free number in unavailable status submit written requests to DSMI with appropriate documentation. This collection requirement simply codifies the existing industry guidelines. DSMI (and, if necessary the FCC), will continue to use the information collected to determine if a particular toll free number appropriately can be placed in ''unavailable'' status. This will prevent the fraudulent use of toll free numbers.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E9–17043 Filed 7–16–09; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–0937–0166]

Agency Information Collection Request; 60-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed information collection request for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden. To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, e-mail your request, including your address, phone number, OMB number, and OS document identifier, to *Sherette.funncoleman@hhs.gov*, or call the Reports Clearance Office on (202) 690–6162. Written comments and recommendations for the proposed information collections must be directed to the OS Paperwork Clearance Officer at the above e-mail address within 60 days.

Proposed Project: HHS 42CFR subpart B; Sterilization of Persons in Federally Assisted Family Planning Projects—OMB No. 0937–0166—Extension—Office of Population Affairs (OPA)—Office of Family Planning

Abstract: This is a request for extension of a currently approved collection for the disclosure and record-keeping requirements codified at 42 CFR part 50, subpart B (''Sterilization of Persons in Federally Assisted Family Planning Projects''). The consent form solicits information to assure voluntary and informed consent to persons undergoing sterilization in programs of health services which are supported by Federal financial assistance administered by the OPA. It provides additional procedural protection to the individual and the regulation requires that the consent form be a copy of the form that is appended to the OPA regulation. In 2003, the sterilization consent form was revised to conform to OMB government-wide standards for the collection of race/ethnicity data and to incorporate the PRA burden statement as part of the consent form. The current form has been updated to conform to the changed name of a Federal entitlement program. The program, Aid to Families with Dependent Children (AFDC), utilized by low-income families with dependent children who need Federal assistance, has been replaced by a different program with similar aims, Temporary Assistance for Needy Families (TANF). Consequently, the reference to AFDC in the first paragraph has been replaced with a reference to TANF.

ESTIMATED ANNUALIZED BURDEN TABLE

Type of respondent	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Citizens seeking sterilization	100,000	1	15/60	25,000

Seleda Perryman,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. E9–16966 Filed 7–16–09; 8:45 am]

BILLING CODE 4150–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10284, CMS–2567 and CMS–10283]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Department of Health and Human Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the Agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* New Collection; *Title of Information Collection:* Children's Health Insurance Program Reauthorization Act (CHIPRA) of 2009, State Option Pre-print to Include Pregnant Women in Title XXI; *Use:* Section 111 of CHIPRA adds a new section 2112 to the Social Security Act which gives States the option of providing necessary prenatal, delivery and postpartum care to low-income uninsured pregnant women through an amendment to its State Child Health Plan (CHIP plan). The purpose of this draft State plan amendment template is to provide States with the format needed to enable a State to amend their CHIP plan to reflect the coverage of pregnant women. *Form Number:* CMS–10284 (OMB#: 0938–NEW); *Frequency:* Reporting—One-time and Occasionally; *Affected Public:* State, Local or Tribal Government; *Number of Respondents:* 40; *Total Annual Responses:* 40; *Total Annual Hours:* 3,200. (For policy questions regarding this collection contact Meredith Robertson at 410–786–6543. For all other issues call 410–786–1326.)

2. *Type of Information Collection Request:* Reinstatement without change of a previously approved collection; *Title of Information Collection:* Statement of Deficiencies and Plan of Correction; Use: The information from the CMS–2567 is used by the States and CMS regional offices to document and certify compliance. *Form Number:* CMS–2567 (OMB#: 0938–0391); *Frequency:* Reporting—Annually; *Affected Public:* State, Local or Tribal Government, Federal Government, Business or other for-profits and Not-for-profit Institutions; *Number of Respondents:* 60,000; *Total Annual Responses:* 60,000; *Total Annual Hours:* 120,000. (For policy questions regarding this collection contact Joanne Perry at 410–786–3336. For all other issues call 410–786–1326.)

3. *Type of Information Collection Request:* New Collection; *Title of Information Collection:* State Plan Amendment Template for Transitional Medical Assistance for Low-Income Families; Use: Section 5004 of the American Recovery and Reinvestment Act of 2009, Public Law 111–5, amends section 1925 of the Social Security Act effective July 1, 2009 to offer States two new options for eligibility requirements under Transitional Medical Assistance. To select either or both of these options a State Medicaid Agency will complete the template page and submit it for approval as part of a State plan amendment. The law also imposes new reporting requirements for States which are mentioned on the template. *Form Number:* CMS–10283 (OMB#: 0938–NEW); *Frequency:* Reporting—One-time and Occasionally; *Affected Public:* State, Local or Tribal Government; *Number of Respondents:* 51; *Total Annual Responses:* 51; *Total Annual Hours:* 51. (For policy questions regarding this collection contact Mary Corddry at 410–786–6618. For all other issues call 410–786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web Site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995,* or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

To be assured consideration, comments and recommendations for the proposed information collections must be received by the OMB desk officer at the address below, no later than 5 p.m. on August 17, 2009: OMB, Office of Information and Regulatory Affairs Attention: CMS Desk Officer, *Fax Number:* (202) 395–6974.

E-mail: OIRA_submission@omb.eop.gov.

Dated: July 9, 2009.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E9–17080 Filed 7–16–09; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10260, CMS–R–72, CMS–10180 and CMS–R–199]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicare Advantage and Prescription Drug Program: Final Marketing Provisions CFR 422.111(a)(3) and 423.128(a)(3) *Use:* Medicare Advantage (MA) plans must provide notice to plan members of impending changes to plan benefits, premiums and copays in the coming year so that members will be in the best position to make an informed choice on continued enrollment or disenrollment from that plan at least 15 days before the Annual Election Period (AEP). Beginning 2009, organizations will be required to notify plan members of the coming year changes using a combined standardized document at the time of enrollment and annually thereafter.

Section 422.111 requires, to the extent that a MA plan has a website, annual notification through the Web site of written, hard copy notification sent to the beneficiaries. Section 423.128 requires that a Part D plan have mechanisms for providing specific information on a timely basis to current and prospective enrollees upon request. These mechanisms include, Internet website that includes information on Part D plan description. MA organizations (formerly M+C organizations) and Prescription Drug Plan Sponsors use the information to comply with the eligibility requirements and the MA and Part D contract requirements. CMS will use this information to ensure that correct information is disclosed to Medicare beneficiaries, both potential enrollees and enrollees. *Form Number:* CMS–10260 (OMB#: 0938–1051); *Frequency:* Reporting—Yearly; *Affected Public:* Business or other for-profits ; *Number of Respondents:* 740; *Total Annual Responses:* 740; *Total Annual Hours:* 8,880. (For policy questions regarding this collection contact Camille Brown at 410–786–0274. For all other issues call 410–786–1326.)

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Information Collection Requirements in 42 CFR

478.18, 478.34, 478.36, 478.42, QIO Reconsiderations and Appeals; *Use:* In the event that a beneficiary, provider, physician, or other practitioner does not agree with the initial determination of a Quality Improvement Organization (QIO) or a QIO subcontractor, it is within that party's rights to request reconsideration. The information collection requirements 42 CFR 478.18, 478.34, 478.36, and 478.42, contain procedures for QIOs to use in reconsideration of initial determinations. The information requirements contained in these regulations are on QIOs to provide information to parties requesting the reconsideration. These parties will use the information as guidelines for appeal rights in instances where issues are actively being disputed.; *Form Number:* CMS–R–72 (OMB#: 0938–0443); *Frequency:* Reporting—On occasion; *Affected Public:* Individuals or Households and Business or other for-profit institutions; *Number of Respondents:* 2,590; *Total Annual Responses:* 5,228; *Total Annual Hours:* 2,822. (For policy questions regarding this collection contact Tom Kessler at 410–786–1991. For all other issues call 410–786–1326.)

3. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Children's Health Insurance Program (CHIP) Report on Payables and Receivables; *Use:* Collection of CHIP data and the calculation of the CHIP Incurred But Not Reported (IBNR) estimate are pertinent to CMS' financial audit. The CFO auditors have reported the lack of an estimate for CHIP IBNR payables and receivables as a reportable condition in the FY 2005 audit of CMS's financial statements. It is essential that CMS collect the necessary data from State agencies in FY 2006, so that CMS continues to receive an unqualified audit opinion on its financial statements. Program expenditures for the CHIP have increased since its inception; as such, CHIP receivables and payables may materially impact the financial statements. The CHIP Report on Payables and Receivables will provide the information needed to calculate the CHIP IBNR.; *Form Number:* CMS–10180 (OMB#: 0938–0988); Frequency: Reporting—Annually; *Affected Public:* State, Local or Tribal governments; *Number of Respondents:* 56; *Total Annual Responses:* 56; *Total Annual Hours:* 336. (For policy questions regarding this collection contact Deborah McCleod at 410–786–0013. For all other issues call 410–786–1326.)

4. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicaid Report on Payables and Receivables; *Use:* The Chief Financial Officers (CFO) Act of 1990, as amended by the Government Management Reform Act (GMRA) of 1994, requires government agencies to produce auditable financial statements. Because the Centers for Medicare & Medicaid Services (CMS) fulfills its mission through its contractors and the States; these entities are the primary source of information for the financial statements. There are three basic categories of data: expenses, payables, and receivables. The CMS–64 is used to collect data on Medicaid expenses. The CMS–R–199 collects Medicaid payable and receivable accounting data from the States.; *Form Number:* CMS–R–199 (OMB#: 0938–0697); Frequency: Reporting—Annually; *Affected Public:* State, Local or Tribal governments; *Number of Respondents:* 56; *Total Annual Responses:* 56; *Total Annual Hours:* 336. (For policy questions regarding this collection contact Deborah McCleod at 410–786–0013. For all other issues call 410–786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web Site at *http://www.cms.hhs.gov/PaperworkReductionActof1995,* or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by September 15, 2009:

1. *Electronically.* You may submit your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: July 9, 2009.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E9–17079 Filed 7–16–09; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget (OMB), in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, e-mail *paperwork@hrsa.gov* or call the HRSA Reports Clearance Office on (301) 443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project Title: Interim Evaluation of the Bright Futures for Women's Health and Wellness (BFWHW) Initiative, Emotional Wellness Consumer Tools—NEW.

Purpose: The purpose of this project is to design and implement a three-year interim evaluation to address initial outcomes for the BFWHW emotional wellness tools targeted to consumers. The project is funded by the Health Resources and Services Administration (HRSA), Office of Women's Health (OWH). The evaluation will seek to determine (1) the acceptability of the tools by the target audiences, (2) strategies for ensuring their ongoing use, and (3) the outcomes associated with the use of these tools in three to four selected primary care sites.

The evaluation team will work with HRSA OWH and an Expert Committee to identify the questions of interest for the evaluation plan and methodology. There will be two major components—a descriptive/process component focusing on the design and implementation of the program's intervention and an impact component focusing on the preliminary outcomes of the intervention on the target audiences and their behavioral intentions.

Respondents

Female consumers (adolescents between the ages of 13 and 17, and adults 18 and older) who receive services from four selected HRSA-funded program sites will receive a written survey on site at the time of service.

Distributors of the Consumer Tools (e.g., healthcare providers, program staff, and community stakeholders/organizations) from four selected HRSA-funded program sites will respond to a web-based written survey.

Female consumers (adolescents between the ages of 13 and 17 and adults 18 and older) who receive services from four selected HRSA-funded program sites will be invited to participate in a focus group.

ANNUAL BURDEN ESTIMATES

Form	Number of respondents	Responses per respondent	Total responses	Hours per response	Total burden hours
Survey of Consumers	563	1	563	0.25	140.75
Survey of the Distributors of the Consumer Tools	40	1	40	0.25	10.0
Consumer Focus Groups	[1] 64	1	64	1.5	96.0
Total	667	.....	667	.....	246.75

[1] 4 sites × 16 focus group participants per site.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to the desk officer for HRSA, either by e-mail to *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974. Please direct all correspondence to the ''attention of the desk officer for HRSA.''

Dated: July 9, 2009.

Alexandra Huttinger,

Director, Division of Policy Review and Coordination.

[FR Doc. E9–16958 Filed 7–16–09; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; NEXT Generation Health Study

SUMMARY: 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 National Institute of Child Health and Human Development (NICHD), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection

Title: NEXT Generation Health Study.

Type of Information Collection Request: New.

Need and Use of Information Collection:

The goal of this research is to obtain data on adolescent health and health behaviors annually for four years beginning in the 2009–2010 school year from a national probability sample of adolescents. This information will enable the improvement of health services and programs for youth. The study will provide needed information about the health of U.S. adolescents.

The study will collect information on adolescent health behaviors and social and environmental contexts for these behaviors annually for four years beginning in the 2009–2010 school year. Self-report of health status, health behaviors, and health attitudes will be collected by in-school and online surveys. Anthropomorphic data, genetic information, and neighborhood characteristics will be gathered on all participants as well. The study will also incorporate a School Administrator Survey and other data files to obtain related information on school-level health programs and community-level contextual data. A representative subsample of overweight and normal weight adolescents will be identified and additional data on behavioral risk factors and biological markers and risk factors will be gathered on these adolescents.

TABLE 1—ANNUAL BURDEN FOR AFFECTED PUBLIC: SCHOOL-AGE CHILDREN, PARENTS AND SCHOOL ADMINISTRATORS

Type of respondents	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
Adolescents	2,700	1	0.75	11, 004
Adolescents with additional assessments	550	1	2.5	1,375
Parents	550	1	0.17	94
School Administrators	80	1	0.33	26

The estimated annualized cost to respondents is $7,453 (Table 2). These costs were estimated for the 2009/2010 survey year only, not the entire duration of the project; annualized over the entire duration of the project, these costs would be reduced to $2,439. These estimates were calculated using 2008 Department of Labor figures for wages of principals in high schools (grades 9 and 10) and of average wage and salaried employees, and assuming an annual increase of 3.75%, 50-week contract, and 40-hour week.

TABLE 2—ANNUAL COST TO RESPONDENTS—2009/2010 SURVEY YEAR ONLY

Type of respondents	Estimated total annual burden hours requested	Estimated annual earnings during survey	Average hourly earnings with rounding)	Estimated cost during survey year
Adolescents	11,004	$0.00	$0.00	$0.00
Adolescents with additional assessments	1,375	0.00	0.00	0.00
Parents	94	42,270	21.93	2,061
School Administrators	26	84,913	42.46	5,392

There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

No direct costs to the respondents themselves or to participating schools are anticipated.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Ronald Iannotti, Prevention Research Branch, Division of Epidemiology, Statistics, and Prevention Research, Eunice Kennedy Shriver National Institute of Child Health and Human Development, Building 6100, 7B05, 9000 Rockville Pike, Bethesda, Maryland 20892–7510, or call non-toll free number 301–435–6951 or E-mail your request, including your address to *ri25j@nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: July 9, 2009.

Sarah L. Glavin,

Project Clearance Liaison, NICHD, National Institutes of Health.

[FR Doc. E9–17026 Filed 7–16–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Council on Alcohol Abuse and Alcoholism.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council on Alcohol Abuse and Alcoholism.

Date: September 16–17, 2009.

Closed: September 16, 2009, 5:30 p.m. to 7:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892.

Open: September 17, 2009, 9 a.m. to 3:30 p.m.

Agenda: Program reports and presentations.

Place: National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892.

Contact Person: Abraham P. Bautista, PhD, Executive Secretary, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 5635 Fishers Lane, Rm. 2085, Rockville, MD 20852, 301–443–9737, *bautistaa@mail.nih.gov.*

Information is also available on the Institute's/Center's home page: *http://silk._nih.gov/silklniaaal/about/roster.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards, National Institutes of Health, HHS)

Dated: July 8, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–16780 Filed 7–16–09; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; AARA–RC2–SEP 11.

Date: July 31, 2009.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20814, (Telephone Conference Call)

Contact Person: William Cruce, PhD, Scientific Review Officer, National Institute on Aging, Scientific Review Branch, Gateway Building 2C–212, 7201 Wisconsin Ave., Bethesda, MD 20814, 301–402–7704, *crucew@nia.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Special Emphasis Panel; ARRA–RC2–SEP 7.

Date: August 3, 2009.

Time: 11 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20814, (Telephone Conference Call)

Contact Person: Rebecca J. Ferrell, PhD, Scientific Review Officer, National Institute on Aging, Gateway Building 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7703, *ferrellrj@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Special Emphasis Panel; ARRA–RC2–SEP 12.

Date: August 3, 2009.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20814, (Telephone Conference Call)

Contact Person: William Cruce, PhD, Scientific Review Officer, National Institute on Aging, Scientific Review Branch, Gateway Building 2C–212, 7201 Wisconsin Ave., Bethesda, MD 20814, 301–402–7704, *crucew@nia.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research; 93.701, ARRA Related Biomedical Research and Research Support Awards, National Institutes of Health, HHS)

Dated: July 13, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–17086 Filed 7–16–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Antimicrobial Research and Development.

Date: August 25, 2009.

Time: 10 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call)

Contact Person: Lynn Rust, PhD, Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892, 301–402–3938, *lr228v@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: July 13, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–17085 Filed 7–16–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Ancillary Studies to Major Ongoing NIDDK and NHLBI Clinical Trials PAR 07–024.

Date: August 3, 2009.

Time: 1:30 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: John F. Connaughton, PhD, Chief, Chartered Committees Section, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7797, *connaughtonj@extra.niddk.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: July 13, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–17084 Filed 7–16–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel. Vascular Channel Regulation.

Date: July 21, 2009.

Time: 2:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Russell T. Dowell, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4128, MSC 7814, Bethesda, MD 20892. (301) 435–1850. *dowellr@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel. CMIA ARRA Review of Competitive Revisions.

Date: July 24, 2009.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Samuel C. Edwards, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4200, MSC 7812, Bethesda, MD 20892. (301) 435–1152. *edwardss@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: AIDS and Related Research Integrated Review Group. NeuroAIDS and other End-Organ Diseases Study Section.

Date: July 27–28, 2009.

Time: 8 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: Ritz Carlton Hotel, 1150 22nd Street, NW., Washington, DC 20037.

Contact Person: Mary Clare Walker, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5208, MSC 7852, Bethesda, MD 20892. (301) 435–1165. *walkermc@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel. Review of HIV/AIDS-related Small Business Applications.

Date: July 27, 2009.

Time: 10 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Mark P. Rubert, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892. 301–435–1775. *rubertm@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel. Kidney-Related Small Business Supplement Review.

Date: July 28, 2009.

Time: 9 a.m. to 8 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting).

Contact Person: Krystyna E. Rys-Sikora, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4112, MSC 7814, Bethesda, MD 20892. 301–451–1325. *ryssokok@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel. Review of Recovery Act Competitive Revision Applications.

Date: July 29, 2009.

Time: 10 a.m. to 12:01 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Mark P. Rubert, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892. 301–435–1775. *rubertm@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel. Immunology Review of Member Conflict Applications.

Date: July 29–30, 2009.

Time: 11 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting).

Contact Person: Samuel C. Edwards, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4200, MSC 7812, Bethesda, MD 20892. (301) 435–1152. *edwardss@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel. Shared Instrumentation.

Date: July 30–31, 2009.

Time: 10 a.m. to 9 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting).

Contact Person: Denise Beusen, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC 7806, Bethesda, MD 20892, (301) 435–1267, *beusend@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel. Member Conflict: Auditory and Sleep Neural.

Date: July 30, 2009.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Lynn E. Luethke, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5166, MSC 7844, Bethesda, MD 20892, (301) 435–1018, *luethkel@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel. Cardiac Signaling, Development and Toxicity.

Date: July 30, 2009.

Time: 1:15 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Larry Pinkus, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435–1214, *pinkusl@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel. Shared Instrumentation: EPR Spectrometers.

Date: August 5–6, 2009.

Time: 10 a.m. to 9 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting).

Contact Person: Denise Beusen, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC 7806, Bethesda, MD 20892, (301) 435–1267, *beusend@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel. Neurodevelopment and Plasticity.

Date: August 5, 2009.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Laurent Taupenot, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4188, MSC 7850, Bethesda, MD 20892, 301–435–1203, *taupenol@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel. OBT Panel Member Applications.

Date: August 10, 2009.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Nywana Sizemore, PhD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6204, MSC 7804, Bethesda, MD 20892, 301–435–1718, *sizemoren@csr.nih.gov.*
(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: July 7, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–16572 Filed 7–16–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Behavioral AIDS.

Date: July 22, 2009.

Time: 11 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852. (Telephone Conference Call).

Contact Person: Enid Light, PhD, Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Boulevard, Room 6132, MSC 9608, Bethesda, MD 20852–9608, 301–443–0322, *elight@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS).

Dated: July 13, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–17058 Filed 7–16–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Alternative Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Council for Complementary and Alternative Medicine.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council for Complementary and Alternative Medicine;

Date: August 18, 2009.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892. (Telephone Conference Call)

Contact Person: Martin H. Goldrosen, PhD, Chief, Office of Scientific Review, National Center for Complementary and Alternative Medicine, National Institutes of Health, 6707 Democracy Blvd, Ste. 401, Bethesda, MD 20892–5475, (301) 594–2014, *goldrosm@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *http://nccam.nih.gov/nccam/an/advisory/index.html,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.701, ARRA Related Biomedical Research and Research Support Awards.; 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS)

Dated: July 10, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–17055 Filed 7–16–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Epidemiology, Prevention Control & Population Sciences P01.

Date: October 14–15, 2009.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington DC/Rockville Executive Meeting C, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Wlodek Lopaczynski, MD, PhD, Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Blvd. Room 8131, Bethesda, MD 20892, 301–594–1402, *lopacw@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: July 10, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–17053 Filed 7–16–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Heart, Lung, and Blood Institute Special Emphasis Panel, July 29, 2009, 8 a.m. to July 30, 2009, 5 p.m., Ritz Carlton Hotel, 1150 22nd Street, NW., Washington, DC, 20037 which was published in the **Federal Register** on July 8, 2009, FRE9–16115.

The meeting date was changed from July 29–30, 2009 to July 29, 2009. The meeting is closed to the public.

Dated: July 10, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–17051 Filed 7–16–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Initial Review Group; Subcommittee A—Cancer Centers.

Date: August 7, 2009.

Time: 7:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Gail J. Bryant, MD, Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Blvd, Room 8107, MSC 8328, Bethesda, MD 20892–8328, (301) 402–0801, *gb30t@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: July 10, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–17049 Filed 7–16–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; AIDS P01.

Date: August 12, 2009.

Time: 9 a.m. to 12:01 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6116 Executive Boulevard, Rm 8121, Rockville, MD 20852, (Telephone Conference Call)

Contact Person: Olivia Bartlett, PhD, Chief, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Blvd., Room 8121, Bethesda, MD 20892–7405, 301/594–2501, *op2t@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: July 10, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–17046 Filed 7–16–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel. ARRA—Standardized Testing of Nanoparticles for Their Safety to Human Health.

Date: July 21–22, 2009.

Time: 8 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Chapel Hill Hotel, One Europa Drive, Chapel Hill, NC 27514.

Contact Person: Sally Eckert-Tilotta, PhD, Scientific Review Officer, Nat. Institute of Environmental Health Sciences, Office of Program Operations, Scientific Review Branch, P.O. Box 12233, Research Triangle Park, NC 27709. (919) 541–1446. *eckertt1@niehs.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel. ARRA Nanomaterials Competitive Supplement Review.

Date: July 22, 2009.

Time: 8 a.m. to 9 a.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Chapel Hill Hotel, One Europa Drive, Chapel Hill, NC 27514.

Contact Person: Sally Eckert-Tilotta, PhD, Scientific Review Officer, Nat. Institute of Environmental Health Sciences, Office of

Program Operations, Scientific Review Branch, P.O. Box 12233, Research Triangle Park, NC 27709. (919) 541–1446. *eckertt1@niehs.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.701, ARRA Related Biomedical Research and Research Support Awards, National Institutes of Health, HHS)

Dated: July 10, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–17044 Filed 7–16–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel. ARRA–RC2–SEP–9.

Date: July 23, 2009.

Time: 1 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20814. (Telephone Conference Call)

Contact Person: Alicja L Markowska, PhD, DSC, Scientific Review Officer, Scientific Review Branch, National Institute on Aging, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–496–9666, *markowsa@nia.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Special Emphasis Panel. ARRA–RC2–SEP–10.

Date: August 5, 2009.

Time: 10 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20814. (Telephone Conference Call).

Contact Person: Alicja L Markowska, PhD, DSC, Scientific Review Officer, Scientific Review Branch, National Institute on Aging, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–496–9666, *markowsa@nia.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research; 93.701, ARRA Related Biomedical Research and Research Support Awards, National Institutes of Health, HHS)

Dated: July 9, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–17041 Filed 7–16–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Environmental Health Sciences Special Emphasis Panel, July 30, 2009, 2 p.m. to July 30, 2009, 4:30 p.m., NIEHS/National Institutes of Health, Keystone Building, 530 Davis Drive, Research Triangle Park, NC 27709 which was published in the **Federal Register** on July 2, 2009, FR E9–15689.

The meeting date was changed from July 30, 2009 to August 12, 2009 and the meeting time was changed from 2 p.m. to 2:30 p.m. The meeting is closed to the public.

Dated: July 9, 2009.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E9–17039 Filed 7–16–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Use of CD47 Antibodies, Antisense Oligonucleotides, and Small Molecules To Treat Disease Affecting the Vascular System

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR part 404.7(a)(1)(i), that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive patent license to practice the inventions embodied in U.S. Provisional Patent Application No. 60/850,132, filed October 6, 2006, now abandoned (HHS Ref. No. E–227–2006/0–US–01); U.S. Provisional Patent Application No. 60/864,153, filed November 02, 2006, now abandoned (HHS Ref. No. E–227–2006/1–US–01); U.S. Provisional Patent Application No. 60/888,754, filed February 07, 2007, now abandoned (HHS Ref. No. E–227–2006/2–US–01); U.S. Provisional Patent Application No. 60/910,549, filed April 06, 2007, now abandoned (HHS Ref. No. E–227–2006/3–US–01); U.S. Provisional Patent Application No. 60/956,375, filed August 16, 2007, now abandoned (HHS Ref. No. E–227–2006/4–US–01); PCT Patent Application No. PCT/2007/080647, filed October 5, 2007, now abandoned (HHS Ref. No. E–227–2006/5–PCT–01); U.S. Patent Application No. 12/444,364, filed October 5, 2007 (HHS Ref. No. E–227–2006/5–US–02); Canadian Patent Application (not yet determined) (HHS Ref. No. E–227–2006/5–CA–03); Australian Patent Application No. 2007319576, filed October 5, 2007 (HHS Ref. No. E–227–2006/5–AU–04); and European Patent Application No. 07868382.8, filed October 5, 2007 (HHS Ref. No. E–227–2006/5–EP–05), all of which are entitled ''Prevention of Tissue Ischemia, Related Methods and Compositions'', developed by Dr. David Roberts (NCI), Dr. Jeffrey Isenberg, and Dr. William Frazier. The patent rights in these inventions have been assigned to the United States of America. The prospective exclusive license territory may be ''worldwide'', and the field of use may be limited to: (1) ''The use of antibodies including humanized antibodies reacting with CD47 or related antigens, precursors, or molecules, and isolated and/or recombinant fragments, and conjugates

with an affinity for CD47 for the preservation or resuscitation of organs and tissues for transplantation''; (2) ''the use of antibodies including humanized antibodies reacting with CD47 or related antigens, precursors, or molecules, and isolated and/or recombinant fragments, and conjugates with an affinity for CD47 for treating or preventing vascular diseases, including but not limited to, pulmonary hypertension, sickle cell disease, myocardial infarction, stroke, and tissue ischemia resulting from trauma and surgical procedures''; (3) ''the use of antisense oligonucleotides or RNA formulations of stabilized composition to reduce expression of CD47 for treating wounds and/or burns and for use in reconstructive surgery''; and (4) ''use of small molecules antagonists of CD47 for treating or preventing vascular diseases including, but not limited to, thrombosis, hypertension, peripheral artery disease, renal artery disease, and ischemia resulting from atherosclerosis'' to Vasculox, Inc., having an office in at least St. Louis, Missouri, U.S.A. The patent rights in these inventions have been assigned to the United States of America.

DATES: Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer on or before September 15, 2009 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, comments, and other materials relating to the contemplated exclusive license should be directed to: Charlene A. Sydnor, Ph.D., Licensing and Patenting Manager, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 435–4689; Facsimile: (301) 402–0220; E-mail: *sydnorc@mail.nih.gov.*

SUPPLEMENTARY INFORMATION: Nitric Oxide (NO) plays an important role as a major intrinsic vasodilator, and increases blood flow to tissues and organs. Disruption of this process leads to peripheral vascular disease, ischemic heart disease, stroke, diabetes and many more significant diseases. The inventors have discovered that the matrix protein thrombospondin1 (TSP1) blocks the beneficial effects of NO, and prevents it from dilating blood vessels and increasing blood flow to organs and tissues. Additionally, they discovered that this regulation requires TSP1 interaction with its cell receptor, CD47. Relief of this inhibition in genetically altered mice lacking either TSP1 or CD47 results in dramatically improved blood flow and increased tissue oxygenation. Further, by using reagents such as monoclonal antibodies and peptides that block TSP1–CD47 interaction, or agents such as antisense oligonucleotides or morpholinos that reduce the level of CD47 or TSP1, blood flow can dramatically increase to ischemic tissues in vivo. Inhibition of TSP1 signaling at the level of CD47 expression and/or activation significantly improves the survival of tissue in an ischemic environment.

The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR part 404.7. The prospective exclusive license may be granted unless within sixty (60) days from the date of this published notice, the NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.7.

Applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: July 10, 2009.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E9–17038 Filed 7–16–09; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Section 330A(e) of the Public Health Service Act, as Amended (42 U.S.C. 254c(e)) and Section 317(k)(2) of the Public Health Service Act, as Amended (42 U.S.C. 247b(k)(2))

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of Single Source Grant Award to Lincoln County Health Department in Libby, MT.

SUMMARY: The Health Resources and Services Administration (HRSA) is issuing a new single source award through the Rural Health Care Services Outreach Grant Program and the Centers for Disease Control and Prevention's (CDC) screening grant program authority to Lincoln County Health Department (LCHD) in Libby, Montana. A serious public health problem has been identified in Lincoln County, Montana, as residents in this rural community have been adversely affected by the asbestos released from a vermiculite mine. The asbestos-related diseases in which Lincoln County residents have been diagnosed include asbestosis, lung cancer, mesothelioma, and others. The purpose of this demonstration grant would be to provide care management for Lincoln County residents with asbestos-related diseases. The grant will provide funds to support the coordination and payment of care for asbestos-related diseases among such entities as hospitals, clinics, specialty care providers, and others involved in the care and treatment of this service population.

SUPPLEMENTARY INFORMATION:

Intended Recipient of the Award: Lincoln County Health Department in Libby, Montana.

Amount of the Award FY 2009: It is anticipated that up to $6,000,000 will be available from all sources for a 2-year project period from August 1, 2009—July 31, 2011. Of the $6,000,000, $2,000,000 will be available from CDC to support this effort. The remaining $4,000,000 will be awarded by HRSA's Office of Rural Health Policy's Rural Health Care Services Outreach Program, of which $2,000,000 will be provided the first year and an additional $2,000,000 will be provided the second year. Funding beyond the first year, however, is dependent on the availability of appropriated funds, grantee satisfactory performance, and a decision that continued funding is in the best interest of the Federal Government.

Project Period: The project period for this grant is August 1, 2009, through July 31, 2011.

Authority: This activity is funded under the authority of HRSA's Rural Health Care Services Outreach Program, statutory authority Section 330A(e) of the Public Health Service Act, as amended (42 U.S.C. 254c(e)); and the CDC's statutory authority Section 317(k)(2) of the Public Health Service Act, as amended (42 U.S.C. 247b(k)(2)). The authority for the single source award is HHS Grants Policy Directive 2.04, Awarding Grants.

Catalogue of Federal Domestic Assistance Number: HRSA's Rural Health Care Services Outreach Grant: 93.912. CDC Screening Program: 93.161.

Justification for Single Source Awards: Because of the serious public health problem in Lincoln County, Montana, and the prevalence of

asbestos-related diseases among the residents, their health is at risk of being severely impaired by lack of essential screening and related medical treatment. Due to the urgency of the situation, HRSA cannot run a full or limited competition since this process would take approximately 290 days.

LCHD has been identified as uniquely qualified for undertaking this activity. LCHD has the requisite administrative and medical infrastructure as well as prior experience with screening and coordinating treatment with other local health care providers. In addition, tracking of disease incidents is a necessary component of the award activity and LCHD has previously worked with the Montana Department of Public Health and Human Services in developing and maintaining their asbestos-related disease registry. LCHD is in a unique position to immediately undertake and coordinate the award activities necessary to address this urgent public health problem and in a manner minimizing adverse health outcomes that might otherwise result from an extended delay in providing such services.

FOR FURTHER INFORMATION CONTACT: Tom Morris, Associate Administrator, Office of Rural Health Policy, Health Resources and Services Administration, 5600 Fishers Lane, Rockville, MD 20857; phone 301–443–0835; *tmorris@hrsa.gov*.

Dated: July 10, 2009.

Mary K. Wakefield,

Administrator.

[FR Doc. E9–16959 Filed 7–16–09; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2009–0001]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice; 30-day notice and request for comments; new information collection; OMB No. 1660–NW35; FEMA Form 528–1, NEFRLS Registration; and FEMA Form 528–2, NEFRLS Search.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission describes the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort and resources used by respondents to respond) and cost, and includes the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before August 17, 2009.

ADDRESSES: Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Records Management Division, 1800 South Bell Street, Arlington, VA 20598–3005, facsimile number (202) 646–3347, or e-mail address *FEMA–Information-Collections@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Collection of Information

Title: National Emergency Family Registry and Locator System (NEFRLS).

Type of information collection: New information collection.

OMB Number: 1660–NW35.

Form Titles and Numbers: FEMA Form 528–1, NEFRLS Registration; and FEMA Form 528–2, NEFRLS Search.

Abstract: NEFRLS is a Web-based system. The information collected in the NEFRLS will be used to help facilitate the reunification of family members that have been displaced due to a major disaster or emergency.

Affected Public: Individuals or households.

Estimated Number of Respondents: 446,648.

Frequency of Response: On Occasion.

Estimated Average Hour Burden per Respondent: .74 Hours.

Estimated Total Annual Burden Hours: 328,366.

Estimated Cost: There is no start-up, operational or other costs associated with this information collection.

Dated: July 10, 2009.

Larry Gray,

Director, Records Management Division, Office of Management, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E9–17068 Filed 7–16–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2009–0001]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice; 60-day notice and request for comments; revision of a currently approved information collection; OMB No. 1660–0085; No Form.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed revision of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this Notice seeks comments concerning the Crisis Counseling Assistance and Training Program for Immediate Services which provides funding in response to a State's request for crisis counseling services for a Presidentially-declared disaster.

DATES: Comments must be submitted on or before September 15, 2009.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *http://www.regulations.gov* under docket ID FEMA–2009–0001. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Office of Chief Counsel, Regulation and Policy Team, DHS/FEMA, 500 C Street, SW., Room 835, WASH, DC 20472–3100.

(3) *Facsimile.* Submit comments to (703) 483–2999.

(4) *E-mail.* Submit comments to *FEMA-POLICY@dhs.gov.* Include docket ID FEMA–2009–0001 in the subject line.

All submissions received must include the agency name and docket ID. Regardless of the method used for

submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available on the Privacy and Use Notice link on the Administration Navigation Bar of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Carmen Mendoza, Program Specialist, DAD–IA, (202) 212–1119 for additional information. You may contact the Records Management Branch for copies of the proposed collection of information at facsimile number (202) 646–3347 or e-mail address: *FEMA-Information-Collections@dhs.gov.*

SUPPLEMENTARY INFORMATION: Section 416 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Act), Public Law 93–288, as amended, authorizes the President to provide financial assistance to State and local governments for professional counseling services to survivors of major disasters in order to relieve mental health problems caused by or aggravated by a major disaster or its aftermath. Under the provisions of Section 416 of the Act, FEMA issued the Crisis Counseling Assistance and Training Regulations (44 CFR 206.171). Section 416 of the Act is the authority under which the President has designated the Department of Health and Human Services, through the Center for Mental Health Services (CMHS), to coordinate with FEMA in administering the Crisis Counseling Assistance and Training Program (CCP). FEMA and CMHS, Substance Abuse and Mental Health Services Administration, Department of Health and Human Services have signed an interagency agreement under which CMHS provides technical assistance and consultation to States applying for CCP funding.

Collection of Information

Title: Crisis Counseling Assistance and Training Program—Immediate Services Program.

Type of Information Collection: Revision of a currently approved information collection.

OMB Number: 1660–0085.

Form Titles and Numbers: None.

Abstract: The Crisis Counseling Program includes a specific disaster program entitled Immediate Services Program (ISP). The Immediate Services Program provides for funding in response to a State request for the period immediately following a Presidentially-declared disaster, and includes community outreach, consultation and public education, and counseling techniques. State Disaster Mental Health Coordinators will provide this information for consideration of funding to provide such services.

Affected Public: State, Local or Tribal Government.

Estimated Total Annual Burden Hours: 1,230.

TABLE A.12—ESTIMATED ANNUALIZED BURDEN HOURS AND COSTS

Type of respondent	Form name/Form number	No. of respondents	No. of responses per respondent	Avg. burden per response (in hours)	Total annual burden (in hours)	Avg. hourly wage rate*	Total annual respondent cost
State Disaster Mental Health Coordinator.	CCP/ISP application and training.	15	1	72	1080	$55.30	$59,724.00
State Disaster Mental Health Coordinator.	Final Report Narrative.	15	1	10	150	55.30	8,295.00
Total					1,230		$68,019.00

Estimated Cost: There is no annual reporting and recordkeeping cost associated with this collection.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Dated: July 10, 2009.

Tammi Hines,

Acting Director, Records Management Division, Office of Management, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E9–17057 Filed 7–16–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–1845–DR; Docket ID FEMA–2008–0018]

Arkansas; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Arkansas (FEMA–1845–DR), dated June 16, 2009, and related determinations.

DATES: *Effective Date:* May 23, 2009.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency

Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective May 23, 2009.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. E9–17040 Filed 7–16–09; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[Docket No. USCBP–2009–0018]

Notice of Meeting of the Advisory Committee on Commercial Operations of Customs and Border Protection (COAC)

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security (DHS).

ACTION: Notice of Federal Advisory Committee Meeting.

SUMMARY: The Advisory Committee on Commercial Operations of U.S. Customs and Border Protection (COAC) will meet on August 5, 2009 in Washington, DC. The meeting will be open to the public.

DATES: COAC will meet Wednesday, August 5, 2009 from 9 a.m. to 1 p.m. Please note that the meeting may close early if the committee completes its business. If you plan on attending, please register either online at *http://www.cbp.gov/xp/cgov/trade/trade_outreach/coac/,* or by e-mail to *tradeevents@dhs.gov* by close-of-business on Friday, July 31, 2009.

ADDRESSES: The meeting will be held at the Ronald Reagan Building in the Horizon Ballroom, 1300 Pennsylvania Avenue, NW., Washington, DC. Written material, comments, as well as any requests to have copies of your submitted materials distributed to committee members prior to the meeting should reach the contact person at the address below by July 31, 2009. Comments must be identified by USCBP–2009–0018 and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: tradeevents@dhs.gov.* Include the docket number in the subject line of the message.
- *Fax:* 202–325–4290.
- *Mail:* Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection, Department of Homeland Security, 1300 Pennsylvania Avenue, NW., Room 5.2A, Washington, DC 20229.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

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

FOR FURTHER INFORMATION CONTACT: Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection, Department of Homeland Security, 1300 Pennsylvania Avenue, NW., Room 5.2A, Washington, DC 20229; *tradeevents@dhs.gov*; telephone 202–344–1440; facsimile 202–325–4290.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (5 U.S.C. App.), DHS hereby announces the meeting of the Advisory Committee on Commercial Operations of Customs and Border Protection (COAC). COAC is tasked with providing advice to the Secretary of Homeland Security, the Secretary of the Treasury, and the Commissioner of U.S. Customs and Border Protection (CBP) on matters pertaining to the commercial operations of CBP and related functions within DHS or the Department of the Treasury.

The second meeting of the eleventh term of COAC will be held at the date, time and location specified above. A tentative agenda for the meeting is set forth below.

Tentative Agenda

1. Trade Facilitation Subcommittee.
2. Import Safety Initiatives.
3. Importer Security Filing (''10+2'').
4. Intellectual Property Rights Enforcement Subcommittee.
5. Agriculture Subcommittee.
6. Air Cargo Security Subcommittee.
7. Automation Subcomittee.

Procedural

This meeting is open to the public. Please note that the meeting may close early if all business is finished.

Participation in COAC deliberations is limited to committee members, Department of Homeland Security officials, and persons invited to attend the meeting for special presentations.

All visitors to the Ronald Reagan Building will have to go through a security checkpoint to be admitted to the building. Since seating is limited, all persons attending this meeting should provide notice by close-of-business on Friday, July 31, 2009, by registering online at *http://www.cbp.gov/xp/cgov/trade/trade_outreach/coac/* or, alternatively, by contacting Ms. Wanda Tate, Office of Trade Relations, U.S. Customs and Border Protection, Department of Homeland Security, 1300 Pennsylvania Avenue, NW., Washington, DC 20229; *tradeevents@dhs.gov*; telephone 202–344–1440; facsimile 202–325–4290.

Information on Services for Individuals with Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Ms. Wanda Tate as soon as possible.

Dated: July 13, 2009.

Kimberly Marsho,

Director, Office of Trade Relations, U.S. Customs and Border Protection.

[FR Doc. E9–16970 Filed 7–16–09; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2008–0010]

National Fire Academy Board of Visitors

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Committee Management; Notice of Open Teleconference Federal Advisory Committee Meeting.

SUMMARY: The National Fire Academy Board of Visitors will meet by teleconference on August 5, 2009.

DATES: The teleconference will take place Wednesday, August 5, 2009, from 10 a.m. to 12 p.m., e.s.t. Comments must

be submitted by Wednesday, August 12, 2009.

ADDRESSES: Members of the public who wish to obtain the call-in number, access code, and other information for the public teleconference may contact Teressa Kaas as listed in the **FOR FURTHER INFORMATION CONTACT** section by August 4, 2009, as the number of teleconference lines is limited and available on a first-come, first served basis. Written material as well as requests to have written material distributed to each member of the committee prior to the meeting should reach Teressa Kaas as listed in the **FOR FURTHER INFORMATION CONTACT** section by August 4, 2009. Comments must be identified by docket ID FEMA–2008–0010 and may be submitted by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: FEMA–RULES@dhs.gov.* Include the docket ID in the subject line of the message.
- *Fax:* 703–483–2999.
- *Mail:* Teressa Kaas, 16825 South Seton Avenue, Emmitsburg, Maryland 21727.

Instructions: All submissions received must include the docket ID for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received by the National Fire Academy Board of Visitors, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Teressa Kaas, 16825 South Seton Avenue, Emmitsburg, Maryland 21727, telephone (301) 447–1117, fax (301) 447–1173, and email *teressa.kaas@dhs.gov.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92–463). The National Fire Academy Board of Visitors will be holding a teleconference for purposes of reviewing National Fire Academy Program activities, including the status of facility capital improvements, the budget update, the Academy update, Board discussions and new items. This teleconference is open to the public.

The Chairperson of the National Fire Academy Board of Visitors shall conduct the teleconference in a way that will, in his judgment, facilitate the orderly conduct of business. During its teleconference, the committee welcomes public comment; however, comments will be permitted only during the public comment period. The Chairperson will make every effort to hear the views of all interested parties. Please note that the teleconference may end early if all business is completed.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Teressa Kaas as soon as possible.

Dated: July 7, 2009.

Denis G. Onieal,

Acting Deputy Assistant Administrator, U.S. Fire Administration, Federal Emergency Management Agency.

[FR Doc. E9–17062 Filed 7–16–09; 8:45 am]

BILLING CODE 9111–45–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5280–N–27]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

DATES: *Effective Date:* July 17, 2009.

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7262, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: July 9, 2009.

Mark R. Johnston,

Deputy Assistant Secretary for Special Needs.

[FR Doc. E9–16706 Filed 7–16–09; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–FWS–R9–IA–2009–N144] [96200–1672–0005–7E]

Proposed Information Collection; OMB Control Number 1018-0142; Wildlife Without Borders—Critically Endangered Animals Conservation Fund Grant Program

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (Fish and Wildlife Service) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This IC is scheduled to expire on November 30, 2009. We 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.

DATES: To ensure that we are able to consider your comments on this IC, we must receive them by September 15, 2009.

ADDRESSES: Send your comments on the IC to Hope Grey, Information Collection Clearance Officer, Fish and Wildlife Service, MS 222–ARLSQ, 4401 North Fairfax Drive, Arlington, VA 22203 (mail); or *hope_grey@fws.gov* (e-mail).

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, contact Hope Grey by mail or e-mail (see ADDRESSES) or by telephone at (703) 358–2482.

SUPPLEMENTARY INFORMATION:

I. Abstract

In May 2009, we requested that OMB approve, on an emergency basis, our request to collect information associated with a new grant program. We asked for emergency approval because of the necessity to spend program funds this fiscal year. OMB approved our request and assigned OMB Control No. 1018-0142, which expires November 30, 2009. We are going to ask OMB to

extend the approval for this information collection for 3 years.

Section 8 of the Endangered Species Act (16 U.S.C. 1531 et seq.) authorizes the establishment of the Wildlife Without Borders—Critically Endangered Animals Conservation Fund to fund projects that conserve the world's most endangered species. Critically endangered species are those that face an extremely high risk of extinction in the immediate future. The Division of International Conservation, Fish and Wildlife Service, administers this competitive grants program to provide funding for conservation actions that have a high likelihood of creating durable benefits to specific species facing immediate threat of extinction.

Applicants submit proposals for funding in response to a Notice of Funding Availability that we publish on Grants.gov and the program web page. Applications consist of:

(1) Cover page with basic project details (FWS Form 3-2338A).

(2) Project summary and narrative.

(3) Letter of appropriate government endorsement.

(4) Brief curricula vitae for key project personnel.

(5) Complete Standard Forms 424 and 424b (non-domestic applicants do not submit the standard forms).

Applications may also include, as appropriate, a copy of the organization's Negotiated Indirect Cost Rate Agreement (NIRCA) and any additional documentation supporting the proposed project.

All assistance awards under this program have a maximum reporting requirement of a:

(1) Mid-term report (performance report and a financial status report) due within 30 days of the conclusion of the first half of the project period, and

(2) Final report (performance and financial status report and copies of all deliverables, photographic documentation of the project and products resulting from the project) due within 90 days of the end of the performance period.

II. Data

OMB Control Number: 1018-0142.

Title: Wildlife Without Borders—Critically Endangered Animals Conservation Fund Grant Program.

Service Form Number(s): 3-2338A.

Type of Request: Extension of a currently approved collection.

Affected Public: Domestic and nondomestic Federal, State, and local governments; nonprofit, nongovernmental organizations; public and private institutions of higher education; and any other organization or individual with demonstrated experience deemed necessary to carry out the proposed project.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Annually.

Activity	Number of annual respondents	Number of annual responses	Completion time per response	Annual burden hours
Applications	40	40	12 hours	480
Reports	10	20	30 hours	600
Totals	50	60		1,080

III. Request for Comments

We invite comments concerning this IC on:

(1) Whether or not the collection of information is necessary, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: July 9, 2009

Hope Grey,

Information Collection Clearance Officer, Fish and Wildlife Service.

[FR Doc. E9–17072 Filed 7–16–09; 8:45 am]

BILLING CODE 4310–55–S

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R9–MB–2009–N140] [91200–1232–BPPR–P2]

Information Collection Sent to the Office of Management and Budget (OMB) for Approval; OMB Control Number 1018–0133; Control and Management of Resident Canada Geese

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (Fish and Wildlife Service) have sent an Information Collection Request (ICR) to OMB for review and approval. The ICR, which is summarized below, describes the nature of the collection and the estimated burden and cost. OMB approval for this information collection is scheduled to expire on August 31, 2009. We 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. However, under OMB regulations, we may continue to conduct or sponsor this information collection while it is pending at OMB.

DATES: You must send comments on or before August 17, 2009.

ADDRESSES: Send your comments and suggestions on this information collection to the Desk Officer for the Department of the Interior at OMB-OIRA at (202) 395-5806 (fax) or *OIRA_DOCKET@OMB.eop.gov* (e-mail). Please provide a copy of your comments to Hope Grey, Information Collection Clearance Officer, Fish and Wildlife Service, MS 222-ARLSQ, 4401 North Fairfax Drive, Arlington, VA 22203 (mail) or *hope_grey@fws.gov* (e-mail).

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Hope Grey by mail or e-mail (see ADDRESSES) or by telephone at (703) 358–2482.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 1018-0133.

Title: Control and Management of Resident Canada Geese, 50 CFR 20.21, 21.49, 21.50, 21.51, 21.52, and 21.61.

Service Form Number(s): None.

Type of Request: Extension of a currently approved collection.

Affected Public: State fish and wildlife agencies, tribes, and local governments; airports, landowners; and farms.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Annually.

Activity	Number of annual respondents	Number of annual responses	Completion time per response	Annual burden hours
21.49 – Airport Control Order – Annual Report	110	110	1.5 hours	166
21.50 - Nest and Egg Depredation Order – Registration and Report.	2,000	4,000	.5 hours	2,000
21.51 – Agricultural Depredation Order – Recordkeeping	600	600	.5 hours	300
21.51 – Agricultural Depredation Order – Annual Report	30	30	8 hours	240
21.52 – Public Health Control Order – Annual Report	35	35	1 hour	35
21.61 – Population Control Approval Request – Record-keeping and Annual Report.	30	30	24 hours	720
21.61 – Population Control Approval Request – Population Estimates.	30	30	160 hours	4,800
Totals	2,835	4,835		8,261

Abstract: The Migratory Bird Treaty Act prohibits the take, possession, import, export, transport, sale, purchase, or bartering of migratory birds or their parts except as permitted under the terms of a valid permit or as permitted by regulations. In 2006, we issued regulations establishing two depredation orders and three control orders that allow State and tribal wildlife agencies, private landowners, and airports to conduct resident Canada goose population management, including the take of birds. We monitor the data collected for activities under these orders and may rescind an order if monitoring indicates that activities are inconsistent with conservation of Canada geese.

Control order for airports. 50 CFR 21.49 allows managers at commercial, public, and private airports and military airfields and their employees or agents to implement management of resident Canada geese to resolve or prevent threats to public safety. An airport must be part of the National Plan of Integrated Airport Systems and have received Federal grant-in-aid assistance or be a military airfield under the jurisdiction, custody, or control of the Secretary of a military department. Each facility exercising the privileges of the order must submit an annual report with the date, numbers, and locations of birds, nests, and eggs taken.

Depredation order for nests and eggs. 50 CFR 21.50 allows private landowners and managers of public lands to destroy resident Canada goose nests and eggs on property under their jurisdiction provided they register annually on our website at https://epermits.fws.gov/eRCGR. Registrants must provide basic information, such as name, address, phone number and email, and identify where the control work will occur and who will conduct it. Registrants must return to the website to report the number of nests with eggs they destroyed.

Depredation order for agricultural facilities. 50 CFR 21.51 allows States and tribes, via their wildlife agency, to implement a program to allow landowners, operators, and tenants actively engaged in commercial agriculture to conduct damage management control when geese are committing depredations or to resolve or prevent other injury to agricultural interests. State and tribal wildlife agencies in the Atlantic, Central, and Mississippi Flyway portions of 41 States can implement the provisions of the order. Agricultural producers must maintain a log of the date and number of birds taken under this authorization. States and tribes exercising the privileges of the order must submit an annual report of the numbers of birds, nests, and eggs taken and the county where take occurred.

Public health control order. 50 CFR 21.52 authorizes States and tribes of the lower 48 States to conduct (via the State or tribal wildlife agency) resident Canada goose control and management activities when the geese pose a direct threat to human health. States and tribes operating under this order must submit an annual report summarizing activities, including the numbers of birds taken and the county where take occurred.

Population control. 50 CFR 21.61 establishes a managed take program to reduce and stabilize resident Canada goose populations when traditional and otherwise authorized management measures are not successful or feasible. A State or tribal wildlife agency in the Atlantic, Mississippi, or Central Flyway may request approval for this population control program. If approved, the State or tribe may use hunters to harvest resident Canada geese during the month of August. Requests for approval must include a discussion of the State's or tribe's efforts to address its injurious situations using other methods or a discussion of the reasons why the methods are not feasible. If the Service Director approves a request, the State or tribe must (1) keep annual records of activities carried out under the authority of the program, and (2) provide an annual summary, including number of individuals participating in the program and the number of resident Canada geese shot. Additionally, participating States and tribes must monitor the spring breeding population by providing an annual estimate of the breeding population and distribution of resident Canada geese in their State.

Comments: On March 18, 2009, we published in the **Federal Register** (74 FR 11597) a notice of our intent to request that OMB renew this information collection. In that notice, we solicited comments for 60 days, ending on May 18, 2009. We received one comment in response to that notice. The commenter opposed the killing of geese, but did not address the information collection requirements. We did not make any changes to the collection requirements.

We again invite comments concerning this information collection on:

(1) Whether or not the collection of information is necessary, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, e-mail address,

or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: June 26, 2009

Hope Grey,

Information Collection Clearance Officer, Fish and Wildlife Service.

FR Doc. E9–17070 Filed 7–16–09; 8:45 am

BILLING CODE 4310–55–S

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection for 1029–0119

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request approval to continue the collection of information for 30 CFR 874.16—contractor eligibility, and the Abandoned Mine Land Contractor Information form. This information collection activity was previously approved by the Office of Management and Budget (OMB), and assigned clearance number 1029–0119.

DATES: Comments on the proposed information collection must be received by September 15, 2009, to be assured of consideration.

ADDRESSES: Comments may be mailed to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW., Room 202–SIB, Washington, DC 20240. Comments may also be submitted electronically to *jtrelease@osmre.gov.*

FOR FURTHER INFORMATION CONTACT: To receive a copy of the information collection request contact John A. Trelease, at (202) 208–2783.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR 1320, which implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [*see* 5 CFR 1320.8 (d)]. This notice identifies information collection that OSM will be submitting to ONE for approval. This collection is contained in 30 CFR 874.16 and the Abandoned Mine Land Contractor Information form. OSM will request a 3-year term of approval for each information collection activity.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information/collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSM's submission of the information collection request to OMB.

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

The following information is provided for the information collection: (1) Title of the information collection; (2) OMB control number; (3) summary of the information collection activity; and (4) frequency of collection, description of the respondents, estimated total annual responses, and the total annual reporting and recordkeeping burden for the collection of information.

Title: 30 CFR 874.16—Contractor eligibility, and the AML Contractor Information form.

OMB Control Number: 1029–0119.

Summary: 30 CFR 874.16 requires that every successful bidder for an AML contract must be eligible under 30 CFR 773.15(b)(1) at the time of contract award to receive a permit or conditional permit to conduct surface coal mining operations. Further, the regulation requires the eligibility to be confirmed by OSM's automated AVS and the contractor must be eligible under the regulations implementing Section 510(c) of the Surface Mining Act to receive permits to conduct mining operations. The AML Contractor Information form provides a tool for OSM and the States/Indian tribes to help them prevent persons with outstanding violations from conducting further mining or AML reclamation activities in the State.

Bureau Form Number: None.

Frequency of Collection: Once per contract.

Description of Respondents: AML contract applicants and State and tribal regulatory authorities.

Total Annual Responses: 337 bidders and 16 State responses.

Total Annual Burden Hours: 136.

Dated: July 13, 2009.

Alfred E. Whitehouse,

Acting Chief, Division of Regulatory Support.

[FR Doc. E9–16910 Filed 7–16–09; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

National Park Service

Final General Management Plan and Environmental Impact Statement, Fort Stanwix National Monument, NY

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of Availability of Final General Management Plan and Environmental Impact Statement, Fort Stanwix National Monument, New York.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), the National Park Service (NPS) announces the availability of a Final General Management Plan and Environmental Impact Statement (GMP/EIS) for Fort Stanwix National Monument, located in the city of Rome, New York. Consistent with National Park Service rules, regulations, and policies, and the park's mission, the proposed federal action to establish a programmatic framework for park management in the form of a general management plan that is consistent with the purposes of the park as set forth in the park's enabling legislation *An Act to Provide for the Establishment of a National Monument on the Site of Fort Stanwix in the State of New York* (Pub. L. 74–291).

The Final GMP/EIS analyzes alternatives to guide the management and development of Fort Stanwix National Monument over the next 15 to 20 years, consistent with the park's mission and NPS policy and other laws and regulations. NPS regional planning staff and staff at Fort Stanwix NM collaborated in the development of the Final GMP/EIS. The main issues that the Final GMP/EIS has focused on include protection of cultural resources, visitor services, partnership opportunities, carrying capacity, and the park boundary.

The Final GMP/EIS analyzes two alternatives to guide the management

and development of Fort Stanwix National Monument. Alternative 1: No Action focuses on basically maintaining current management, protection, and interpretive practices and interpreting the siege of Fort Stanwix in the Revolutionary War. Alternative 2: Action Alternative seeks to broaden interpretation of Fort Stanwix in the context of the Northern Frontier, the Mohawk Valley, and American Indian history; forge new partnerships; upgrade exhibits and waysides; expand the interpretive role of the Marinus Willett Center; and develop an 18th-century cultural landscape treatment plan for the site. Alternative 2 is the preferred alternative because it best supports the park's purpose, significance and goals, while also providing management direction that best protects resources and offers high-quality visitor experiences.

The Final GMP/EIS describes the affected environment and evaluates potential environmental consequences of implementing the alternatives. Impact topics include cultural and natural resources, visitor experience, park operations, and the socioeconomic environment.

The Draft General Management Plan/ Environmental Impact Statement (GMP/ EIS) was made available for public review between September 15 and December 1, 2008. On August 26, 2008, a ''Notice of Availability'' formally announcing the public availability of the Draft GMP/EIS was published in the **Federal Register** (73 FR 50343). A public meeting was held in Rome, NY, on October 23, 2008. During the comment period, 14 written comments were received by the planning team. Most respondents supported the preferred alternative.

DATES: The National Park Service will prepare a Record of Decision concerning the selection of a management alternative no sooner than 30 days following publication by the Environmental Protection Agency of Notice of Availability of the Final GMP/ EIS in the **Federal Register**.

Further Information and Addresses: The Final General Management Plan/ Environmental Impact Statement for Fort Stanwix National Monument is available public online at *http://parkplanning.nps.gov*. Copies are available upon request by contacting Superintendent Debbie Conway, Fort Stanwix National Monument,112 East Park Street, Rome, NY 13440; phone 315–338–7730; *Debbie_Conway@nps.gov.*

Dennis R. Reidenbach,

Regional Director, Northeast Region.

[FR Doc. E9–17071 Filed 7–16–09; 8:45 am]

BILLING CODE 4310–D2–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: U.S. Department of the Interior, National Park Service, Tumacacori National Historical Park, Tumacacori, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession of the U.S. Department of the Interior, National Park Service, Tumacacori National Historical Park, Tumacacori, AZ. The human remains and associated funerary objects were removed from Tumacacori Mission in Santa Cruz County, AZ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations within this notice are the sole responsibility of the superintendent, Tumacacori National Historical Park.

A detailed assessment of the human remains and associated funerary objects was made by Tumacacori National Historical Park and Western Archeological and Conservation Center professional staff in consultation with representatives of the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Pascua Yaqui Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; San Carlos Apache Tribe of San Carlos Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico. The Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona did not attend the consultation meetings but was represented by the Gila River Indian Community of the Gila River Indian Reservation, Arizona. The Fort Sill Apache Tribe of Oklahoma; Jicarilla Apache Nation, New Mexico; Tonto Apache Tribe of Arizona; and the White Mountain Apache Tribe of the Fort Apache Reservation, Arizona were contacted but did not participate in the consultation meetings.

In 1965, human remains representing a minimum of 20 individuals were removed from Tumacacori Mission in Santa Cruz County, AZ. No known individuals were identified. The 32 associated funerary objects are 1 stone ball/hammerstone, 1 unifacial flaked stone tool (knife), 23 beads and 1 box of beads, 1 box of textile fragments, 1 crucifix, 2 metal fragments, 1 majolica sherd, and 1 soil sample.

The historic period burials are Christianized Indian interments in and around a church used during the Jesuit and Franciscan Periods. The church from which the burials were removed was built between A.D. 1753 and A.D. 1757, but the burials could have taken place anywhere from A.D. 1753 to A.D. 1824. The Jesuit Period ended in 1767, but a new Franciscan church was not built until 1822. After 1822, burials were in the Franciscan cemetery and church. However, individuals could have been buried in the Jesuit church after the Franciscan church was built. One of the burials included in this inventory was removed 6 inches above the Jesuit church floor. The latest possible date for these burials is 1848, when the last residing Native Americans departed for San Xavier del Bac north of Tumacacori.

The human remains listed above have been identified as Native American and determined to be culturally affiliated with the tribes listed below based on analyses by a physical anthropologist, an analysis of regional and archeological contexts, and information from Spanish burial records in mission registers. During the Mission Period individuals were buried under church floors if they were in good standing with the Catholic Church, or by relatives after the priests left. Church burial records show that there were very few Anglo or Spanish priest burials at Tumacacori, and most individuals were identified as O'odham.

Oral history, tradition, archeological evidence, and written Spanish documents show that, historically, the Native American groups at Tumacacori included all present day O'odham tribes, nations, and communities. The Ak Chin Indian Community of the Maricopa (Ak Chin) Reservation, Arizona consists primarily of Akimel and Tohono O'odham, with a few families of Hia-Ced O'odham. The Gila River Indian Community of the Gila River Indian Reservation, Arizona and the Salt River Pima-Maricopa Indian Community of the Salt River

Reservation are both composed primarily of Akimel O'odham along with small populations of Maricopas who moved from the central portion of the Gila River, around Gila Bend, to join Akimel O'odham populations living along the Salt and Gila Rivers in the 1800s.

Historical Spanish records of baptisms, weddings, and burials indicate that Yaqui and Apache families and individuals were also present at the mission and were buried in church cemeteries and under church floors. Apache groups are known to have occupied the area historically, and Apache baptisms, marriages, and burials were recorded by Spanish priests, especially in the 1800s. The Spanish burial records suggest that the most common Indian burials were that of O'odham, with smaller numbers of Apache and Yaqui.

Officials of Tumacacori National Historical Park have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of 20 individuals of Native American ancestry. Officials of Tumacacori National Historical Park also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 32 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of Tumacacori National Historical Park have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Fort Sill Apache Tribe of Oklahoma; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Jicarilla Apache Nation, New Mexico; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Pascua Yaqui Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; San Carlos Apache Tribe of the San Carlos Reservation, Arizona; Tohono O'odham Nation of Arizona; Tonto Apache Tribe of Arizona; and White Mountain Apache Tribe of the Fort Apache Reservation, Arizona.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Lisa Carrico, superintendent, Tumacacori National Historical Park, P.O. Box 8067, Tumacacori, AZ 85640, telephone (520) 398–2341 Ext. 52, before August 17, 2009. Repatriation of the human remains and associated funerary objects to the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Fort Sill Apache Tribe of Oklahoma; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Jicarilla Apache Nation, New Mexico; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Pascua Yaqui Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; San Carlos Apache Tribe of the San Carlos Reservation, Arizona; Tohono O'odham Nation of Arizona; Tonto Apache Tribe of Arizona; and White Mountain Apache Tribe of the Fort Apache Reservation, Arizona may proceed after that date if no additional claimants come forward.

Tumacacori National Historical Park is responsible for notifying the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Fort Sill Apache Tribe of Oklahoma; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Jicarilla Apache Nation, New Mexico; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Pascua Yaqui Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; San Carlos Apache Tribe of San Carlos Reservation, Arizona; Tohono O'odham Nation of Arizona; Tonto Apache Tribe of Arizona; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico that this notice has been published.

Dated: June 23, 2009

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E9–17054 Filed 7–16–09; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Acadia National Park, Bar Harbor, ME; Acadia National Park Advisory Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App. 1, Sec. 10), that the Acadia National Park Advisory Commission will hold a meeting on Monday, September 14, 2009.

The Commission was established pursuant to Public Law 99–420, Sec. 103. The purpose of the commission is to consult with the Secretary of the Interior, or his designee, on matters relating to the management and development of the park, including but not limited to the acquisition of lands and interests in lands (including conservation easements on islands) and termination of rights of use and occupancy.

The meeting will convene at Park Headquarters, Bar Harbor, Maine, at 1 p.m., to consider the following agenda:

1. *Committee Reports:*
   —Land Conservation
   —Park Use
   —Science and Education
   —Historic
2. Old business.
3. Superintendent's report.
4. Public comments.
5. Proposed agenda for next Commission meeting in February 2010.

The meeting is open to the public. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the Superintendent at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from the Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, Maine 04609, tel: (207) 288–3338.

Dated: June 30, 2009.

Sheridan Steele,

Superintendent.

[FR Doc. E9–17105 Filed 7–16–09; 8:45 am]

BILLING CODE 4310–2N–P

DEPARTMENT OF THE INTERIOR

National Park Service

Cancellation of July 21, 2009, Meeting of the Big Cypress National Preserve Off-Road Vehicle (ORV) Advisory Committee

AGENCY: National Park Service, Interior.

ACTION: Cancellation of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App 1, 10), notice is hereby given that the July 21, 2009, meeting of the Big Cypress National Preserve ORV Advisory Committee previously announced in the **Federal Register**, Vol. 73, November 17, 2008, p. 67882, is cancelled.

FOR FURTHER INFORMATION CONTACT: Pedro Ramos, Superintendent, Big Cypress National Preserve, 33100 Tamiami Trail East, Ochopee, Florida 34141–1000; 239–695–1103.

SUPPLEMENTARY INFORMATION: The Committee was established (**Federal Register**, Vol. 72, August 1, 2007, pp. 42108–42109) pursuant to the Preserve's 2000 *Recreational Off-Road Vehicle Management Plan* and the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix) to examine issues and make recommendations regarding the management of off-road vehicles (ORVs) in the Preserve. The agendas for these meetings are published by press release and on the *http://parkplanning.nps.gov/projectHome.cfm?parkId=352&projectId=20437* Web site. The meetings are open to the public, and time is reserved for public comment. Oral comments are summarized for the record. If individuals wish to have their comments recorded verbatim, they must submit them in writing.

Dated: July 6, 2009.

Pedro Ramos,

Superintendent, Big Cypress National Preserve.

[FR Doc. E9–17098 Filed 7–16–09; 8:45 am]

BILLING CODE 4310–V6–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORL00000–L10200000.MJ0000.LXSS021H0000; HAG 09–0230]

Notice of Meeting, Southeast Oregon Resource Advisory Council (OR)

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meeting.

SUMMARY: Pursuant to the Federal Land Policy and Management Act and the Federal Advisory Committee Act, the U.S. Department of the Interior, Bureau of Land Management (BLM) Southeast Oregon Resource Advisory Council (SEORAC) will meet as indicated below:

DATES: The meeting will begin at 9:30 a.m. on August 13, 2009, and at 8 a.m. on August 14, 2009.

ADDRESSES: The Council will meet at the Holiday Inn Express, 212 SE 10th Street, Ontario, Oregon.

FOR FURTHER INFORMATION CONTACT: Scott Stoffel, Public Affairs Specialist, 1301 South G Street, Lakeview, OR 97630, (541) 947–6237.

SUPPLEMENTARY INFORMATION: The SEORAC advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues for public lands in the Lakeview, Burns and Vale BLM Districts and the Fremont-Winema and Malheur National Forests. Planned agenda items include: A tour of current Vale District energy, recreation, sagebrush, sage-grouse and wilderness characteristics projects; updates on BLM and U.S. Forest Service American Recovery and Reinvestment Act projects; an overview of BLM's sage-grouse and sagebrush strategies; a discussion on the proposed action for the Fremont-Winema National Forests' Travel Management Plan; a summary of federal energy team and project efforts; and a briefing on the current status of the sage-grouse listing decision. Other agenda topics include: Manager updates on current land management issues, interest area briefings by Council members, reports from the Chairs of active subgroups, development of agenda items for the next meeting, and any other matters that may reasonably come before the SEORAC.

The public is welcome to attend all portions of the meeting and may make oral comments to the Council at 8:15 a.m. on August 14, 2009. Those who verbally address the SEORAC are asked to provide a *written* statement of their comments or presentation. Unless otherwise approved by the SEORAC Chair, the public comment period will last no longer than 30 minutes, and each speaker may address the SEORAC for a maximum of five minutes. The meeting agenda will be posted at *http://www.blm.gov/or/rac/seorrac-minutes.php* when available. If reasonable accommodation is required, please contact the BLM's Lakeview District at (541) 947–2177 as soon as possible.

Dated: July 9, 2009.

Carol A. Benkosky,

District Manager, Lakeview District Office.

[FR Doc. E9–16967 Filed 7–16–09; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf (OCS) Western Planning Area (WPA) Gulf of Mexico (GOM) Oil and Gas Lease Sale 210

AGENCY: Minerals Management Service, Interior.

ACTION: Final Notice of Sale (NOS) 210.

SUMMARY: On Wednesday, August 19, 2009, MMS will open and publicly announce bids received for blocks offered in WPA Oil and Gas Lease Sale 210, pursuant to the OCS Lands Act (43 U.S.C. 1331–1356, as amended) and the regulations issued thereunder (30 CFR Part 256). The Final NOS 210 Package contains information essential to bidders, and bidders are charged with the knowledge of the documents contained in the Package.

DATES: Public bid reading for the WPA Oil and Gas Lease Sale 210 will begin at 9 a.m., Wednesday, August 19, 2009, at the Royal Sonesta Hotel in the Grand Ballroom, located at 300 Bourbon Street, New Orleans, Louisiana 70130. All times referred to in this document are local New Orleans times, unless otherwise specified.

ADDRESSES: Bidders can obtain a Final NOS 210 Package containing this NOS and several supporting and essential documents referenced herein from MMS Gulf of Mexico Region Public Information Unit, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, (504) 736–2519 or (800) 200–GULF or via the MMS GOM Homepage Address on the Internet at: *http://www.gomr.mms.gov.*

Filing of Bids: Bidders must submit sealed bids to the Regional Director (RD), MMS Gulf of Mexico Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, between 8 a.m. and 4 p.m. on normal working days, and from 8 a.m. to the Bid Submission Deadline of 10 a.m. on Tuesday, August 18, 2009, the day before the lease sale. If bids are mailed, please address the envelope containing all of the sealed bids as follows:

Attention: Supervisor, Leasing and Financial Responsibility Unit (MS 5422), Leasing and Environment, Leasing Activities Section, MMS Gulf of Mexico Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394. Contains Sealed Bids for Oil and Gas Lease Sale 210. Please Deliver to Ms. Nancy Kornrumpf, 6th Floor, Immediately.

Please note: Bidders mailing their bid(s) are advised to call Ms. Nancy Kornrumpf at (504) 736–2726, immediately after putting their bid(s) in the mail.

If the RD receives bids later than the time and date specified above, he will return those bids unopened to bidders. Should an unexpected event such as flooding or travel restrictions be significantly disruptive to bid submission, MMS Gulf of Mexico Region may extend the Bid Submission Deadline. Bidders may call (504) 736–0557 or access our Web site at: *http://www.gomr.mms.gov* for information about the possible extension of the Bid Submission Deadline due to such an event.

Areas Offered for Leasing: The MMS is offering for leasing in the WPA OCS Oil and Gas Lease Sale 210, all blocks and partial blocks listed in the document ''List of Blocks Available for Leasing'' included in this Final NOS

210 Package. All of these blocks are shown on the following leasing maps and Official Protraction Diagrams (OPDs):

Outer Continental Shelf Leasing Maps—Texas Map Numbers 1 Through 8 (These 16 Maps Sell for $2.00 Each)

TX1 South Padre Island Area (revised November 1, 2000)
TX1A South Padre Island Area, East Addition (revised November 1, 2000)
TX2 North Padre Island Area (revised November 1, 2000)
TX2A North Padre Island Area, East Addition (revised November 1, 2000)
TX3 Mustang Island Area (revised November 1, 2000)
TX3A Mustang Island Area, East Addition (revised September 3, 2002)
TX4 Matagorda Island Area (revised November 1, 2000)
TX5 Brazos Area (revised November 1, 2000)
TX5B Brazos Area, South Addition (revised November 1, 2000)
TX6 Galveston Area (revised November 1, 2000)
TX6A Galveston Area, South Addition (revised November 1, 2000)
TX7 High Island Area (revised November 1, 2000)
TX7A High Island Area, East Addition (revised November 1, 2000)
TX7B High Island Area, South Addition (revised November 1, 2000)
TX7C High Island Area, East Addition, South Extension (revised November 1, 2000)
TX8 Sabine Pass Area (revised November 1, 2000)

Outer Continental Shelf Leasing Maps—Louisiana Map Numbers 1A, 1B, and 12 (These 3 Maps Sell for $2.00 Each)

LA1A West Cameron Area, West Addition (revised February 28, 2007)
LA1B West Cameron Area, South Addition (revised February 28, 2007)
LA12 Sabine Pass Area (revised February 28, 2007)

Outer Continental Shelf Official Protraction Diagrams (These 7 Diagrams Sell for $2.00 Each)

NG14–03 Corpus Christi (revised November 1, 2000)
NG14–06 Port Isabel (revised November 1, 2000)
NG15–01 East Breaks (revised November 1, 2000)
NG15–02 Garden Banks (revised February 28, 2007)
NG15–04 Alaminos Canyon (revised November 1, 2000)
NG15–05 Keathley Canyon (revised February 28, 2007)
NG15–08 Sigsbee Escarpment (revised February 28, 2007)

Please note: A CD–ROM (in ARC/INFO and Acrobat (.pdf) format) containing all of the GOM leasing maps and OPD, except for those not yet converted to digital format, is available from MMS Gulf of Mexico Region Public Information Unit for a price of $15. These GOM leasing maps and OPDs are also available for free online in .pdf and .gra format at *http://www.gomr.mms.gov/homepg/lsesale/map_arc.html.*

For the current status of all GOM WPA leasing maps and OPDs, please refer to 66 FR 28002 (published May 21, 2001), 67 FR 60701 (published September 26, 2002), and 72 FR 27590 (published May 16, 2007). In addition, Supplemental Official OCS Block Diagrams (SOBDs) for these blocks are available for blocks which contain the U.S. 200 Nautical Mile Limit line and the U.S.-Mexico Maritime Boundary line. These SOBDs are also available from MMS Gulf of Mexico Region Public Information Unit. For additional information, please call Ms. Tara Montgomery (504) 736–5722.

All blocks are shown on these leasing maps and OPDs. The available Federal acreage of all whole and partial blocks in this lease sale is shown in the document ''List of Blocks Available for Leasing'' included in this Final NOS 210 Package. Some of these blocks may be partially leased or deferred, or transected by administrative lines such as the Federal/State jurisdictional line. A bid on a block must include all of the available Federal acreage of that block. Also, information on the unleased portions of such blocks is found in the document ''Western Planning Area, Lease Sale 210, August 19, 2009—Unleased Split Blocks and Available Unleased Acreage of Blocks with Aliquots and Irregular Portions Under Lease or Deferred'' included in the Final NOS 210 Package.

Areas Not Available for Leasing: The following whole and partial blocks are not offered for lease in this sale:

Whole and portions of blocks which lie within the boundaries of the Flower Garden Banks National Marine Sanctuary at the East and West Flower Garden Banks and Stetson Bank (the following list includes all blocks affected by the Sanctuary boundaries):

High Island, East Addition, South Extension (Leasing Map TX7C)
Whole Block: A–398.
Portions of Blocks: A–366*, A–367*, A–374*, A–375, A–383*, A–384*, A–385*, A–388, A–389*, A–397*, A–399, A–401.
High Island, South Addition (Leasing Map TX7B)
Portions of Blocks: A–502, A–513*.
* Leased.
Garden Banks (OPD NG15–02)
Portions of Blocks: 134, 135.

Whole and portions of blocks which lie within the former Western Gap portion of the 1.4 nautical mile buffer zone north of the continental shelf boundary between the United States and Mexico:

Keathley Canyon (OPD NG15–05)
Portions of Blocks: 978 through 980.
Sigsbee Escarpment (OPD NG15–08)
Whole Blocks: 11, 57, 103, 148, 149, 194.
Portions of Blocks: 12 through 14, 58 through 60, 104 through 106, 150.

Statutes and Regulations: Each lease issued in this lease sale is subject to the OCS Lands Act of August 7, 1953; 43 U.S.C. 1331 *et seq.,* as amended, hereinafter called ''the Act;'' regulations promulgated pursuant thereto, and other statutes and regulations in existence upon the Effective Date of the Lease, and those statutes enacted and regulations promulgated thereafter, except to the extent they are inconsistent with an express provision of this lease.

This lease form language change conforms this term of OCS mineral leases with that of onshore, BLM leases and avoids a narrow and never intended reading of the previous lease language to limit the obligation of lessees to comply with later enacted laws.

The MMS uses Form MMS–2005 (March 1986) to convey leases. The lease form will be amended with the specific terms, conditions and stipulations applicable to the individual lease. Addressed below are the collective terms, conditions and stipulations applicable to this sale.

Lease Terms and Conditions: Initial periods, extensions of initial periods, minimum bonus bid amounts, rental rates, escalating rental rates for leases with an approved extension of the initial 5-year period, royalty rate, minimum royalty, and royalty suspension provisions, if any, applicable to this sale are noted below. Depictions of related areas are shown on the map ''Final, Western Planning Area, Lease Sale 210, August 19, 2009, Lease Terms and Economic Conditions,'' for leases resulting from this lease sale.

Initial Periods: 5 years for blocks in water depths of less than 400 meters; 8 years for blocks in water depths of 400 to less than 800 meters (pursuant to 30 CFR 256.37, commencement of an exploratory well is required within the first 5 years of the initial 8-year term to avoid lease cancellation); and 10 years for blocks in water depths of 800 meters or deeper.

Extensions of Initial Periods: The 5-year initial period for a lease in water

depths of less than 400 meters and issued from this sale may be extended to 8 years if a well, targeting hydrocarbons below 25,000 feet true vertical depth subsea (TVD SS), is spudded within the first 5 years of the initial period. The 3-year extension may be granted in cases where the well is drilled to a target below 25,000 TVD SS and also in cases where the well does not reach a depth below 25,000 TVD SS due to mechanical or safety reasons.

In order for the 5-year initial period to be extended to 8 years, the lessee is required to submit to the Regional Supervisor for Production and Development within 30 days after completion of the drilling operation, a letter providing the well number, spud date, information demonstrating the target below 25,000 feet TVD SS, and if applicable, any safety or mechanical problems encountered that prevented the well from reaching a depth below 25,000 feet TVD SS. The Regional Supervisor must concur in writing that the conditions have been met to extend the lease term 3 years. The Regional Supervisor will provide written confirmation of any lease extension within 30 days of receipt of the letter provided.

For any lease that has a well spudded in the first 5 years of the initial period with a hydrocarbon target below 25,000 feet TVD SS, the regulations found at 30 CFR 250.175(a), (b), and (c) *will not* be applicable at the end of the 5th year.

For any lease that does not have a well spudded in the first 5 years of the initial period which targets hydrocarbons below 25,000 feet TVD SS, the regulations found at 30 CFR 250.175(a), (b), and (c) will be applicable, but the 3-year extension *will not* be available. At the end of the 8th year, the lessee is free to use all lease-term extension provisions under the regulations.

Minimum Bonus Bid Amounts: A bonus bid will not be considered for acceptance unless it provides for a cash bonus in the amount of $25 or more per acre or fraction thereof for blocks in water depths of less than 400 meters or $37.50 or more per acre or fraction thereof for blocks in water depths of 400 meters or deeper; to confirm the exact calculation of the minimum bonus bid amount for each block, see ''List of Blocks Available for Leasing,'' contained in the Final NOS 210 Package. Please note that bonus bids must be in whole dollar amounts (*i.e.,* any cents will be disregarded by MMS).

Rental Rates: Rentals for leases issued in this sale are to be paid at the rental rates summarized in the following table on or before the 1st day of each lease year until determination of well producibility is made, then at the expiration of each lease year until the start of royalty-bearing production.

Escalating Rental Rates for leases with an approved extension of the 5-year initial period: Any lease in water depths less than 400 meters and granted a 3-year extension beyond the 5-year initial period as provided below will pay the escalating rental rate. The escalating rental rates after the 5th year for blocks in less than 400 meters will become fixed and no longer escalate if another well is spudded during the 3-year extended term of the lease that targets hydrocarbons below 25,000 feet TVD SS, and MMS concurs that this has occurred. In this case the rental rate will become fixed at the rental rate in effect during the lease year in which the additional well was spudded.

SALE 210 RENTAL RATES PER ACRE OR FRACTION THEREOF

Water depth (in meters)	Years 1–5	Years 6, 7, and 8	Years 9+
0 to <200	$7.00	$14.00, $21.00, $28.00	$28.00
200 to <400	11.00	$22.00, $33.00, $44.00	44.00
400 to <800	11.00	$16.00 (if exploratory well drilled per 30 CFR 256.37)	16.00
800+	11.00	$16.00	16.00

Royalty Rate: 18¾ percent royalty rate for blocks in all water depths, except during periods of royalty suspension, to be paid monthly on the last day of the month following the month during which the production is obtained.

Minimum Royalty: $7.00 per acre or fraction thereof per year for blocks in water depths of less than 200 meters and $11.00 per acre or fraction thereof per year for blocks in water depths of 200 meters or deeper regardless of the year of the lease and notwithstanding any royalty relief volume. Minimum royalty is to be paid at the expiration of each lease year beginning in the year in which royalty bearing production commences, and continuing thereafter regardless of either the lease year or whether any royalty suspension may apply. A credit will be applied for any actual royalty paid on the lease during the lease year in which minimum royalty is owed on the lease. If the actual royalty paid on the lease for a given lease year exceeds the minimum royalty otherwise owed, then no minimum royalty payment is due.

Royalty Suspension Provisions: Leases with royalty suspension volumes (RSV) are authorized under existing MMS rules at 30 CFR Parts 203 and 260. There are no circumstances under which a single lease could receive a royalty suspension both for deep gas production and for deepwater production.

Deep and Ultra-Deep Gas Royalty Suspensions

A lease issued as a result of this sale may be eligible for royalty relief for deep and ultra-deep wells pursuant to 30 CFR 203.0 and 30 CFR 203.30–203.49. The regulations provide deep gas incentives in two ways. First, they provide an RSV of at least 35 billion cubic feet of natural gas for certain wells completed in a drilling depth category (20,000 feet TVD SS or deeper) for leases in 0 to less than 400 meters of water. Second, they offer the same RSVs as those that were offered in shallower water to leases in 200 to less than 400 meters of water and they include a provision that wells completed from 15,000 to 20,000 feet TVD SS must begin production before May 3, 2013. These RSV incentives are conditional on applicable price thresholds.

Deepwater Royalty Suspensions

The following Royalty Suspension Provisions apply to deepwater oil and gas production:

A lease issued as a result of this sale may be eligible for deepwater royalty relief mandated by section 345 of EPAct05. Section 345 directs continuation of the MMS deepwater incentive program utilized since 2001 in the Gulf of Mexico for leases issued between August 8, 2005, and August 8, 2010, and provides for an increase in RSV from 12 million barrels of oil equivalent (MMBOE) to 16 MMBOE for leases in water depths greater than 2,000 meters. The RSVs provided for

deepwater leases are subject to applicable price thresholds, as discussed below. The following Royalty Suspension Provisions for deepwater oil and gas production apply to a lease issued as a result of this sale. These provisions are similar to, and mean the same as, the language used in recent sales except for some clarifying text and updated examples. In addition to these provisions, and the EPAct05, refer to 30 CFR 218.151 and applicable provisions of sections 260.120–260.124 for regulations on how royalty suspensions relate to field assignment, product types, rental obligations, and supplemental royalty relief.

1. A lease in water depths of 400 meters or more will receive a royalty suspension as follows, according to the water depth range in which the lease is located:

400 meters to less than 800 meters: 5 MMBOE.

800 meters to less than 1,600 meters: 9 MMBOE.

1,600 meters to 2,000 meters: 12 MMBOE.

Greater than 2,000 meters: 16 MMBOE.

2. In any calendar year during which the arithmetic average of the daily closing prices for the nearby delivery month on the New York Mercantile Exchange (NYMEX) for the applicable product exceeds the adjusted product price threshold, the lessee must pay royalty on production that would otherwise receive royalty relief under 30 CFR Part 260 or supplemental relief under 30 CFR Part 203, and such production will count towards the royalty suspension volume.

(a) The base level price threshold for light sweet crude oil is $37.18 per barrel expressed in 2008 dollars. The adjusted oil price threshold in any subsequent calendar year is computed by changing the price threshold applicable in the immediately preceding calendar year by the percentage by which the implicit price deflator for the gross domestic product has changed during the calendar year.

(b) The base level price threshold for natural gas is $4.65 per million British thermal units (MMBTU) expressed in 2008 dollars. The adjusted gas price threshold in any subsequent calendar year is computed by changing the price threshold applicable in the immediately preceding calendar year by the percentage by which the implicit price deflator for the gross domestic product has changed during the calendar year.

(c) As an example, if the implicit price deflator indicates that inflation is 3 percent in 2009, then the price threshold in calendar year 2009 would become $38.30 per barrel for oil and $4.79 for gas. Therefore, royalty on oil production in calendar year 2009 would be due if the average of the daily closing prices for the nearby delivery month on the NYMEX in 2009 exceeds $38.30 per barrel and royalty on gas production in calendar year 2009 would be due if the average of the daily closing prices for the nearby delivery month on the NYMEX in 2009 exceeds $4.79 per MMBTU.

(d) The MMS provides notice in March of each year when adjusted price thresholds for the preceding year were exceeded. Once this determination is made, based on the then-most recent implicit price deflator information, it will not be revised regardless of any subsequent adjustments in the implicit price deflator published by the U.S. Government for the preceding year. Information on price thresholds and the methodology for applying the preceding year's implicit price deflator is available at MMS Web site at: *http://www.mms.gov/econ* and in the 2008 Notice of the Annual Price Threshold Determination (74 FR 26879).

(e) In cases where the actual average price for the product exceeds the adjusted price threshold in any calendar year, royalties must be paid no later than 90 days after the end of the year (*see* 30 CFR 260.122(b)(2) for more detail) and royalties must be paid provisionally in the following calendar year (*see* 30 CFR 260.122(c) for more detail).

(f) Full royalties are owed on all production from a lease after the RSV is exhausted, beginning on the first day of the month following the month in which the RSV is exhausted.

Lease Stipulations: The map ''Final, Western Planning Area, Lease Sale 210, August 19, 2009, Stipulations and Deferred Blocks'' depicts those blocks on which one or more of four lease stipulations apply: (1) Topographic Features; (2) Military Areas; (3) Law of the Sea Convention Royalty Payment; (4) Protected Species.

The texts of the stipulations are contained in the document ''Lease Stipulations, Western Planning Area, Oil and Gas Lease Sale 210, Final Notice of Sale'' included in this Final NOS 210 Package. In addition, the ''List of Blocks Available for Leasing,'' contained in the Final NOS 210 Package identifies for each block listed the lease stipulations applicable to that block.

Information to Lessees: This Final NOS 210 Package contains an ''Information to Lessees'' document that provides detailed information on certain specific issues pertaining to this proposed oil and gas lease sale.

Method of Bidding: For each block bid upon, a bidder must submit a separate signed bid in a sealed envelope. The outside of the envelope should be labeled ''Sealed Bid for Oil and Gas Lease Sale 210, not to be opened until 9 a.m., Wednesday, August 19, 2009.'' The submitting company's name, its GOM company number, the map name, map number, and block number should be clearly identified on the outside of the envelope.

The sealed bid should list the total amount of the bid in a whole dollar amount (any cent amount above the whole dollar will be ignored by the MMS) as well as the sale number, the sale date, the submitting company's name, its GOM company number, the map name, map number, and the block number clearly identified. The information required on the bid(s) and the bid envelope(s) are specified in the document ''Bid Form and Envelope'' contained in the Final NOS 210 Package. A blank bid form has been provided therein for your convenience and may be copied and filled in. Please refer to the sample bid envelope included within the Final NOS 210 Package.

Please also refer to the Telephone Numbers/Addresses of Bidders Form included within the Final NOS 210 Package. We are requesting that you provide this information in the format suggested for each lease sale. Please provide this information prior to or at the time of bid submission. Do not enclose this form inside the sealed bid envelope.

The MMS published in the **Federal Register** a list of restricted joint bidders, which applies to this lease sale, at 74 FR 17984 on April 20, 2009. Please also refer to joint bidding provisions at 30 CFR 256.41 for additional information. All bidders must execute all documents in conformance with signatory authorizations on file in MMS Gulf of Mexico Region Adjudication Unit. Designated signatories must be authorized to bind their respective legal business entities (*e.g.,* a corporation, partnership, or LLC) and must have an incumbency certificate setting forth the authorized signatories on file with the GOM Region Adjudication Office. Bidders submitting joint bids must include on the bid form the proportionate interest of each participating bidder, stated as a percentage, using a maximum of five decimal places (*e.g.,* 33.33333 percent) with total interest equaling 100 percent. The MMS may require bidders to submit other documents in accordance with 30 CFR 256.46. The MMS warns bidders against violation of 18 U.S.C. 1860

prohibiting unlawful combination or intimidation of bidders. Bidders are advised that MMS considers the signed bid to be a legally binding obligation on the part of the bidder(s) to comply with all applicable regulations, including payment of the one-fifth bonus bid amount on all high bids. A statement to this effect must be included on each bid (*see* the document ''Bid Form and Envelope'' contained in the Final NOS 210 Package).

Withdrawal of Bids: Once submitted, bid(s) may not be withdrawn unless the RD receives a written request for withdrawal from the company who submitted the bid(s), prior to 10 a.m. on Tuesday, August 18, 2009. This request must be typed on company letterhead and must contain the submitting company's name, its company number, the map name/number and block number of the bid(s) to be withdrawn. The request must be in conformance with signatory authorizations on file in MMS Gulf of Mexico Region Adjudication Office. Signatories must be authorized to bind their respective legal business entities (*e.g.,* a corporation, partnership, or LLC) and must have an incumbency certificate setting forth the authorized signatories on file with MMS GOM Region Adjudication Office. The name and title of said signatory must be typed under the signature block on the withdrawal letter. Upon the RD's, or his designee's, approval of such requests, he will indicate his approval by affixing his signature and date to the submitting company's request for withdrawal.

Rounding: The following procedure must be used to calculate the minimum bonus bid, annual rental, and minimum royalty: Round up to the next whole acre if the block acreage contains a decimal figure prior to calculating the minimum bonus bid, annual rental, and minimum royalty amounts. The appropriate rate per acre is applied to the whole (rounded up) acreage.

The bonus bid must be in whole dollar amounts (*i.e.,* any cents will be disregarded by MMS) and greater than or equal to the minimum bonus bid. The appropriate minimum bid per acre rate is applied to the whole (rounded up) acreage and the resultant calculation is rounded up to the next whole dollar amount if the calculation results in any cents. The minimum bonus bid calculation, including all rounding, is shown in the document ''List of Blocks Available for Leasing'' included in the Final NOS 210 Package.

Bonus Bid Deposit: Each bidder submitting an apparent high bid must submit a bonus bid deposit to MMS equal to one-fifth of the bonus bid amount for each such bid. All payments must be electronically deposited into an interest-bearing account in the U.S. Treasury (account information provided in the Electronic Funds Transfer (EFT) instructions) by 11 a.m. Eastern Time the day following bid reading. Under the authority granted by 30 CFR 256.46(b), MMS requires bidders to use electronic funds transfer procedures for payment of one-fifth bonus bid deposits for Lease Sale 210, following the detailed instructions contained in the document ''Instructions for Making EFT Bonus Payments'' which can be found on MMS GOM Web site at: *http://www.gomr.mms.gov/homepg/lsesale/210/wgom210.html.* Acceptance of a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States. If a lease is awarded, however, MMS requests that only one transaction be used for payment of the four-fifths bonus bid amount and the first year's rental.

Please note: *Certain bid submitters* (*i.e.,* those that are NOT currently an OCS mineral lease record titleholder or designated operator OR those that have ever defaulted on a one-fifth bonus bid payment (EFT or otherwise)) *are required to guarantee (secure) their one-fifth bonus bid payment prior to the submission of bids.* For those who must secure the EFT one-fifth bonus bid payment, one of the following options may be used: (1) Provide a third-party guarantee; (2) amend bond coverage; (3) provide a letter of credit; or (4) provide a lump sum payment in advance via EFT. The EFT instructions specify the requirements for each option.

Withdrawal of Blocks: The United States reserves the right to withdraw any block from this lease sale prior to issuance of a written acceptance of a bid for the block.

Acceptance, Rejection, or Return of Bids: The United States reserves the right to reject any and all bids. In any case, no bid will be accepted, and no lease for any block will be awarded to any bidder, unless the bidder has complied with all requirements of this Notice and applicable regulations; the bid is the highest valid bid; and the amount of the bid has been determined to be adequate by the authorized officer. Any bid submitted which does not conform to the requirements of this Notice, the Act, and other applicable regulations may be returned to the bidder submitting that bid by the RD and not considered for acceptance. The Attorney General may also review the results of the lease sale prior to the acceptance of bids and issuance of leases. To ensure that the Government receives a fair return for the conveyance of lease rights for this lease sale, high bids will be evaluated in accordance with MMS bid adequacy procedures. A copy of current procedures, ''Modifications to the Bid Adequacy Procedures'' at 64 FR 37560 on July 12, 1999, can be obtained from MMS Gulf of Mexico Region Public Information Unit or via MMS Gulf of Mexico Region Internet Web site at: *http://www.gomr.mms.gov/homepg/lsesale/bidadeq.html.*

Successful Bidders: As required by MMS, each company that has been awarded a lease must execute all copies of the lease (Form MMS–2005 (March 1986) as amended), pay by EFT the balance of the bonus bid amount and the first year's rental for each lease issued in accordance with the requirements of 30 CFR 218.155; and satisfy the bonding requirements of 30 CFR 256, subpart I, as amended.

Also, in accordance with regulations at 2 CFR Parts 180 and 1400, the lessee shall comply with the U.S. Department of the Interior's nonprocurement debarment and suspension requirements, and agrees to communicate this requirement to comply with these regulations to persons with whom the lessee does business as it relates to this lease by including this term as a condition to enter into their contracts and other transactions.

Affirmative Action: The MMS requests that, prior to bidding, Equal Opportunity Affirmative Action Representation Form MMS 2032 (June 1985) and Equal Opportunity Compliance Report Certification Form MMS 2033 (June 1985) be on file in MMS Gulf of Mexico Region Adjudication Unit. This certification is required by 41 CFR Part 60 and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967. In any event, prior to the execution of any lease contract, both forms are required to be on file in MMS Gulf of Mexico Region Adjudication Unit.

Geophysical Data and Information Statement: Pursuant to 30 CFR 251.12, MMS has a right to access geophysical data and information collected under a permit in the OCS.

Every bidder submitting a bid on a block in Sale 210, or participating as a joint bidder in such a bid, must submit a Geophysical Data and Information Statement (GDIS) identifying any enhanced or reprocessed geophysical data and information generated or used as part of the decision to bid or participate in a bid on the block (including the use of Controlled Source Electromagnetics, Gravity, *etc.*). The data identified in the GDIS should clearly identify whether the data or

information are multi-client (speculative) data sets available directly from geophysical contractors or exclusive (proprietary) data sets specially processed for or by bidders.

In addition, the GDIS should clearly identify the data type (2–D or 3–D, pre-stack or post-stack and time or depth); areal extent (*i.e.,* number of line miles for 2D or number of blocks for 3D) and migration algorithm (Wave Equation Migration, Reverse Time Migration, *etc.*) of the data and information. The statement must also include the name, phone number and full address of a contact person, and an alternate, who are both *knowledgeable* about the information and data listed and *available* for 30 days post-sale, the processing company, date processing was completed, owner of the original data set (who initially acquired the data), original data survey name and permit number. The MMS reserves the right to query about alternate data sets and to quality check and compare the listed and alternative data sets to determine which data set most closely meets the needs of the fair market value determination process.

The statement must also identify each block upon which the bidder submitted a bid or participated as a partner in a bid, but for which it did *not* use enhanced or reprocessed pre- or post-stack geophysical data and information as part of the decision to bid or to participate in the bid. The GDIS must be submitted, even if no enhanced geophysical data and information were used in bid preparation for the tract.

In the event your company supplies any type of data to MMS, your company must meet the following requirements to get reimbursed:

1. Your company must be registered with the Central Contractor Registration (CCR). The initial registration is valid for one year and must be updated annually thereafter. The Web site for registering is: *http://www.ccr.gov*. This is a requirement that was implemented on October 1, 2003, and requires all entities doing business with the Government to complete a business profile in the CCR. It must be *updated annually*. Payments are made electronically based on the information contained in the CCR. Therefore, if your company is not *actively* registered in the CCR, MMS *will not* be able to reimburse or pay your company for any data supplied.

2. Your company must complete an on-line application for your Representations (Reps) and Certifications (Certs) at *http://orca.bpn.gov*. ORCA (On-line Representations and Certifications Application) is an E-Government initiative. Even though your company may have never provided Reps and Certs previously, they are now mandated in order to do business with the Government or receive reimbursement.

Please also refer to the Final NOS 210 Package for more detail concerning submission of the GDIS, making the data available to MMS following the lease sale, preferred format, reimbursement for costs, and confidentiality.

Force Majeure: The Regional Director of MMS Gulf of Mexico Region has the discretion to change any date, time, and/or location specified in the Final NOS 210 Package in case of a force majeure event which the Regional Director deems may interfere with the carrying out of a fair and proper lease sale process. Such events may include, but are not limited to, natural disasters (earthquakes, hurricanes, and floods), wars, riots, acts of terrorism, fire, strikes, civil disorder or other events of a similar nature. In case of such events, bidders should call (504) 736–0557 or access our Web site at: *http://www.gomr.mms.gov* for information about any changes.

Notice: On April 17, 2009, the U.S. Court of Appeals for the District of Columbia Circuit issued a ruling in *Center for Biological Diversity* v. *Department of the Interior,* Nos. 07–1247, 07–1344, vacating and remanding for the Secretary's reconsideration the 2007–2012 OCS Oil and Gas Leasing Program. On May 11, 2009, the Department of the Interior filed a petition for rehearing and/or clarification of the court's order. The U.S. Court of Appeals for the DC Circuit is reviewing the Government's petition. The decision to hold this sale will be subject to further proceedings in that case. In the event the Department determines that it is necessary to cancel the sale, the bid envelopes will be returned to bidders unopened.

Dated: July 2, 2009.

Walter D. Cruickshank,

Acting Director, Minerals Management Service.

[FR Doc. E9–16955 Filed 7–16–09; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–464 and 731–TA–1160 (Preliminary)]

Prestressed Concrete Steel Wire Strand From China

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C.1671b(a) and 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from China of prestressed concrete steel wire strand, provided for in subheading 7312.10.30 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV) and subsidized by the Government of China.

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in the investigations under sections 703(b) or 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under sections 705(a) or 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Background

On May 27, 2009, a petition was filed with the Commission and Commerce by counsel on behalf of American Spring Wire Corp. (''American'') (Bedford

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

Heights, OH); Insteel Wire Products Co. (''Insteel'') (Mt. Airy, NC); and Sumiden Wire Products Corp. (''Sumiden'') (Dickson, TN), alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV and subsidized imports of prestressed concrete steel wire strand from China. Accordingly, effective May 27, 2009, the Commission instituted countervailing duty investigation No. 701–TA–464 and antidumping duty investigation No. 731–TA–1160 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of June 3, 2009 (74 FR 26731). The conference was held in Washington, DC, on June 17, 2009, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on July 13, 2009. The views of the Commission are contained in USITC Publication 4086 (July 2009), entitled *Prestressed Concrete Steel Wire Strand from China: Investigation Nos. 701–TA–464 and 731–TA–1160 (Preliminary*).

By order of the Commission.

Issued: July 13, 2009.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–16998 Filed 7–16–09; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–459 (Final) and 731–TA–1155 (Final)]

Commodity Matchbooks From India

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of countervailing duty and antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of countervailing duty investigation No. 701–TA–459 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) and the final phase of antidumping investigation No. 731–TA–1155 (Final) under section 735(b) of the Act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized and less-than-fair-value imports from India of commodity matchbooks, provided for in subheading 3605.00.00 of the Harmonized Tariff Schedule of the United States.

For further information concerning the conduct of this phase of the investigations, hearing procedures, 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 and C (19 CFR part 207).

DATES: *Effective Date:* June 2, 2009.

FOR FURTHER INFORMATION CONTACT: Amy Sherman (202–205–3289), 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 investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in India of commodity matchbooks, and that such products are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on October 29, 2008, by D.D. Bean & Sons Co., Jaffrey, NH.

Participation in the investigations 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 final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on October 2, 2009, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on October 20, 2009, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before October 9, 2009. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on October 14, 2009, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is October 9, 2009. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is October 27, 2009; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before October 27, 2009. On November 10, 2009, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before November 12, 2009, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, 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). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: July 13, 2009.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–16994 Filed 7–16–09; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–460–461 (Final)]

Ni-Resist Piston Inserts From Argentina and Korea

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of countervailing duty investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of countervailing duty investigation Nos. 701–TA–460–461 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized imports from Argentina and Korea of Ni-resist piston inserts, provided for in subheading 8409.99.91 of the Harmonized Tariff Schedule of the United States.

For further information concerning the conduct of this phase of the investigations, hearing procedures, 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 and C (19 CFR part 207).

DATES: *Effective Dates:* July 6, 2009.

FOR FURTHER INFORMATION CONTACT: Angela M.W. Newell (202–708–5409), 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 investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—The final phase of these investigations is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in Argentina of Ni-resist piston inserts. These investigations were requested in a petition filed on January 26, 2009, by Korff Holdings LLC d/b/a Quaker City Castings, Salem, OH.

Although the Department of Commerce has preliminarily determined that imports of Ni-resist piston inserts from Korea are not being and are not likely to be subsidized, for purposes of efficiency the Commission hereby waives rule 207.21(b) [1] so that the final phase of the investigations may proceed concurrently in the event that Commerce makes a final affirmative determination with respect to such imports.

Participation in the investigations 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 final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these

[1] Section 207.21(b) of the Commission's rules provides that, where the Department of Commerce has issued a negative preliminary determination, the Commission will publish a Final Phase Notice of Scheduling upon receipt of an affirmative final determination from Commerce.

investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on September 2, 2009, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on September 17, 2009, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before September 9, 2009. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on September 11, 2009, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is September 10, 2009. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is September 24, 2009; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation, including statements of support or opposition to the petition, on or before September 24, 2009. On October 9, 2009, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before October 14, 2009, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, 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). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: July 13, 2009.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–16995 Filed 7–16–09; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–628]

In the Matter of Certain Computer Products, Computer Components and Products Containing Same; Notice of Commission Decision Not To Review the ALJ's Final Initial Determination Finding No Violation of Section 337; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (''ALJ'') final initial determination (''ID'') issued on March 16, 2009, finding no violation of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337 in this investigation.

FOR FURTHER INFORMATION CONTACT: Panyin Hughes, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3042. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on January 14, 2008, based on a complaint filed by International Business Machines Corporation of Armonk, New York (''IBM''). 73 FR 2275 (Jan. 14, 2008). The complaint alleged violations of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain computer products, computer components and products containing same by reason of infringement of certain claims of United States Patent Nos. 5,008,829 (''the '829 patent''); 5,249,741 (''the '741 patent''); and 5,371,852 (''the '852 patent''). The

complaint named as respondent ASUSTek Computer, Inc. of Taipei, Taiwan and ASUS Computer International of Fremont, California. On January 21, 2008, IBM amended the complaint and notice of investigation to add Respondents Pegatron Technology Corporation of Taipei, Taiwan and Unihan Technology Corporation, of Taipei, Taiwan, wholly owned subsidiaries of ASUSTek. The respondents are referred to collectively as ''ASUS.''

On August 4, 2008, the ALJ issued an ID that extended the target date for completion of the investigation to July 14, 2009. The Commission determined not to review the ID.

On March 16, 2009, the ALJ issued his final ID finding no violation of section 337 by ASUS. The ID included the ALJ's recommended determination on remedy and bonding. In the subject ID, the ALJ found that ASUS's products do not infringe asserted claims 1 and 2 of the '829 patent. The ALJ also found that none of the cited references anticipated claims 1 and 2 of the '829 patent or rendered them obvious. Likewise, the ALJ found that ASUS's products do not infringe asserted claim 1 of the '741 patent. The ALJ further found that none of the cited references anticipated claim 1 or rendered claim 1 of the '741 patent obvious. The ALJ also found that the '741 patent satisfied the written description and enablement requirements of 35 U.S.C. 112, first paragraph, for claim 1. Similarly, the ALJ found that ASUS's accused products do not infringe asserted claims 1, 8, 13, 14, 22 and 23 of the '852 patent. The ALJ also found that none of the cited references anticipates the asserted claims of the '852 patent. The ALJ further found that IBM met the domestic industry requirement because a sufficient nexus existed between IBM's licensing activities and each of the asserted patents.

On March 30, 2009, IBM filed a petition, seeking review of the ALJ's ID with regard to infringement of all the patents-in-issue. That same day, ASUS filed a contingent petition, seeking review of the ALJ's findings that the '829 and '741 patents are not invalid. On April 7, 2009, ASUS filed an opposition to IBM's petition for review, and IBM filed a response to ASUS's contingent petition for review. Also on April 7, 2009, the Commission investigative attorney filed a response to both IBM's petition and ASUS's contingent petition.

Having examined the record of this investigation, including the ALJ's final ID, the petitions for review, and the responses thereto, the Commission has determined not to review the subject ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.42(h) of the Commission's Rules of Practice and Procedure (19 CFR 210.42(h)).

By order of the Commission.

Issued: July 13, 2009.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–16997 Filed 7–16–09; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–NEW]

Office on Violence Against Women; Agency Information Collection Activities: New Collection

ACTION: 60-Day Notice of Information Collection Under Review: Semi-Annual Progress Report for the Grants to Enhance Culturally and Linguistically Specific Services for Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking.

The Department of Justice, Office on Violence Against Women (OVW) 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. Comments are encouraged and will be accepted for ''sixty days'' until September 15, 2009. 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:

(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 submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New collection.

(2) *Title of the Form/Collection:* Semi-Annual Progress Report for Grantees from Grants to Enhance Culturally and Linguistically Specific Services for Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking Program (Culturally and Linguistically Specific Services Program).

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* 1122- XXXX. U.S. Department of Justice, Office on Violence Against Women.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes the approximately 50 grantees of the Culturally and Linguistically Specific Services Program. The program funds projects that promote the maintenance and replication of existing successful domestic violence, dating violence, sexual assault, and stalking community-based programs providing culturally and linguistically specific services and other resources. The program also supports the development of innovative culturally and linguistically specific strategies and projects to enhance access to services and resources for victims of violence against women.

(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 it will take the approximately 50 respondents (Culturally and Linguistically Specific Services Program grantees) approximately one hour to complete a semi-annual progress report. The semi-annual progress report is divided into sections that pertain to the different types of activities in which grantees may engage. A Culturally and Linguistically Specific Services Program grantee will only be required to

complete the sections of the form that pertain to its own specific activities.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 100 hours, that is 50 grantees completing a form twice a year with an estimated completion time for the form being one hour.

If additional information is required contact: Lynn Bryant, Deputy Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Suite 1600, Patrick Henry Building, 601 D Street NW., Washington, DC 20530.

Dated: July 14, 2009.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E9–17082 Filed 7–16–09; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–NEW]

Office on Violence Against Women; Agency Information Collection Activities: New Collection

ACTION: 60-Day Notice of Information Collection Under Review: Semi-Annual Progress Report for the Sexual Assault Services Program—Grants to Culturally Specific Programs.

The Department of Justice, Office on Violence Against Women (OVW) 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. Comments are encouraged and will be accepted for ''sixty days'' until September 15, 2009. 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:

(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 submission of responses.

Overview of This Information Collection

(1) Type of Information Collection: New collection.

(2) Title of the Form/Collection: Semi-Annual Progress Report for Grantees from the Sexual Assault Services Program—Grants to Culturally Specific Programs (SASP–Culturally Specific Program).

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number: 1122–XXXX. U.S. Department of Justice, Office on Violence Against Women.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: The affected public includes the approximately 11 grantees of the SASP Culturally Specific Program. This program supports projects that create, maintain and expand sustainable sexual assault services provided by culturally specific organizations, which are uniquely situated to respond to the needs of sexual assault victims within culturally specific populations.

(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 it will take the approximately 11 respondents (SASP–Culturally Specific Program grantees) approximately one hour to complete a semi-annual progress report. The semi-annual progress report is divided into sections that pertain to the different types of activities in which grantees may engage. A SASP Culturally Specific Program grantee will only be required to complete the sections of the form that pertain to its own specific activities.

(6) An estimate of the total public burden (in hours) associated with the collection: The total annual hour burden to complete the data collection forms is 22 hours, that is 11 grantees completing a form twice a year with an estimated completion time for the form being one hour.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Suite 1600, Patrick Henry Building, 601 D Street NW., Washington, DC 20530.

Dated: July 14, 2009.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E9–17083 Filed 7–16–09; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–NEW]

Office on Violence Against Women; Agency Information Collection Activities: New Collection

ACTION: 60–Day Notice of Information Collection Under Review: Semi-Annual Progress Report for the Sexual Assault Services Formula Grant Program.

The Department of Justice, Office on Violence Against Women (OVW) 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. Comments are encouraged and will be accepted for ''sixty days'' until September 15, 2009. 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:

(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 submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New collection.

(2) *Title of the Form/Collection:* Semi-Annual Progress Report for Grantees from the Semi-Annual Progress Report for the Sexual Assault Services Formula Grant Program (SASP).

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: 1122–XXXX. U.S. Department of Justice, Office on Violence Against Women.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes the approximately 606 administrators and sub-grantees of the SASP. SASP grants support intervention, advocacy, accompaniment, support services, and related assistance for adult, youth, and child victims of sexual assault, family and household members of victims, and those collaterally affected by the sexual assault. The SASP supports the establishment, maintenance, and expansion of rape crisis centers and other programs and projects to assist those victimized by sexual assault. The grant funds are distributed by SASP state administrators to sub-grantees as outlined under the provisions of the Violence Women Act of 2005.

(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 it will take the approximately 606 respondents (SASP administrators and sub-grantees) approximately one hour to complete a semi-annual progress report. The semi-annual progress report is divided into sections that pertain to the different types of activities in which grantees may engage. A SASP sub-grantee will only be required to complete the sections of the form that pertain to its own specific activities.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 1,212 hours, that is 606 sub-grantees completing a form twice a year with an estimated completion time for the form being one hour.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Suite 1600, Patrick Henry Building, 601 D Street, NW., Washington, DC 20530.

Dated: July 14, 2009.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E9–17081 Filed 7–16–09; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Safe Drinking Water Act

Notice is hereby given that on July 13, 2009, a proposed Consent Decree (''Decree'') in *United States* v. *Skull Valley Band of Goshute Indians,* Civil Action No. 2:09–CV–617(bhw), was lodged with the United States District Court for the District of Utah, Central Division.

The Consent Decree requires the Skull Valley Band of Goshute Indians (the ''Tribe'') to (1) achieve and maintain compliance with the Safe Drinking Water Act (''SDWA'') and its implementing regulations; (2) pay a civil penalty of $1,250 to redress the Tribe's past violations of the SDWA and its implementing regulations; and (3) perform a Supplemental Environmental Project (''SEP'') valued at $3,750 that will secure public health protection and improvements of the Tribe's Public Water System (''PWS'') located in Tooele County, Utah. Specifically, the SEP requires the Tribe to purchase and install a telemetry system to improve the efficiency and accuracy of maintaining the water level in the PWS storage tank.

The United States filed a Complaint with the Consent Decree that alleged violations of Sections 1414 and 1431 of the Safe Drinking Water Act (''SDWA''), 42 U.S.C. 300g-3, 300i, related to the Tribe's operation of its PWS and the tribally-owned Pony Express Store, a road-side convenience store that provides water to the Tribal community and members of the public who patronize the store. The Consent Decree would resolve the claims against the Tribe as described in the Complaint. The ultimate entry of the Consent Decree by the District Court of Utah would end this litigation.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to the *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to Civil Action No. 2:09–CV–617(bhw), D.J. Ref. No. 90–5–1–1–09108.

The Decree may be examined at the Office of the United States Attorney, District of Utah, 185 South State Street, Suite 300, Salt Lake City, Utah 84111. It also may be examined at the offices of U.S. EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202. During the public comment period, the Decree may be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.*

A copy of the Decree may be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov),* fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $10.75 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Maureen Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E9–16999 Filed 7–16–09; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Biodiesel Accreditation Commission

Notice is hereby given that, on May 15, 2009, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301

et seq. (''the Act''), National Biodiesel Accreditation Commission (''NBAC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, the NBAC has: (1) Amended its Marketer Program Requirements to adopt new normative references, require updating of quality management systems, make corrections to a specification procedure, add a cold soak filterability test requirement, require specification of final biodiesel content of a blended product prior to sale, change sampling and testing requirements of biodiesel stored for more than thirty days, require documentation of certain reinspections, require periodic validation of blending system accuracy, and delete a sixty-day storage sampling requirement; (2) amended its Producer Program Requirements to adopt new normative references, require the updating of quality management systems, amend the definition of Producer, add a cold soak filterability test requirement, amend production lot homogeneity requirements, add sampling requirements, add an oxidative stability test requirement for commingled production lots, provide an alternative test for the presence of certain elements, require disclosure of specifications which are less than full specifications, change the testing required of certain stored biodiesel, and add a new appendix diagraming the requirements for production lot homogeneity testing; and (3) adopted a laboratory certification program for the operation of commercial laboratories which test biodiesel and biodiesel blends for compliance with regulatory standards. Certification by the Commission indicates the applicant laboratory possesses and implements a quality control/quality assurance program meeting the Commission's requirements.

On August 27, 2004, NEAC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on October 4, 2004 (69 FR 59269).

The last notification was filed with the Department on June 19, 2007. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on September 11, 2007 (72 FR 51841).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. E9–16776 Filed 7–16–09; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0046]

Calaveras Power Partners L.P., Matrix Service Inc., T.E. Ibberson Company, TIC—The Industrial Company, and Zachry Construction Corporation; Grant of a Permanent Variance

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Notice of a grant of a permanent variance.

SUMMARY: This notice announces the grant of a permanent variance to Calaveras Power Partners L.P., Matrix Service Inc., T.E. Ibberson Company, TIC—The Industrial Company, and Zachry Construction Corporation (''the employers''). The permanent variance addresses the provision that regulates the tackle used for boatswain's chairs (29 CFR 1926.452(o)(3)), as well as the provisions specified for personnel hoists by paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of 29 CFR 1926.552. As an alternative to complying with these provisions, the employers may instead comply with the conditions listed in this grant; these alternative conditions regulate hoisting systems used during inside or outside chimney construction to raise or lower workers in personnel cages, personnel platforms, and boatswain's chairs between the bottom landing of a chimney and an elevated work location. Accordingly, OSHA finds that these alternative conditions protect workers at least as well as the requirements specified by 29 CFR 1926.452(o)(3) and 1926.552(c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16).

DATES: The effective date of the permanent variance is July 17, 2009.

FOR FURTHER INFORMATION CONTACT: For information about this notice contact Ms. MaryAnn Garrahan, Director, Office of Technical Programs and Coordination Activities, Room N–3655, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2110; fax (202) 693–1644. Electronic copies of this notice are available at *http://www.regulations.gov.* Electronic copies of this notice, as well as news releases and other relevant information, are available on OSHA's Web page at *http://www.osha.gov.*

Additional information also is available from the following OSHA Regional Offices:

U.S. Department of Labor, OSHA, JFK Federal Building, Room E340, Boston, MA 02203; telephone: (617) 565–9860; fax: (617) 565–9827.

U.S. Department of Labor, OSHA, 201 Varick Street, Room 670, New York, NY 10014; telephone: (212) 337–2378; fax: (212) 337–2371.

U.S. Department of Labor, OSHA, the Curtis Center, Suite 740 West, 170 South Independence Mall West, Philadelphia, PA 19106–3309; telephone: (215) 861–4900; fax: (215) 861–4904.

U.S. Department of Labor, OSHA, Atlanta Federal Center, 61 Forsyth Street, SW., Room 6T50, Atlanta, GA 30303; telephone: (404) 562–2300; fax: (404) 562–2295.

U.S. Department of Labor, OSHA, 230 South Dearborn Street, Room 3244, Chicago, IL 60604; telephone: (312) 353–2220; fax: (312) 353–7774.

U.S. Department of Labor, OSHA, Two Pershing Square Building, 2300 Main Street, Suite 1010, Kansas City, MO 64108–2416; telephone: (816) 283–8745; fax: (816) 283–0547.

U.S. Department of Labor, OSHA, 525 Griffin Street, Suite 602, Dallas, TX 75202; telephone: (972) 850–4145; fax: (972) 850–4149.

U.S. Department of Labor, OSHA, 1999 Broadway, Suite 1690, Denver, CO 80202; telephone: (720) 264–6550; fax: (720) 264–6585.

U.S. Department of Labor, OSHA, 90 7th Street, Suite 18100, San Francisco, CA 94103; telephone: (415) 625–2547; fax: (415) 625–2534.

U.S. Department of Labor, OSHA, 1111 Third Avenue, Suite 715, Seattle, WA 98101–3212; telephone: (206) 553–5930; fax: (206) 553–6499.

SUPPLEMENTARY INFORMATION:

I. Background

In the past 35 years, a number of chimney-construction companies have demonstrated to OSHA that several personnel-hoist requirements (*i.e.,* paragraphs (c)(1), (c)(2), (c)(3), (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of 29 CFR 1926.552), as well as the tackle requirements for boatswain's chairs (*i.e.,* paragraph (o)(3) of 29 CFR 1926.452), result in access problems that pose a serious danger to their workers. These companies requested permanent

variances from these requirements, and proposed alternative equipment and procedures to protect workers while being transported to and from their elevated worksites during chimney construction and repair. The Agency subsequently granted these companies permanent variances based on the proposed alternatives (see 38 FR 8545 (April 3, 1973), 44 FR 51352 (August 31, 1979), 50 FR 20145 (May 14, 1985), 50 FR 40627 (October 4, 1985), 52 FR 22552 (June 12, 1987), 68 FR 52961 (September 8, 2003), 70 FR 72659 (December 6, 2005), and 71 FR 10557 (March 1, 2006)).[1]

Calaveras Power Partners L.P., Matrix Service Inc., T.E. Ibberson Company, TIC—The Industrial Company and Zachry Construction Corporation applied for a permanent variance from the same personnel-hoist and boatswain's-chair requirements as the previous companies, and proposed as an alternative to these requirements the same equipment and procedures approved by OSHA in the earlier variances (see Exhibits OSHA–2007–0046–0002 through –0006). The Agency published their variance applications in the **Federal Register** on January 23, 2009 (74 FR 4237).

Calaveras Power Partners L.P., Matrix Service Inc., T.E. Ibberson Company, TIC—The Industrial Company and Zachry Construction Corporation (''the employers'') construct, remodel, repair, maintain, inspect, and demolish tall chimneys made of reinforced concrete, brick, and steel. This work, which occurs throughout the United States, requires the employers to transport workers and construction material to and from elevated work platforms and scaffolds located, respectively, inside and outside tapered chimneys. While tapering contributes to the stability of a chimney, it necessitates frequent relocation of, and adjustments to, the work platforms and scaffolds so these structures will fit the decreasing circumference of the chimney as construction progresses upwards.

To transport workers to various heights inside and outside a chimney, the employers proposed in their variance application to use a hoist system that lifts and lowers personnel-transport devices that include personnel cages, personnel platforms, or boatswain's chairs. In this regard, the employers proposed to use personnel cages, personnel platforms, or boatswain's chairs solely to transport workers with the tools and materials necessary to do their work, and not to transport only materials or tools on these devices in the absence of workers. In addition, the employers proposed to attach a hopper or concrete bucket to the hoist system to raise or lower material inside or outside a chimney.

The employers also proposed to use a hoist engine, located and controlled outside the chimney, to power the hoist system. The proposed system consisted of a wire rope that: Spools off a winding drum (also known as the hoist drum or rope drum) into the interior of the chimney; passes to a footblock that redirects the rope from the horizontal to the vertical planes; goes from the footblock through the overhead sheaves above the elevated platform; and finally drops to the bottom landing of the chimney where it connects to a personnel- or material-transport device. A cathead, which is a superstructure at the top of the system, supports the overhead sheaves. The overhead sheaves (and the vertical span of the hoist system) move upward with the system as chimney construction progresses. Two guide cables, suspended from the cathead, eliminate swaying and rotation of the load. If the hoist rope breaks, safety clamps activate and grip the guide cables to prevent the load from falling. The employers proposed to use a headache ball, located on the hoist rope directly above the load, to counterbalance the rope's weight between the cathead sheaves and the footblock.

Additional conditions that the employers proposed to follow to improve worker safety included:

- Attaching the wire rope to the personnel cage using a keyed-screwpin shackle or positive-locking link;
- Adding limit switches to the hoist system to prevent overtravel by the personnel- or material-transport devices;
- Providing the safety factors and other precautions required for personnel hoists specified by the pertinent provisions of 29 CFR 1926.552(c), including canopies and shields to protect workers located in a personnel cage from material that may fall during hoisting and other overhead activities;
- Providing falling-object protection for scaffold platforms as specified by 29 CFR 1926.451(h)(1);
- Conducting tests and inspections of the hoist system as required by 29 CFR 1926.20(b)(2) and 1926.552(c)(15);
- Establishing an accident-prevention program that conforms to 29 CFR 1926.20(b)(3);
- Equipping workers who use a personnel cage, personnel platform, or boatswain's chair with, and ensuring that they use, personal fall-arrest systems meeting the requirements of 29 CFR 1926.502(d);
- Ensuring that workers using a personnel cage secure their personal fall-arrest system to an attachment point located inside the cage, and that workers using personnel platforms or boatswain's chairs secure their personal fall-arrest systems to a vertical lifeline;
- When using vertical lifelines, securing the lifelines to the top of the chimney and weighting the lifelines properly or suitably affixing the lifelines to the bottom of the chimney, and ensuring that workers remain attached to their lifeline during the entire period of vertical transit;
- Providing instruction to each worker who uses a personnel platform or boatswain's chair regarding the shearing and struck-by hazards posed by the hoist system (*e.g.,* work platforms, scaffolds), and the need to keep their limbs or other body parts clear of these hazards during hoisting operations;
- Providing the instruction on shearing and struck-by hazards before a worker uses one of these personnel-transport devices at the worksite; and periodically, and as necessary, thereafter, including whenever the worker demonstrates: A lack of knowledge about the hazard or how to avoid it, a modification occurs to an existing shearing hazard, or a new shearing hazard develops at the worksite;
- Attaching a readily visible warning to each personnel platform and boatswain's chair notifying workers in a language they understand of potential shearing hazards during hoisting operations; for warnings located on personnel platforms, using the following (or equivalent) wording: ''Warning—To avoid serious injury, keep your hands, arms, feet, legs, and other parts of your body inside this platform while it is in motion''; and for boatswain's chairs, the warning uses the following (or equivalent) wording: ''Warning—To avoid serious injury, do not extend your hands, arms, feet, legs, or other parts of your body from the side or to the front of this chair while it is in motion''; and
- Establishing a clearly designated safety zone around the hoist system's bottom landing and prohibiting any worker from entering the safety zone except to access a personnel cage, personnel platform, boatswain's chair, or material-transport device, and then

[1] Zurn Industries, Inc. received two permanent variances from OSHA. The first variance, granted on May 14, 1985 (50 FR 20145), addressed the boatswain's-chair provision (then in paragraph (l)(5) of 29 CFR 1926.451), as well as the hoist-platform requirements of paragraphs (c)(1), (c)(2), (c)(3), and (c)(14)(i) of 29 CFR 1926.552. The second variance, granted on June 12, 1987 (52 FR 22552), includes these same paragraphs, as well as paragraphs (c)(4), (c)(8), (c)(13), and (c)(16) of 29 CFR 1926.552.

only when the personnel- and material-transport device is at the bottom landing and not in operation.

II. Proposed Variance From 29 CFR 1926.452(o)(3)

The employers noted in their variance request that it is necessary, on occasion, to use a boatswain's chair to transport workers to and from a bracket scaffold on the outside of an existing chimney during flue installation or repair work, or to transport them to and from an elevated scaffold located inside a chimney that has a small or tapering diameter. Paragraph (o)(3) of 29 CFR 1926.452, which regulates the tackle used to rig a boatswain's chair, states that this tackle must ''consist of correct size ball bearings or bushed blocks containing safety hooks and properly 'eye-spliced' minimum five-eighth (5/8) inch diameter first-grade manila rope [or equivalent rope].''

The primary purpose of this paragraph is to allow a worker to safely control the ascent, descent, and stopping locations of the boatswain's chair. However, the employers stated in their variance request that, because of space limitations, the required tackle is difficult or impossible to operate on some chimneys that are over 200 feet tall. Therefore, as an alternative to complying with the tackle requirements specified by 29 CFR 1926.452(o)(3), the employers proposed to use the hoisting system described above in section I (''Background'') of this notice to raise or lower workers in a personnel cage to work locations both inside and outside a chimney. In addition, the employers proposed to use a personnel cage for this purpose to the extent that adequate space is available, and to use a personnel platform only when using a personnel cage was infeasible because of limited space. When available space makes using a personnel platform infeasible, the employers proposed to use a boatswain's chair to lift workers to work locations. The proposed variance limited use of the boatswain's chair to elevations above the last work location that the personnel platform can reach; under these conditions, the employers proposed to attach the boatswain's chair directly to the hoisting cable only when the structural arrangement precludes the safe use of the block and tackle required by 29 CFR 1926.452(o)(3).

III. Proposed Variance From 29 CFR 1926.552(c)

Paragraph (c) of 29 CFR 1926.552 specifies the requirements for enclosed hoisting systems used to transport workers from one elevation to another. This paragraph ensures that employers transport workers safely to and from elevated work platforms by mechanical means during the construction, alteration, repair, maintenance, or demolition of structures such as chimneys. However, this standard does not provide specific safety requirements for hoisting workers to and from elevated work platforms and scaffolds in tapered chimneys; the tapered design requires frequent relocation of, and adjustment to, the work platforms and scaffolds. The space in a small-diameter or tapered chimney is not large enough or configured so that it can accommodate an enclosed hoist tower. Moreover, using an enclosed hoist tower for outside operations exposes workers to additional fall hazards because they need to install extra bridging and bracing to support a walkway between the hoist tower and the tapered chimney.

Paragraph (c)(1) of 29 CFR 1926.552 requires the employers to enclose hoist towers located outside a chimney on the side or sides used for entrance to, and exit from, the chimney; these enclosures must extend the full height of the hoist tower. The employers asserted in their proposed variance that it is impractical and hazardous to locate a hoist tower outside tapered chimneys because it becomes increasingly difficult, as a chimney rises, to erect, guy, and brace a hoist tower; under these conditions, access from the hoist tower to the chimney or to the movable scaffolds used in constructing the chimney exposes workers to a serious fall hazard. Additionally, they noted that the requirement to extend the enclosures 10 feet above the outside scaffolds often exposes the workers involved in building these extensions to dangerous wind conditions.

Paragraph (c)(2) of 29 CFR 1926.552 requires that employers enclose all four sides of a hoist tower even when the tower is located inside a chimney; the enclosure must extend the full height of the tower. In the proposed variance, the employers contended that it is hazardous for workers to erect and brace a hoist tower inside a chimney, especially small-diameter or tapered chimneys or chimneys with sublevels, because these structures have limited space and cannot accommodate hoist towers; space limitations result from chimney design (*e.g.*, tapering), as well as reinforced steel projecting into the chimney from formwork that is near the work location.

As an alternative to complying with the hoist-tower requirements of 29 CFR 1926.552(c)(1) and (c)(2), the employers proposed to use the hoist system discussed in section I (''Background'') of this notice to transport workers to and from work locations inside and outside chimneys. They claimed that this hoist system would make it unnecessary for them to comply with other provisions of 29 CFR 1926.552(c) that specify requirements for hoist towers, including:

- (c)(3)—Anchoring the hoist tower to a structure;
- (c)(4)—Hoistway doors or gates;
- (c)(8)—Electrically interlocking entrance doors or gates that prevent hoist movement when the doors or gates are open;
- (c)(13)—Emergency stop switch located in the car;
- (c)(14)(i)—Using a minimum of two wire ropes for drum-type hoisting; and
- (c)(16)—Construction specifications for personnel hoists, including materials assembly, structural integrity, and safety devices.

The employers asserted that the proposed hoisting system protected workers at least as effectively as the personnel-hoist requirements of 29 CFR 1926.552(c). The following section of this preamble reviews the comments received on the employers' proposed variance.

IV. Comments on the Proposed Variance

OSHA received no comments on the proposed variance.

V. Decision

Calaveras Power Partners L.P., Matrix Service Inc., T. E. Ibberson Company, TIC—The Industrial Company, and Zachry Construction Corporation seek a permanent variance from the provision that regulates the tackle used for boatswain's chairs (29 CFR 1926.452 (o)(3)), as well as the provisions specified for personnel hoists by paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of 29 CFR 1926.552.

Paragraph (o)(3) of 29 CFR 1926.452 states that the tackle used for boatswain's chairs must ''consist of correct size ball bearings or bushed blocks containing safety hooks and properly 'eye-spliced' minimum five-eighth (5/8) inch diameter first-grade manila rope [or equivalent rope].'' The primary purpose of this provision is to allow a worker to safely control the ascent, descent, and stopping locations of the boatswain's chair. The proposed alternative to these requirements allows the employer to use a boatswain's chair to lift workers to work locations inside and outside a chimney when either a personnel cage or a personnel platform is infeasible. The employers proposed to attach the boatswain's chair to the

hoisting system described as an alternative to paragraph (c) of 29 CFR 1926.552.

Paragraph (c) of 29 CFR 1926.552 specifies the requirements for enclosed hoisting systems used to transport personnel from one elevation to another. This paragraph ensures that employers transport workers safely to and from elevated work platforms by mechanical means during construction work involving structures such as chimneys. In this regard, paragraph (c)(1) of 29 CFR 1926.552 requires employers to enclose hoist towers located outside a chimney on the side or sides used for entrance to, and exit from, the structure; these enclosures must extend the full height of the hoist tower. Under the requirements of paragraph (c)(2) of 29 CFR 1926.552, employers must enclose all four sides of a hoist tower located inside a chimney; these enclosures also must extend the full height of the tower.

As an alternative to complying with the hoist-tower requirements of 29 CFR 1926.552(c)(1) and (c)(2), the employers proposed to use a hoist system to transport workers to and from elevated work locations inside and outside chimneys. The proposed hoist system includes a hoist machine, cage, safety cables, and safety measures such as limit switches to prevent overrun of the cage at the top and bottom landings, and safety clamps that grip the safety cables if the main hoist line fails. To transport workers to and from elevated work locations, the employers proposed to attach a personnel cage to the hoist system. However, when they can demonstrate that adequate space is not available for the cage, they may use a personnel platform above the last worksite that the cage can reach. Further, when the employers show that space limitations make it infeasible to use a work platform for transporting workers, they have proposed to use a boatswain's chair above the last worksite serviced by the personnel platform. Using the proposed hoist system as an alternative to the hoist-tower requirements of 29 CFR 1926.552(c)(1) and (c)(2) eliminates the need to comply with the other provisions of 29 CFR 1926.552(c) that specify requirements for hoist towers. Accordingly, the employers have requested a permanent variance from these and related provisions (i.e., paragraphs (c)(3), (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16)).

Under Section 6(d) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), and based on the record discussed above, the Agency finds that when the employers comply with the conditions of the following order, the working conditions of their workers will be at least as safe and healthful as if the employers complied with the working conditions specified by paragraph (o)(3) of 29 CFR 1926.452, and paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of 29 CFR 1926.552.

VI. Order

OSHA issues this order authorizing Calaveras Power Partners L.P., Matrix Service Inc., T. E. Ibberson Company, TIC—The Industrial Company, and Zachry Construction Corporation (''the employers'') to comply with the following conditions instead of complying with paragraph (o)(3) of 29 CFR 1926.452 and paragraphs (c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16) of 29 CFR 1926.552:

1. Scope of the Permanent Variance

(a) This permanent variance applies only to tapered chimneys when the employers use a hoist system during inside or outside chimney construction to raise or lower their workers between the bottom landing of a chimney and an elevated work location on the inside or outside surface of the chimney.

(b) When using a hoist system as specified in this permanent variance, the employers must:

(i) Use the personnel cages, personnel platforms, or boatswain's chairs raised and lowered by the hoist system solely to transport workers with the tools and materials necessary to do their work; and

(ii) Attach a hopper or concrete bucket to the hoist system to raise and lower all other materials and tools inside or outside a chimney.

(c) Except for the requirements specified by 29 CFR 1926.452(o)(3) and 1926.552(c)(1) through (c)(4), (c)(8), (c)(13), (c)(14)(i), and (c)(16), the employers must comply fully with all other applicable provisions of 29 CFR parts 1910 and 1926.

2. Replacing a Personnel Cage With a Personnel Platform or a Boatswain's Chair

(a) *Personnel platform.* When the employers demonstrate that available space makes a personnel cage for transporting workers infeasible, they may replace the personnel cage with a personnel platform when they limit use of the personnel platform to elevations above the last work location that the personnel cage can reach.

(b) *Boatswain's chair.* Employers must:

(i) Before using a boatswain's chair, demonstrate that available space makes it infeasible to use a personnel platform for transporting workers;

(ii) Limit use of a boatswain's chair to elevations above the last work location that the personnel platform can reach; and

(iii) Use a boatswain's chair in accordance with block-and-tackle requirements specified by 29 CFR 1926.452(o)(3), unless they can demonstrate that the structural arrangement of the chimney precludes such use.

3. Qualified Competent Person

(a) The employers must:

(i) Provide a qualified competent person, as specified in paragraphs (f) and (m) of 29 CFR 1926.32, who is responsible for ensuring that the design, maintenance, and inspection of the hoist system comply with the conditions of this grant and with the appropriate requirements of 29 CFR part 1926 (''Safety and Health Regulations for Construction''); and

(ii) Ensure that the qualified competent person is present at ground level to assist in an emergency whenever the hoist system is raising or lowering workers.

(b) The employers must use a qualified competent person to design and maintain the cathead described under Condition 8 (''Cathead and Sheave'') below.

4. Hoist Machine

(a) *Type of hoist.* The employers must designate the hoist machine as a portable personnel hoist.

(b) *Raising or lowering a transport.* The employers must ensure that:

(i) The hoist machine includes a base-mounted drum hoist designed to control line speed; and

(ii) Whenever they raise or lower a personnel or material hoist (*e.g.*, a personnel cage, personnel platform, boatswain's chair, hopper, concrete bucket) using the hoist system:

(A) The drive components are engaged continuously when an empty or occupied transport is being lowered (*i.e.,* no ''freewheeling'');

(B) The drive system is interconnected, on a continuous basis, through a torque converter, mechanical coupling, or an equivalent coupling (*e.g.,* electronic controller, fluid clutches, hydraulic drives).

(C) The braking mechanism is applied automatically when the transmission is in the neutral position and a forward-reverse coupling or shifting transmission is being used; and

(D) No belts are used between the power source and the winding drum.

(c) *Power source.* The employers must power the hoist machine by an air,

electric, hydraulic, or internal-combustion drive mechanism.

(d) *Constant-pressure control switch.* The employers must:

(i) Equip the hoist machine with a hand- or foot-operated constant-pressure control switch (*i.e.,* a ''deadman control switch'') that stops the hoist immediately upon release; and

(ii) Protect the control switch to prevent it from activating if the hoist machine is struck by a falling or moving object.

(e) *Line-speed indicator.* The employers must:

(i) Equip the hoist machine with an operating line-speed indicator maintained in good working order; and

(ii) Ensure that the line-speed indicator is in clear view of the hoist operator during hoisting operations.

(f) *Braking systems.* The employers must equip the hoist machine with two (2) independent braking systems (*i.e.,* one automatic and one manual) located on the winding side of the clutch or couplings, with each braking system being capable of stopping and holding 150 percent of the maximum rated load.

(g) *Slack-rope switch.* The employers must equip the hoist machine with a slack-rope switch to prevent rotation of the winding drum under slack-rope conditions.

(h) *Frame.* The employers must ensure that the frame of the hoist machine is a self-supporting, rigid, welded-steel structure, and that holding brackets for anchor lines and legs for anchor bolts are integral components of the frame.

(i) *Stability.* The employers must secure hoist machines in position to prevent movement, shifting, or dislodgement.

(j) *Location.* The employers must:

(i) Locate the hoist machine far enough from the footblock to obtain the correct fleet angle for proper spooling of the cable on the drum; and

(ii) Ensure that the fleet angle remains between one-half degree (½°) and one and one-half degrees (1½°) for smooth drums, and between one-half degree (½°) and two degrees (2°) for grooved drums, with the lead sheave centered on the drum.[2]

(k) *Drum and flange diameter.* The employers must:

(i) Provide a winding drum for the hoist that is at least 30 times the diameter of the rope used for hoisting; and

(ii) Ensure that the winding drum has a flange diameter that is at least one and one-half (1½) times the winding-drum diameter.

(l) *Spooling of the rope.* The employers must *never* spool the rope closer than two (2) inches (5.1 cm) from the outer edge of the winding-drum flange.

(m) *Electrical system.* The employers must ensure that all electrical equipment is weatherproof.

(n) *Limit switches.* The employers must equip the hoist system with limit switches and related equipment that automatically prevent overtravel of a personnel cage, personnel platform, boatswain's chair, or material-transport device at the top of the supporting structure and at the bottom of the hoistway or lowest landing level.

5. Methods of Operation

(a) *Employee qualifications and training.* The employers must:

(i) Ensure that only trained and experienced workers, who are knowledgeable of hoist-system operations, control the hoist machine; and

(ii) Provide instruction, periodically and as necessary, on how to operate the hoist system, to each worker who uses a personnel cage for transportation.

(b) *Speed limitations.* The employers must *not* operate the hoist at a speed in excess of:

(i) Two hundred and fifty (250) feet (76.9 m) per minute when a personnel cage is being used to transport workers;

(ii) One hundred (100) feet (30.5 m) per minute when a personnel platform or boatswain's chair is being used to transport workers; or

(iii) A line speed that is consistent with the design limitations of the system when only material is being hoisted.

(c) *Communication.* The employers must:

(i) Use a voice-mediated intercommunication system to maintain communication between the hoist operator and the workers located in or on a moving personnel cage, personnel platform, or boatswain's chair;

(ii) Stop hoisting if, for any reason, the communication system fails to operate effectively; and

(iii) Resume hoisting only when the site superintendent determines that it is safe to do so.

6. Hoist Rope

(a) *Grade.* The employers must use a wire rope for the hoist system (*i.e.,* ''hoist rope'') that consists of extra-improved plow steel, an equivalent grade of non-rotating rope, or a regular lay rope with a suitable swivel mechanism.

(b) *Safety factor.* The employers must maintain a safety factor of at least eight (8) times the safe workload throughout the entire length of hoist rope.

(c) *Size.* The employers must use a hoist rope that is at least one-half (½) inch (1.3 cm) in diameter.

(d) *Inspection, removal, and replacement.* The employers must:

(i) Thoroughly inspect the hoist rope before the start of each job and on completing a new setup;

(ii) Maintain the proper diameter-to-diameter ratios between the hoist rope and the footblock and the sheave by inspecting the wire rope regularly (*see* Conditions 7(c) and 8(d), below); and

(iii) Remove and replace the wire rope with new wire rope when any of the conditions specified by 29 CFR 1926.552(a)(3) occurs.

(e) *Attachments.* The employers must attach the rope to a personnel cage, personnel platform, or boatswain's chair with a keyed-screwpin shackle or positive-locking link.

(f) *Wire-rope fastenings.* When the employers use clip fastenings (*e.g.,* U-bolt wire-rope clips) with wire ropes, they must:

(i) Use Table H–20 of 29 CFR 1926.251 to determine the number and spacing of clips;

(ii) Use at least three (3) drop-forged clips at each fastening;

(iii) Install the clips with the ''U'' of the clips on the dead end of the rope; and

(iv) Space the clips so that the distance between them is six (6) times the diameter of the rope.

7. Footblock

(a) *Type of block.* The employers must use a footblock:

(i) Consisting of construction-type blocks of solid single-piece bail with a safety factor that is at least four (4) times the safe workload, or an equivalent block with roller bearings;

(ii) Designed for the applied loading, size, and type of wire rope used for hoisting;

(iii) Designed with a guard that contains the wire rope within the sheave groove;

(iv) Bolted rigidly to the base; and

(v) Designed and installed so that it turns the moving wire rope to and from the horizontal or vertical direction as required by the direction of rope travel.

(b) *Directional change.* The employers must ensure that the angle of change in the hoist rope from the horizontal to the vertical direction at the footblock is approximately 90°.

[2] This variance adopts the definition of, and specifications for, fleet angle from *Cranes and Derricks,* H. I. Shapiro, *et al.* (eds.); New York: McGraw-Hill; 3rd ed., 1999, page 592. Accordingly, the fleet angle is ''[t]he angle the rope leading onto a [winding] drum makes with the line perpendicular to the drum rotating axis when the lead rope is making a wrap against the flange.''

(c) *Diameter.* The employers must ensure that the line diameter of the footblock is at least 24 times the diameter of the hoist rope.

8. Cathead and Sheave

(a) *Support.* The employers must use a cathead (*i.e.,* ''overhead support'') that consists of a wide-flange beam, or two (2) steel-channel sections securely bolted back-to-back to prevent spreading.

(b) *Installation.* The employers must ensure that:

(i) All sheaves revolve on shafts that rotate on bearings; and

(ii) The bearings are mounted securely to maintain the proper bearing position at all times.

(c) *Rope guides.* The employers must provide each sheave with appropriate rope guides to prevent the hoist rope from leaving the sheave grooves when the rope vibrates or swings abnormally.

(d) *Diameter.* The employers must use a sheave with a diameter that is at least 24 times the diameter of the hoist rope.

9. Guide Ropes

(a) *Number and construction.* The employers must affix two (2) guide ropes by swivels to the cathead. The guide ropes must:

(i) Consist of steel safety cables not less than one-half (½) inch (1.3 cm) in diameter; and

(ii) Be free of damage or defect at all times.

(b) *Guide rope fastening and alignment tension.* The employers must fasten one end of each guide rope securely to the overhead support, with appropriate tension applied at the foundation.

(c) *Height.* The employers must rig the guide ropes along the entire height of the hoist-machine structure.

10. Personnel Cage

(a) *Construction.* A personnel cage must be of steel-frame construction and capable of supporting a load that is four (4) times its maximum rated load capacity. The employers also must ensure that the personnel cage has:

(i) A top and sides that are permanently enclosed (except for the entrance and exit);

(ii) A floor securely fastened in place;

(iii) Walls that consist of 14-gauge, one-half (½) inch (1.3 cm) expanded metal mesh, or an equivalent material;

(iv) Walls that cover the full height of the personnel cage between the floor and the overhead covering;

(v) A sloped roof constructed of one-eighth (⅛) inch (0.3 cm) aluminum, or an equivalent material;

(vi) Safe handholds (*e.g.,* rope grips—but *not* rails or hard protrusions [3]) that accommodate each occupant; and

(vii) Attachment points to which workers secure their personal fall-protection systems.

(b) *Overhead weight.* A personnel cage must have an overhead weight (*e.g.,* a headache ball of appropriate weight) to compensate for the weight of the hoist rope between the cathead and the footblock. In addition, the employers must:

(i) Ensure that the overhead weight is capable of preventing line run; and

(ii) Use a means to restrain the movement of the overhead weight so that the weight does *not* interfere with safe personnel hoisting.

(c) *Gate.* The personnel cage must have a gate that:

(i) Guards the full height of the entrance opening; and

(ii) Has a functioning mechanical lock that prevents accidental opening.

(d) *Operating procedures.* The employers must post the procedures for operating the personnel cage conspicuously at the hoist operator's station.

(e) *Capacity.* The employers must:

(i) Hoist no more than four (4) occupants in the cage at any one time; and

(ii) Ensure that the rated load capacity of the cage is at least 250 pounds (113.4 kg) for each occupant so hoisted.

(f) *Worker notification.* The employers must post a sign in each personnel cage notifying workers of the following conditions:

(i) The standard rated load, as determined by the initial static drop test specified by Condition 10(g) (''Static drop tests'') below; and

(ii) The reduced rated load for the specific job.

(g) *Static drop tests.* The employers must:

(i) Conduct static drop tests of each personnel cage that comply with the definition of ''static drop test'' specified by section 3 (''Definitions'') and the static drop-test procedures provided in section 13 (''Inspections and Tests'') of American National Standards Institute (ANSI) standard A10.22–1990 (R1998) (''American National Standard for Rope-Guided and Non-guided Worker's Hoists—Safety Requirements'');

(ii) Perform the initial static drop test at 125 percent of the maximum rated load of the personnel cage, and subsequent drop tests at no less than 100 percent of its maximum rated load; and

(iii) Use a personnel cage for raising or lowering workers only when no damage occurred to the components of the cage as a result of the static drop tests.

11. Safety Clamps

(a) *Fit to the guide ropes.* The employers must:

(i) Fit appropriately designed and constructed safety clamps to the guide ropes; and

(ii) Ensure that the safety clamps do not damage the guide ropes when in use.

(b) *Attach to the personnel cage.* The employers must attach safety clamps to each personnel cage for gripping the guide ropes.

(c) *Operation.* The safety clamps attached to the personnel cage must:

(i) Operate on the ''broken rope principle'' defined in section 3 (''Definitions'') of ANSI standard A10.22–1990 (R1998);

(ii) Be capable of stopping and holding a personnel cage that is carrying 100 percent of its maximum rated load and traveling at its maximum allowable speed if the hoist rope breaks at the footblock; and

(iii) Use a pre-determined and pre-set clamping force (*i.e.,* the ''spring compression force'') for each hoist system.

(d) *Maintenance.* The employers must keep the safety-clamp assemblies clean and functional at all times.

12. Overhead Protection

(a) The employers must install a canopy or shield over the top of the personnel cage that is made of steel plate at least three-sixteenths (3⁄16) of an inch (4.763 mm) thick, or material of equivalent strength and impact resistance to protect workers (*i.e.,* both inside and outside the chimney) from material and debris that may fall from above.

(b) The employers must ensure that the canopy or shield slopes to the outside of the personnel cage.[4]

13. Emergency-Escape Device

(a) *Location.* The employers must provide an emergency-escape device in at least one of the following locations:

(i) In the personnel cage, provided that the device is long enough to reach the bottom landing from the highest possible escape point; or

(ii) At the bottom landing, provided that a means is available in the personnel cage for the occupants to raise

[3] To reduce impact hazards should workers lose their balance because of cage movement.

[4] Paragraphs (a) and (b) were adapted from OSHA's Underground Construction standard (29 CFR 1926.800(t)(4)(iv)).

the device to the highest possible escape point.

(b) *Operating instructions.* The employers must ensure that written instructions for operating the emergency-escape device are attached to the device.

(c) *Training.* The employers must instruct each worker who uses a personnel cage for transportation on how to operate the emergency-escape device:

(i) Before the worker uses a personnel cage for transportation; and

(ii) Periodically, and as necessary, thereafter.

14. Personnel Platforms

(a) *Personnel platforms.* When the employers elect to replace the personnel cage with a personnel platform in accordance with Condition 2(a) of this variance, they must:

(i) Ensure that an enclosure surrounds the platform, and that this enclosure is at least 42 inches (106.7 cm) above the platform's floor;

(ii) Provide overhead protection when an overhead hazard is, or could be, present; and

(iii) Comply with the applicable scaffolding strength requirements specified by 29 CFR 1926.451(a)(1).

15. Protecting Workers From Fall and Shearing Hazards

(a) *Fall hazards.* The employers must:

(i) Before workers use personnel cages, personnel platforms, or boatswain's chairs, equip the workers with, and ensure that they use, personal fall-arrest systems that meet the requirements of 29 CFR 1926.502(d);

(ii) Ensure that workers using personnel cages secure their fall-arrest systems to attachment points located inside the cage;

(iii) Ensure that workers using personnel platforms and boatswain's chairs secure their personal fall-arrest systems to a vertical lifeline; and

(iv) When using vertical lifelines:

(A) Secure the lifelines to the top of the chimney;

(B) Weight the lifelines properly or suitably affix the lifelines to the bottom of the chimney; and

(C) Ensure that workers remain attached to their lifeline during the *entire* period of vertical transit.

(b) *Shearing hazards.* The employers must:

(i) Provide workers who use personnel platforms or boatswain's chairs with instruction on the shearing hazards posed by the hoist system (*e.g.,* work platforms, scaffolds), and the need to keep their limbs or other body parts clear of these hazards during hoisting operations;

(ii) Provide the instruction on shearing and struck-by hazards:

(A) Before a worker uses a personnel platform or boatswain's chair at the worksite; and

(B) Periodically, and as necessary, thereafter, including whenever a worker demonstrates a lack of knowledge about the hazards or how to avoid the hazards, a modification occurs to an existing shearing or struck-by hazard, or a new shearing or struck-by hazard develops at the worksite; and

(iii) Attach a readily visible warning to each personnel platform and boatswain's chair notifying workers in a language they understand of potential shearing hazards they may encounter during hoisting operations, and that uses the following (or equivalent) wording:

(A) For personnel platforms: ''Warning—To avoid serious injury, keep your hands, arms, feet, legs, and other parts of your body inside this platform while it is in motion''; and

(B) For boatswain's chairs: ''Warning—To avoid serious injury, do not extend your hands, arms, feet, legs, or other parts of your body from the side or to the front of this chair while it is in motion.''

16. Safety Zone

The employers must:

(a) Establish a clearly designated safety zone around the bottom landing of the hoist system; and

(b) Prohibit any worker from entering the safety zone except to access a personnel- or material-transport device, and then only when the device is at the bottom landing and not in operation (*i.e.,* when the drive components of the hoist machine are disengaged and the braking mechanism is properly applied).

17. Inspections, Tests and Accident Prevention

(a) The employers must:

(i) Conduct inspections of the hoist system as required by 29 CFR 1926.20(b)(2);

(ii) Ensure that a competent person conducts daily visual inspections of the hoist system; and

(iii) Inspect and test the hoist system as specified by 29 CFR 1926.552(c)(15).

(b) The employers must comply with the accident-prevention requirements of 29 CFR 1926.20(b)(3).

18. Welding

(a) The employers must use only qualified welders to weld components of the hoisting system.

(b) The employers must ensure that the qualified welders:

(i) Are familiar with the weld grades, types, and materials specified in the design of the system; and

(ii) Perform the welding tasks in accordance with 29 CFR 1926, subpart J (''Welding and Cutting'').

19. OSHA Notification

(a) At least 15 calendar days prior to commencing any chimney-construction operation using the conditions specified herein, the employers must notify the OSHA Area Office nearest to the worksite of the operation, including the location of the operation and the date that the operation will commence.

(b) Each employer must inform OSHA national headquarters as soon as it has knowledge that it will:

(i) Cease to do business; or

(ii) Transfer the activities covered by this permanent variance to a successor company.

VII. Authority and Signature

Jordan Barab, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC directed the preparation of this notice. OSHA is issuing this notice under the authority specified by Section 6(d) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), Secretary of Labor's Order No. 5–2007 (72 FR 31160), and 29 CFR part 1905.

Signed at Washington, DC, on July 14, 2009.

Jordan Barab,

Acting Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. E9–17023 Filed 7–16–09; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Maritime Advisory Committee for Occupational Safety and Health (MACOSH)

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: MACOSH meeting, notice of.

SUMMARY: The Maritime Advisory Committee for Occupational Safety and Health (MACOSH) was established under Section 7 of the Occupational Safety and Health (OSH) Act of 1970 to advise the Assistant Secretary of Labor for Occupational Safety and Health on issues relating to occupational safety and health in the maritime industries. The purpose of this **Federal Register**

notice is to announce the Committee and workgroup meetings scheduled for September 1–2, 2009.

DATES: The Shipyard and Longshore workgroups will meet on Tuesday, September 1, 2009, 8 a.m. to 4:30 p.m., and the Committee will meet on Wednesday, September 2, 2009, from 8 a.m. to 4:30 p.m.

ADDRESSES: The Committee and workgroups will meet at the Newport News Marriott Hotel, 740 Town Center Drive, Newport News, VA 23606 ((757) 873–9299). Mail comments, views, or statements in response to this notice to Danielle Watson, Office of Maritime, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; phone (202) 693–1870; fax (202) 693–1663.

FOR FURTHER INFORMATION CONTACT: For general information about MACOSH and this meeting, contact: Amy Wangdahl, Acting Director, Office of Maritime, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; phone: (202) 693–2066. Individuals with disabilities wishing to attend the meeting should contact Danielle Watson at (202) 693–1870 no later than August 18, 2009, to obtain appropriate accommodations.

SUPPLEMENTARY INFORMATION: All MACOSH meetings are open to the public. All interested persons are invited to attend the MACOSH meeting at the time and location listed above. The MACOSH agenda will include: An OSHA activities update; a review of the minutes from the previous meeting; and reports from each workgroup. MACOSH may also discuss the following topics based on the workgroup reports: Surface preparation (29 CFR 1915 subpart C, Painting and Coatings); Safety and Health Injury Prevention Sheets (SHIPS) rigging guidance document; arc flash guidance; commercial fishing industry quick cards; injury and fatality data initiative; activities related to shipyard employment; scaffolding and falls (29 CFR 1915 subpart E); welding guidance; break bulk cargo safety guidance; safety zone guidance; speed limits in marine terminals; and defective containers.

Public Participation: Written data, views, or comments for consideration by MACOSH on the various agenda items listed above should be submitted to Danielle Watson at the address listed above. Submissions received by August 18, 2009, will be provided to Committee members and will be included in the record of the meeting. Requests to make oral presentations to the Committee may be granted as time permits.

Authority: This notice was prepared under the direction of Jordan Barab, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, pursuant to Sections 6(b)(1) and 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655, 656), the Federal Advisory Committee Act (5 U.S.C. App. 2), Secretary of Labor's Order 5–2007 (72 FR 31160), and 29 CFR part 1912.

Signed at Washington, DC, this 14th day of July, 2009.

Jordan Barab,

Acting Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. E9–17022 Filed 7–16–09; 8:45 am]

BILLING CODE 4510–26–P

LIBRARY OF CONGRESS

Copyright Office

Notification of Agreements Under the Webcaster Settlement Act of 2009

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of agreement.

SUMMARY: The Copyright Office is publishing an agreement which sets rates and terms for the reproduction and performance of sound recordings made by certain specified webcasters, under two statutory licenses. Webcasters who meet the eligibility requirements may choose to operate under the statutory licenses in accordance with the rates and terms set forth in the agreement published herein rather than the rates and terms of any determination by the Copyright Royalty Judges.

FOR FURTHER INFORMATION CONTACT: Stephen Ruwe, Attorney Advisor, or Tanya M. Sandros, Deputy General Counsel, Copyright Office, GC/I&R, P.O. Box 70400, Washington, DC 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366. See the final paragraph of the SUPPLEMENTARY INFORMATION for information on where to direct questions regarding the rates and terms set forth in the agreement.

SUPPLEMENTARY INFORMATION: On June 30, 2009, President Obama signed into law the Webcaster Settlement Act of 2009 (''WSA''), Pub. L. No. 111–36, which amends section 114 of the Copyright Act, title 17 of the United States Code, as it relates to webcasters. Section 114(f)(5) as amended by the WSA allows SoundExchange, the Receiving Agent designated by the Librarian of Congress in his June 20, 2002, order for collecting royalty payments made by eligible nonsubscription transmission services under the section 112 and section 114 statutory licenses, *see* 67 FR 45239 (July 8, 2002), to enter into agreements on behalf of all copyright owners and performers to set rates, terms and conditions for webcasters operating under the section 112 and section 114 statutory licenses for a period of not more than 11 years beginning on January 1, 2005. The authority to enter into such settlement agreements shall expire at 11:59 p.m. Eastern time on the 30th day after the enactment of the WSA.

Unless otherwise agreed to by the parties, the rates and terms set forth in the agreement apply only to the time periods specified in the agreement and have no precedential value in any proceeding concerned with the setting of rates and terms for the public performance or reproduction in ephemeral phonorecords. To make this point clear, Congress included language expressly addressing the precedential value of agreements made under the WSA. Specifically, section 114(f)(5)(C), states that: ''Neither subparagraph (A) nor any provisions of any agreement entered into pursuant to subparagraph (A), including any rate structure, fees, terms, conditions, or notice and recordkeeping requirements set forth therein, shall be admissible as evidence or otherwise taken into account in any administrative, judicial, or other government proceeding involving the setting or adjustment of the royalties payable for the public performance or reproduction in ephemeral recordings or copies of sound recordings, the determination of terms or conditions related thereto, or the establishment of notice and recordkeeping requirements by the Copyright Royalty Judges under paragraph (4) or section 112(e)(4). It is the intent of Congress that any royalty rates, rate structure, definitions, terms, conditions, or notice and recordkeeping requirements, included in such agreements shall be considered as a compromise motivated by the unique business, economic and political circumstances of webcasters, copyright owners, and performers rather than as matters that would have been negotiated in the marketplace between a willing buyer and a willing seller, or otherwise meet the objectives set forth in section 801(b). This subparagraph shall not apply to the extent that the receiving agent and a webcaster that are party to an agreement entered into pursuant to subparagraph (A) expressly authorize the submission of the agreement in a proceeding under this subsection.'' 17 U.S.C. 114(f)(5)(C) (2009).

On July 7, 2009, SoundExchange notified the Copyright Office that it had negotiated an agreement for the reproduction and performance of sound recordings by ''Commercial Webcasters Including Small Pureplay Webcasters'' under the section 112 and section 114 statutory licenses. Therefore, in accordance with the requirement set forth in amended section 114(f)(5)(B), the Copyright Office is publishing the submitted agreement as Appendix A, thereby making the rates and terms in the agreement available to any webcasters meeting the respective eligibility conditions of the agreement as an alternative to the rates and terms of any determination by the Copyright Royalty Judges.

The Copyright Office has no responsibility for administering the rates and terms of the agreement beyond the publication of this notice. For this reason, questions regarding the rates and terms set forth in the agreement should be directed to SoundExchange (for contact information, see http://www.soundexchange.com).

Dated: July 13, 2009.

Marybeth Peters,

Register of Copyrights.

Note: The following Appendix Will Not Be Codified in the Code of Federal Regulations.

APPENDIX A – AGREED RATES AND TERMS FOR COMMERCIAL WEBCASTERS INCLUDING SMALL PUREPLAY WEBCASTERS ARTICLE 1 – DEFINITIONS

1.1 *General*. In general, words used in the rates and terms set forth herein (the ''Rates and Terms'') and defined in 17 U.S.C. § 112(e) or 114 or 37 C.F.R. Part 380 shall have the meanings specified in those provisions as in effect on the date hereof, with such exceptions or clarifications set forth in Section 1.2.

1.2 Additional Definitions

(a) ''Affiliate'' of a transmitting entity is a person or entity that directly, or indirectly through one or more intermediaries –

(1) has securities or other ownership interests representing more than 50 percent of such person's or entity's voting interests beneficially owned by –

(A) such transmitting entity; or

(B) a person or entity beneficially owning securities or other ownership interests representing more than 50 percent of the voting interests of the transmitting entity;

(2) beneficially owns securities or other ownership interests representing more than 50 percent of the voting interests of the transmitting entity; or

(3) otherwise Controls, is Controlled by, or is under common Control with the transmitting entity.

(b) *''Bundled Service''* means any package of services or products provided to end users by a Commercial Webcaster, Affiliate, or any third party with which a Commercial Webcaster has a Third Party Business Arrangement that meets each of the following requirements:

(1) the package of products or services includes a digital music service through which Eligible Transmissions are made and at least one other product or service that does not consist only of the offering of Eligible Transmissions; and

(2) the package of products or services that constitute any particular package is only offered to end users for a fee (whether one–time, recurring or otherwise) that does not differentiate among the various components of the package. The fact that the package of products or services, or any component part(s) thereof, is offered to end users for a limited duration without a fee (i.e., on a promotional basis) shall not disqualify the package from treatment as a Bundled Service.

(c) *''Commercial Webcaster''* shall mean a webcaster as defined in 17 U.S.C. § 114(f)(5)(E)(iii) that (i) has obtained a compulsory license under 17 U.S.C. § § 112(e) and 114 and the implementing regulations therefor to make Eligible Transmissions and related ephemeral recordings; (ii) complies with all provisions of Sections 112(e) and 114 and applicable regulations; (iii) is not a noncommercial webcaster as defined in 17 U.S.C. § 114(f)(5)(E)(I).

(d) *''Control''* means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person or entity, whether through the ownership of voting securities, by contract or otherwise.

(e) *''Eligible Transmission''* shall mean an eligible nonsubscription transmission, or a transmission through a new subscription service, made by a Commercial Webcaster over the internet that is subject to the payment of royalties under 37 C.F.R. Part 380.

(f) *''Expenses''* –

(1) means all costs incurred (whether actually paid or not) by a Small Pureplay Webcaster, except that capital costs shall be treated as Expenses allocable to a period only to the extent of charges for amortization or depreciation of such costs during such period as are properly allocated to such period in accordance with U.S. Generally Accepted Accounting Principles (''GAAP'');

(2) includes the fair market value of all goods, services, or other non–cash consideration (including real, personal, tangible, and intangible property) provided by a Small Pureplay Webcaster to any third party in lieu of a cash payment and the fair market value of any goods or services purchased for or provided to a Small Pureplay Webcaster by an Affiliate of such webcaster; and

(3) shall not include –

(A) the imputed value of personal services rendered by up to 5 natural persons who are, directly or indirectly, owners of the Small Pureplay Webcaster, and for which no compensation has been paid;

(B) the imputed value of occupancy of residential property for which no Federal income tax deduction is claimed as a business expense;

(C) costs of purchasing phonorecords of sound recordings used in the Small Pureplay Webcaster's service;

(D) royalties paid for the public performance of sound recordings; or

(E) the reasonable costs of collecting overdue accounts receivable, provided that the reasonable costs of collecting any single overdue account receivable may not exceed the actual account receivable.

(g) *''Gross Revenues''* means all revenue of any kind earned by the Commercial Webcaster or its Affiliates from all its operations, in accordance with U.S. Generally Accepted Accounting Principles, and includes –

(A) all cash or cash equivalents;

(B) the fair market value of goods, services, or other non–cash consideration (including real, personal, tangible, and intangible property);

(C) in–kind and cash donations and other gifts (but not capital contributions made in exchange for an equity interest in the recipient); and

(D) amounts earned by such person or entity but paid to an Affiliate of such person or entity in lieu of payment to such person or entity.

For the avoidance of doubt, Gross Revenues includes revenue from activities other than making Eligible Transmissions, including revenue from transmissions of sound recordings licensed directly from the relevant copyright owners. Commercial Webcasters with substantial revenue from activities other than making Eligible Transmissions under the statutory licenses in Sections 112(e) and 114 may wish not to elect to be subject to these Rates and Terms.

(h) *''Small Pureplay Webcaster''* shall mean a Commercial Webcaster that (a) together with its Affiliates, has not had annual Gross Revenues of more than $1,250,000 from its (or their) worldwide

activities, in any two previous calendar years, and (b) in any calendar year in which it is to be considered a Small Pureplay Webcaster reasonably expects to have, together with its Affiliates, (i) annual Gross Revenues of not more than $1,250,000 from its (or their) worldwide activities; and (ii) average monthly aggregate tuning hours for all programming transmitted within the United States, less the actual running time of any sound recording licensed directly from the relevant copyright owners, that is less than the relevant threshold from the following table:

YEAR	MAXIMUM AGGREGATE TUNING HOURS
2006–2008	7 million ATH
2009	8 million ATH
2010	8.5 million ATH
2011	9 million ATH
2012–2014	10 million ATH

Small Pureplay Webcaster status is available in 2006–2014 only (not 2015).

(i) *''SoundExchange''* shall mean SoundExchange, Inc. and shall include its successors and assigns.

(j) *''Subscription Service''* means a service providing Eligible Transmissions that are subscription transmissions (as defined in 17 U.S.C. § 114(j)(14)).

(k) *''Syndicated Service''* means a service providing Eligible Transmissions selected or controlled, or made using ephemeral recordings controlled, by the relevant Commercial Webcaster but presented in such a manner that (i) the end user can receive Eligible Transmissions without visiting a page, interface, display, application, player, software or other electronic property predominantly associated with the service, or (ii) the end user can receive Eligible Transmissions through a website, application, player, software or other electronic property of any kind that is owned, controlled or branded by a third party, in whole or in part, directly or indirectly pursuant to a Third Party Business Arrangement.

(l) *''Third Party Business Arrangement''* means any arrangement with a third party where the third party (or another party on behalf of such third party) provides monies or other consideration recognizable as revenue under GAAP to a Commercial Webcaster or an Affiliate. For the avoidance of doubt, the provision of a ''white label'' service would constitute a Third Party Business Agreement.

ARTICLE 2 – AGREEMENT PURSUANT TO WEBCASTER SETTLEMENT ACT OF 2009

2.1 *Availability of Rates and Terms.* Pursuant to the Webcaster Settlement Act of 2009, and subject to the provisions set forth below, Commercial Webcasters may elect to be subject to the rates and terms set forth herein (the ''Rates and Terms'') in their entirety, with respect to such Commercial Webcasters' Eligible Transmissions and related ephemeral recordings, for any calendar year that it qualifies as a Commercial Webcaster during the period beginning on January 1, 2006, and ending on December 31, 2015, in lieu of other rates and terms from time to time applicable under 17 U.S.C. § 112(e) and 114, by complying with the procedure set forth in Section 2.2 hereof. Any person or entity that does not satisfy the eligibility criteria to be a Commercial Webcaster and make a timely election pursuant to Section 2.2 must comply with otherwise applicable rates and terms.

2.2 *Election Process in General.* To elect to be subject to these Rates and Terms, in lieu of any royalty rates and terms that otherwise might apply under 17 U.S.C. § § 112(e) and 114, for any one or more calendar years that it qualifies as a Commercial Webcaster during the period beginning on January 1, 2006, and ending on December 31, 2015, a Commercial Webcaster shall submit to SoundExchange a completed and signed election form (available on the SoundExchange Web site at http://www.soundexchange.com) by no later than January 31 of the applicable year, except that election forms for 2006–2009 shall be due by no later than 30 days after publication of these Rates and Terms in the **Federal Register**. On any such election form, the Commercial Webcaster must, among other things, certify that it qualifies as a Commercial Webcaster for the relevant year. Even if an entity has once elected to be treated as a Commercial Webcaster, it must make a separate, timely election in each subsequent year in which it wishes (and is eligible) to be treated as such. Notwithstanding anything else in these Rates and Terms, a person or entity otherwise qualifying as a Commercial Webcaster that has participated in any way in any appeal of the Final Determination of the Copyright Royalty Judges concerning royalty rates and terms under Section 112(e) and 114 of the Copyright Act for the period January 1, 2006, through December 31, 2010 published in the **Federal Register** at 72 Fed. Reg. 24084 (May 1, 2007) (the ''Final Determination'') or any proceeding before the Copyright Royalty Judges to determine royalty rates and terms under Section 112(e) and 114 of the Copyright Act for the period January 1, 2011, through December 31, 2015 (including Docket No. 2009–1 CRB Webcasting III and Docket No. 2009–2 CRB New Subscription II, as noticed in the **Federal Register** at 74 Fed. Reg. 318–20 (Jan. 5, 2009)) shall not be treated as a Commercial Webcaster or have the right to claim the benefit of these Rates and Terms, unless it withdraws from such proceeding no later than five business days after submitting to SoundExchange a completed and signed election form as contemplated by this Section 2.2.

2.3 *Election of Small Pureplay Webcaster Status.* A Commercial Webcaster that elects to be subject to these Rates and Terms and qualifies as a Small Pureplay Webcaster may elect to be treated as a Small Pureplay Webcaster for any one or more calendar years that it so qualifies during the period 2006–2014. To do so, the Commercial Webcaster shall submit to SoundExchange a completed and signed election form (available on the SoundExchange Web site at http://www.soundexchange.com) by no later than January 31 of the applicable year, except that election forms for 2006–2009 shall be due by no later than 30 days after publication of these Rates and Terms in the **Federal Register**. On any such election form, the Commercial Webcaster must, among other things, certify that it qualifies as a Small Pureplay Webcaster for the relevant year and provide Gross Revenues and aggregate tuning hours information relevant to determining eligibility. Even if an Eligible Small Webcaster has once elected to be treated as a Small Pureplay Webcaster, it must make a separate, timely election in each subsequent year in which it wishes (and is eligible) to be treated as such. For the avoidance of doubt, if a Commercial Webcaster that has once made an election to be subject to these Rates and Terms as a Small Pureplay Webcaster wishes to not make such an election in subsequent years, and is eligible to be treated as an Eligible Small Webcaster under the agreement entered into by SoundExchange under the Webcaster Settlement Act and published in the **Federal Register** at 74 Fed. Reg. 9302 (March 3, 2009), the Commercial Webcaster may elect to be treated as an Eligible Small Webcaster under such agreement for such subsequent years. ≤

2.4*Representation of Compliance and Non–waiver.* By electing to operate pursuant to these Rates and Terms, an entity represents and warrants that it qualifies as a Commercial Webcaster, and if applicable, as a Small Pureplay Webcaster. By accepting an election by a transmitting entity or payments or reporting made pursuant to these Rates

and Terms, SoundExchange does not acknowledge that the transmitting entity qualifies as a Commercial Webcaster, Small Pureplay Webcaster or that it has complied with the requirements of the statutory licenses under Sections 112(e) and 114 of the Copyright Act (including these Rates and Terms). It is the responsibility of each transmitting entity to ensure that it is in full compliance with applicable requirements of the statutory licenses under Sections 112(e) and 114 of the Copyright Act. SoundExchange is not in a position to, and does not, make determinations as to whether each of the many services that rely on the statutory licenses is eligible for statutory licensing or any particular royalty payment classification, nor does it continuously verify that such services are in full compliance with all applicable requirements. Accordingly, a Commercial Webcaster agrees that SoundExchange's acceptance of its election, payment or reporting does not give or imply any acknowledgment that it is in compliance with the requirements of the statutory licenses (including these Rates and Terms) and shall not be used as evidence that it is in compliance with the requirements of the statutory licenses (including these Rates and Terms). SoundExchange and copyright owners reserve all their rights to take enforcement action against a transmitting entity that is not in compliance with all applicable requirements.

ARTICLE 3 – SCOPE

3.1*In General.* In consideration for the payment of royalties pursuant to Article 4 and such other consideration specified herein, Commercial Webcasters that have made a timely election to be subject to these Rates and Terms as provided in Section 2.2 are entitled to publicly perform sound recordings within the scope of the statutory license provided by Section 114 by means of Eligible Transmissions, and to make related ephemeral recordings for use solely for purposes of such Eligible Transmissions within the scope of Section 112(e), in accordance with and subject to the limitations set forth in these Rates and Terms and in strict conformity with the provisions of 17 U.S.C. § § 112(e) and 114 and their implementing regulations (except as otherwise specifically provided herein), in lieu of other rates and terms from time to time applicable under 17 U.S.C. § 112(e) and 114, for each calendar year during the period beginning on January 1, 2006, and ending on December 31, 2015, during which they have made such an election.

3.2*Applicability to All Eligible Services Operated by or for a Commercial Webcaster.* If a Commercial Webcaster has made a timely election to be subject to these Rates and Terms as provided in Section 2.2, these Rates and Terms shall apply to all Eligible Transmissions made by or for the Commercial Webcaster that qualify as a Performance under 37 C.F.R. § 380.2(i), and related ephemeral recordings.

3.3*No Implied Rights.* These Rates and Terms extend only to electing Commercial Webcasters and grant no rights, including by implication or estoppel, to any other person or except as specifically provided herein. Without limiting the generality of the foregoing, these Rates and Terms do not grant (i) any copyright ownership interest in any sound recording; (ii) any trademark or trade dress rights; (iii) any rights outside the United States (as defined in 17 U.S.C. § 101); (iv) any rights of publicity or rights to any endorsement by SoundExchange or any other person; or (v) any rights with respect to performances or reproductions outside the scope of these Rates and Terms or the statutory licenses under 17 U.S.C. § § 112(e) and 114.

ARTICLE 4 – ROYALTIES

4.1 *Minimum Fee.* Each Commercial Webcaster will pay an annual, nonrefundable minimum fee of $25,000. Upon payment of the minimum fee, the Commercial Webcaster will receive a credit in the amount of the minimum fee paid against any royalties payable by it under these Rates and Terms for the same calendar year.

4.2 *Royalty Rates in General.* Royalties for Eligible Transmissions made pursuant to 17 U.S.C. § 114, and the making of related ephemeral recordings pursuant to 17 U.S.C. § 112(e), shall be payable as provided in this Section 4.2, except as provided in Section 4.3.

(a) A Commercial Webcaster that makes Eligible Transmissions through a Bundled Service, Syndicated Service or Subscription Service, shall pay royalties for such Eligible Transmissions on a per performance basis, as follows:

Year	Rate per Performance
2006	$0.0008
2007	$0.0011
2008	$0.0014
2009	$0.0015
2010	$0.0016
2011	$0.0017
2012	$0.0020
2013	$0.0022
2014	$0.0023
2015	$0.0025

(b) To the extent a Commercial Webcaster is not required to pay royalties under Section 4.2(a), it shall pay royalties equal to the greater of the following (on an annual basis, as provided in Section 4.5):

(i) A usage–based royalty computed on a per–performance basis, or in the years where specified on an aggregate tuning hour basis, as follows:

Year	Per Performance	Per Aggregate Tuning Hour
2006	$0.00080	1.2¢
2007	$0.00084	1.26¢
2008	$0.00088	1.32¢
2009	$0.00093	
2010	$0.00097	
2011	$0.00102	
2012	$0.00110	
2013	$0.00120	
2014	$0.00130	
2015	$0.00140	

(ii) 25% of Gross Revenues from activities in the United States (as defined in 17 U.S.C. § 101).

4.3 Royalty Rates for Small Pureplay Webcasters Through 2014. For Eligible Transmissions made pursuant to 17 U.S.C. § 114, and the making of related ephemeral recordings pursuant to 17 U.S.C. § 112(e), during the period 2006–2014, electing Small Pureplay Webcasters shall pay royalties equal to the greater of the following (on an annual basis, as provided in Section 4.5):

(i) A percentage of Gross Revenues, as follows:

Year	Percentage
2006–2008	10% of the first $250,000 in Gross Revenues from activities in the United States (as defined in 17 U.S.C. § 101), and 12% of any Gross Revenues in excess of $250,000 from activities in the United States, during the applicable year

YEAR	PERCENTAGE
2009–2014	12% of the first $250,000 in Gross Revenues from activities in the United States, and 14% of any Gross Revenues in excess of $250,000 from activities in the United States, during the applicable year

(ii) 7% of Expenses during the applicable year

Provided, however, that Eligible Transmissions shall be subject to the royalty rates provided in Section 4.2(a) if they are (a) above the aggregate tuning hour thresholds in Section 1.2(h) or (b) made through a Bundled Service, Syndicated Service or Subscription Service;

And Further Provided, however, that if a Commercial Webcaster has made payments for a calendar year based on the expectation that it will qualify as a Small Pureplay Webcaster, but it exceeds the $1.25 Million Gross Revenues cap for the year, it shall pay for that entire year and the following year (if it again exceeds $1.25 Million Gross Revenues cap for that following year) at a rate that is the greater of (x) a royalty determined as provided above in this Section 4.3 and (y) 25% of Gross Revenues from activities in the United States (as defined in 17 U.S.C. § 101), except that if the year in which the Commercial Webcaster exceeds the $1.25 Million Gross Revenues cap is 2014, it shall in 2015 pay pursuant to Section 4.2. For the avoidance of doubt, the rate set forth in this paragraph shall be available to a Commercial Webcaster for no more than two years in total (whether those years are consecutive or not), and if a Commercial Webcaster has exceeded the $1.25 Million Gross Revenues cap for two previous years, it shall thereafter be ineligible for Small Pureplay Webcaster status and must make payments pursuant to Section 4.2.

4.4 *Ephemeral Royalty*. The royalty payable under 17 U.S.C. § 112(e) for any ephemeral reproductions made by a Commercial Webcaster and covered hereby is deemed to be included within the royalty payments set forth above. SoundExchange has discretion to allocate payments hereunder between the statutory licenses under Sections 112(e) and 114 in the same manner as statutory webcasting royalties for the period 2011–2015.

4.5 *True–Up for Greater of Royalties*. In making monthly payments, a Commercial Webcaster subject to Section 4.2(a) or 4.3 shall, at the time a payment is due, calculate its liability for the year through the end of the applicable month under all relevant subparts of the royalty calculation, and pay the applicable royalty for the year through the end of the applicable month, less any amounts previously paid for such year.

4.6 *True–Up for Certain Corporate Transactions*. If a transmitting entity that has at any time elected to be treated as a Small Pureplay Webcaster under these Rates and Terms, and has not ceased to qualify as such through growth in its business and thereafter paid full royalties under Section 4.2 for a period of at least twelve (12) full months, becomes a party to or subject of any merger, sale of stock or all or substantially all of its assets, or other corporate restructuring, such that, upon the consummation of such transaction, the transmitting entity or its successor (including a purchaser of all or substantially all of its assets) does not qualify, or reasonably expect to qualify, as a Small Pureplay Webcaster for the then–current year, then the transmitting entity or its successor shall, within thirty (30) days after the consummation of such transaction, pay to SoundExchange either –

(i) the difference between (a) the payment the transmitting entity would have been required to make under Section 4.2 for each year in which it elected to be treated as a Small Pureplay Webcaster under these Rates and Terms, from January 1, 2006 through the date of such transaction, or if it elected to be treated as a Small Pureplay Webcaster under these Rates and Terms for more than four years between January 1, 2006 and the date of such transaction, for the most recent four such years, and (b) the royalty payments it made under these Rates and Terms for such years; or

(ii) 30% of all value inuring in connection with such transaction to the transmitting entity and its Affiliates, shareholders, management personnel and other persons and entities associated with the transmitting entity receiving value in consideration for such transaction, including money, and the fair market value of securities and other consideration, provided for stock in the transmitting entity or assets of the transmitting entity, the value of consideration provided in connection with any merger, and compensation that becomes payable to management personnel of the transmitting entity and their family members in connection with such transaction.

The burden of proof shall be on the transmitting entity or its successor to demonstrate its actual usage for purposes of determining the payment it would have been required to make under such commercial webcasting rates for each such year.

4.7 *Payment*. Payments of all amounts specified in these Rates and Terms shall be made to SoundExchange. Minimum fees shall be paid by January 31 of each year, except that Small Pureplay Webcasters may elect to make their minimum payments in four equal quarterly installments, which shall be due on January 31, April 14, July 15 and October 15.

4.8 *Monthly Obligations*. Commercial Webcasters must make monthly payments once its royalty obligation exceeds the minimum fee it has paid, and provide statements of account and reports of use, for each month on the 45th day following the end of the month in which the Eligible Transmissions subject to the payments, statements of account, and reports of use were made.

4.9 *Past Periods*. Notwithstanding anything else in this Agreement, to the extent that a Commercial Webcaster that elects to be subject to these Rates and Terms has not paid royalties for all or any part of the period beginning on January 1, 2006, and ending on the last day of the month in which these Rates and Terms are published in the **Federal Register**, any amounts payable under these Rates and Terms for Eligible Transmissions during such period for which payment has not previously been made shall be paid by no later than 60 days after publication of these Rates and Terms in the **Federal Register**, including late fees as provided in Section 4.10 from the original due date.

4.10 *Late Fees*. A Commercial Webcaster shall pay a late fee for each instance in which any payment, any statement of account or any report of use is not received by SoundExchange in compliance with these Rates and Terms and applicable regulations by the due date. The amount of the late fee shall be 1.5% of a late payment, or 1.5% of the payment associated with a late statement of account or report of use, per month, compounded monthly, or the highest lawful rate, whichever is lower. The late fee shall accrue from the due date of the payment, statement of account or report of use until a fully–compliant payment, statement of account or report of use is received by SoundExchange.

ARTICLE 5 – REPORTING

5.1 *Census Reporting.* Commercial Webcasters shall submit reports of use on a per–performance basis in full compliance with the regulations set forth in 37 CFR Part 370 and any subsequent amendments or modifications thereto or replacement regulations, except that the following provisions shall apply notwithstanding the provisions of applicable regulations from time to time in effect:

(a) Commercial Webcasters shall submit reports of use to SoundExchange on a monthly basis.

(b) As provided in Section 4.8, Commercial Webcasters shall submit reports of use by no later than the 45th day following the last day of the month to which they pertain.

(c) Commercial Webcasters shall submit reports of use to SoundExchange on a census reporting basis (i.e., reports of use shall include every sound recording performed in the relevant month and the number of performances thereof).

(d) Commercial Webcasters shall transmit each report of use in a file the name of which includes the name of the Commercial Webcaster, exactly as it appears on its notice of use.

(e) Commercial Webcasters shall submit reports of use with headers, as presently described in 37 C.F.R. § 370.3(d)(7) or as may be provided by successor regulations.

(f) Commercial Webcasters shall submit a separate statement of account corresponding to each of their reports of use, transmitted in a file the name of which includes the name of the Commercial Webcaster, exactly as it appears on its notice of use.

5.2 *Server Logs.* To the extent not already required by the current regulations set forth in 37 C.F.R. Part 380, Commercial Webcasters shall retain for a period of at least four years server logs reasonably sufficient to substantiate all information relevant to eligibility, rate calculation and reporting hereunder. To the extent that a third–party web hosting or service provider maintains equipment or software for a Commercial Webcaster and/or such third party creates, maintains, or can reasonably create such server logs, the Commercial Webcaster shall direct that such server logs be created and maintained by said third party for a period of at least four years and/or that such server logs be provided to, and maintained by, the Commercial Webcaster. SoundExchange shall have access to all such server logs pursuant to applicable regulations for the verification of statutory royalty payments (presently 37 C.F.R. § 380.6).

ARTICLE 6 – ADDITIONAL PROVISIONS

6.1 *Applicable Regulations.* To the extent not inconsistent with the terms herein, use of sound recordings by Commercial Webcasters shall be governed by, and Commercial Webcasters shall comply with, applicable regulations, including 37 C.F.R. Parts 370 and 380. Without limiting the foregoing, the provisions of applicable regulations for the retention of records and verification of statutory royalty payments (presently 37 C.F.R. § § 380.4(h) and 380.6) shall apply hereunder. Commercial Webcasters shall cooperate in good faith with any such verification, and the exercise by SoundExchange of any right with respect thereto shall not prejudice any other rights or remedies of SoundExchange or sound recording copyright owners.

6.2 *Participation in Proceedings.* A Commercial Webcaster that elects to be subject to these Rates and Terms agrees that it has elected to do so in lieu of any different statutory rates and terms that may otherwise apply and in lieu of participating at any time in a proceeding to set rates and terms for any part of the 2006–2015 period. Thus, once a Commercial Webcaster has elected to be subject to these Rates and Terms, it shall not at any time directly or indirectly participate as a party, intervenor, amicus curiae or otherwise, or in any manner give evidence or otherwise support or assist, in any further proceedings to determine royalty rates and terms for reproduction of ephemeral phonorecords or digital audio transmission under Section 112(e) or 114 of the Copyright Act for all or any part of the period 2006–2015, including any appeal of the Final Determination, any proceedings on remand from such an appeal, any proceeding before the Copyright Royalty Judges to determine royalty rates and terms applicable to the statutory licenses under Sections 112(e) and 114 of the Copyright Act for the period 2011–2015, any appeal of such proceeding, or any other related proceedings, unless subpoenaed on petition of a third party (without any action by a Commercial Webcaster to encourage or suggest such a subpoena or petition) and ordered to testify or provide documents in such proceeding.

6.3 *Use of Agreement in Future Proceedings.* Consistent with 17 U.S.C. § 114(f)(5)(C), Commercial Webcasters and SoundExchange agree that neither the Webcaster Settlement Act nor any provisions of these Rates and Terms shall be admissible as evidence or otherwise taken into account in any administrative, judicial, or other government proceeding involving the setting or adjustment of the royalties payable for the public performance or reproduction in ephemeral phonorecords or copies of sound recordings, the determination of terms or conditions related thereto, or the establishment of notice or recordkeeping requirements by the Copyright Royalty Judges. These Rates and Terms shall be considered as a compromise motivated by the unique business, economic and political circumstances of Commercial Webcasters, copyright owners and performers rather than as matters that would have been negotiated in the marketplace between a willing buyer and a willing seller. No person or entity may, in any way, seek to use in any way these Rates and Terms in any such proceeding.

6.4 *Effect of Direct Licenses.* Any copyright owner may enter into a voluntary agreement with any Commercial Webcaster setting alternative rates and terms governing the Commercial Webcasters' transmission of copyrighted works owned by the copyright owner, and such voluntary agreement may be given effect in lieu of the Rates and Terms set forth herein.

6.5 *Default.* A Commercial Webcaster shall comply with all the requirements of these Rates and Terms. If it fails to do so, SoundExchange may give written notice to the Commercial Webcaster that, unless the breach is remedied within 30 days from the date of notice, the Commercial Webcaster's authorization to make public performances and ephemeral reproductions under these Rates and Terms is terminated by SoundExchange. No such cure period shall apply before termination in case of material noncompliance on a recurring basis. Any transmission made by a Commercial Webcaster in violation of these Rates and Terms or Section 112(e) or 114 or their implementing regulations (except to the extent such implementing regulations are inconsistent with these Rates and Terms), outside the scope of these Rates and Terms, or after the expiration or termination of these Rates and Terms shall be fully subject to, among other things, the copyright owners' rights under 17 U.S.C. § 106 and the remedies in 17 U.S.C. § 501–506.

ARTICLE 7 – MISCELLANEOUS

7.1 **Applicable Law and Venue**. These Rates and Terms shall be governed by, and construed in accordance with, the laws of the District of Columbia

(without giving effect to conflicts of law principles thereof). All actions or proceedings arising directly or indirectly from or in connection with these Rates and Terms shall be litigated only in the United States District Court for the District of Columbia located in Washington, D.C. SoundExchange and Commercial Webcasters consent to the jurisdiction and venue of the foregoing court and consent that any process or notice of motion or other application to said court or a judge thereof may be served inside or outside the District of Columbia by registered mail, return receipt requested, directed to the person for which it is intended at its last known address (and service so made shall be deemed complete five (5) days after the same has been posted as aforesaid) or by personal service or in such other manner as may be permissible under the rules of that court.

7.2 Rights Cumulative. The remedies provided in these Rates and Terms and available under applicable law shall be cumulative and shall not preclude assertion by any party of any other rights or the seeking of any other remedies against another party hereto. These Rates and Terms shall not constitute a waiver of any violation of Section 112 or 114 or their implementing regulations (except to the extent such implementing regulations are inconsistent with these Rates and Terms). No failure to exercise and no delay in exercising any right, power or privilege shall operate as a waiver of such right, power or privilege. No single or partial exercise of any right, power or privilege granted under these Rates and Terms or available under applicable law shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. No waiver by any party of full performance by another party in any one or more instances shall be a waiver of the right to require full and complete performance of these Rates and Terms and of obligations under applicable law thereafter.

7.3 Entire Agreement. These Rates and Terms represent the entire and complete agreement between SoundExchange and a Commercial Webcaster with respect to the subject matter hereof and supersede all prior and contemporaneous agreements and undertakings of SoundExchange and a Commercial Webcaster with respect to the subject matter hereof.

[FR Doc. E9–17092 Filed 7–16–09; 8:45 am]

BILLING CODE 1410–30–S

MISSISSIPPI RIVER COMMISSION

Sunshine Act Meetings

AGENCY HOLDING THE MEETINGS: Mississippi River Commission

TIME AND DATE: 9 a.m., August 14, 2009.

PLACE: On board MISSISSIPPI V at City Front, St. Louis, MO.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the St. Louis District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

TIME AND DATE: 9 a.m., August 17, 2009.

PLACE: On board MISSISSIPPI V at River Park, Tiptonville, TN.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the Memphis District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

TIME AND DATE: 9 a.m., August 18, 2009.

PLACE: On board MISSISSIPPI V at Mud Island, Memphis, TN.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the Memphis District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

TIME AND DATE: 9 a.m., August 19, 2009.

PLACE: On board MISSISSIPPI V at City Front, Greenville, MS.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the Vicksburg District, and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

TIME AND DATE: 9 a.m., August 21, 2009.

PLACE: On board MISSISSIPPI V at Port Commission Dock, Morgan City, LA.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the New Orleans District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

CONTACT PERSON FOR MORE INFORMATION: Mr. Stephen Gambrell, telephone 601–634–5766.

George T. Shepard,

Colonel, EN, Secretary, Mississippi River Commission.

[FR Doc. E9–17157 Filed 7–15–09; 11:15 am]

BILLING CODE 3720–58–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Materials Research; 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 review of the Materials Research Science and Engineering Center (MRSEC) at Cornell University by NSF Division of Materials Research (DMR) #1203.

Dates and Times: Sunday, August 23, 2009; 6 p.m.–9 p.m., Monday, August 24, 2009; 7:45 a.m.–9 p.m., Tuesday, Aug 25, 2009; 8 a.m.–4:30 p.m.

Place: Ithaca, NY.

Type of Meeting: Part-Open.

Contact Person: Dr. Thomas Rieker, Program Director, Materials Research Science and Engineering Centers Program, Division of

Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 292–4914.

Purpose of Meeting: To provide advice and recommendations concerning further support of the MRSEC at Cornell University.

Agenda

Sunday, Aug 23, 2009

6 p.m.–7 p.m. Closed—Executive Session.
7 p.m.–9 p.m. Open—Poster Session.

Monday, Aug 24, 2009

7:45 a.m.–4:45 p.m. Open—Review of the Cornell MRSEC.
4:45 p.m.–6:30 p.m. Closed—Executive Session.
6:30 p.m.–9 p.m. Open—Dinner.

Tuesday, Aug 25, 2009

8 a.m.–9 a.m. Closed—Executive session.
9 a.m.–10:45 a.m. Open—Review of the Cornell MRSEC.
10:45 a.m.–4:30 p.m. Closed—Executive Session, Draft and Review Report.

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 proposals. These matters are exempt under 5 U.S.C. 552 b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: July 14, 2009.

Susanne Bolton,

Committee Management Officer.

[FR Doc. E9–17028 Filed 7–16–09; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50–528, STN 50–529, and STN 50–530; NRC–2009–0316]

Arizona Public Service Company, et al.; Palo Verde Nuclear Generating Station, Units 1, 2, and 3; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from Title 10 of the *Code of Federal Regulations* (10 CFR) Part 55, Section 55.47, for Facility Operating License Nos. NPF–41, NPF–51, and NPF–74, issued to the Arizona Public Service Company (APS, or the licensee), for operation of the Palo Verde Nuclear Generating Station (PVNGS, the facility) Units 1, 2, and 3, respectively, located in Maricopa County, Arizona. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would allow Mr. Mark A. Sharp, who was licensed as a senior reactor operator (SRO) at the PVNGS from December 1996 to December 2006, to be re-licensed as an SRO at the PVNGS without having to take and pass the NRC-required written examination or operating test specified in 10 CFR 55.43 or 10 CFR 55.45, respectively. The proposed action would exempt the SRO license candidate from meeting one specific criterion of 10 CFR 55.47, which allows NRC to grant waivers of the testing requirements.

The proposed action is in accordance with the licensee's application for exemption dated February 6, 2009 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML091550607).

The Need for the Proposed Action

The proposed exemption would allow Mr. Mark A. Sharp to re-obtain an SRO license at PVNGS without the need to take the NRC-administered written examination and operating tests required by 10 CFR 55.43 and 10 CFR 55.45, respectively. The NRC is authorized to grant a waiver from these requirements by 10 CFR 55.47; however, the operator license candidate in this case did not meet one specific waiver criterion, 10 CFR 55.47(a)(1), which requires that the candidate have extensive actual operating experience at PVNGS (or a comparable facility) within 2 years before the date of application. Therefore, an exemption to this waiver criterion was requested by APS to allow Mr. Sharp to receive his SRO license and resume licensed operator duties at PVNGS more quickly than he could if he had to take and pass the NRC-administered examinations, which are currently scheduled for November 2009. APS has initiated an effort to increase the number of licensed operators at PVNGS, in response to an NRC violation involving the excessive use of operator overtime, and the granting of this exemption would further that effort.

Environmental Impacts of the Proposed Action

The NRC has completed its environmental evaluation of the proposed action and concludes that re-licensing Mr. Sharp as a senior reactor operator at PVNGS without his taking and passing an NRC licensing examination will not result in an adverse impact on the environment. The details of the staff's safety evaluation will be provided in the exemption that will be issued as part of the letter to the licensee approving the exemption to the regulation.

The proposed action will not significantly increase the probability or consequences of accidents. No changes are being made in the types of effluents that may be released offsite. There is no significant increase in the amount of any effluent released offsite. There is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed exemption (*i.e.*, the ''no-action'' alternative). Denial of the application for exemption would result in no change in current environmental impacts. Thus the environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resources than those previously considered in the Final Environmental Statement for the Palo Verde Nuclear Generating Station, Units 1, 2, and 3, NUREG–0841, dated February 1982.

Agencies and Persons Consulted

In accordance with its stated policy, on June 3, 2009, the staff consulted with the Arizona State official, Mr. Aubrey Godwin of the Arizona Radiation Regulatory Agency, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated February 6, 2009. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or send an e-mail to *pdr.resource@nrc.gov.*

Dated at Rockville, Maryland, this 10th day of July 2009.

For the Nuclear Regulatory Commission.

James R. Hall,

Senior Project Manager, Plant Licensing Branch IV, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E9–17050 Filed 7–16–09; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2009–0315]

Withdrawal of Regulatory Guide

AGENCY: Nuclear Regulatory Commission.

ACTION: Withdrawal of Regulatory Guide 6.3, ''Design, Construction, and Use of Radioisotopic Power Generators for Certain Land and Sea Applications.''

FOR FURTHER INFORMATION CONTACT: Robert G. Carpenter, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–251–7483 or e-mail *Robert.Carpenter@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is withdrawing Regulatory Guide (RG) 6.3, ''Design, Construction, and Use of Radioisotopic Power Generators for Certain Land and Sea Applications,'' published in March 1974. RG 6.3 provides guidance on the safe design, construction, and use of radioisotopic power generators. The NRC is withdrawing this regulatory guide because it is no longer required.

RG 6.3 supported activities requiring a license pursuant to Title 10 of the *Code of Federal Regulations,* Parts 30, 40, and 70. The guidance in RG 6.3 applies to types of devices that are no longer used and have been replaced by other technology. Therefore, no licensing actions for these devices are being submitted or reviewed by license reviewers and the guidance is no longer needed.

II. Further Information

The withdrawal of RG 6.3 does not alter any prior or existing licensing commitments based on its use. The guidance provided in this regulatory guide is no longer necessary. Regulatory guides may be withdrawn when their guidance is superseded by congressional action or no longer provides useful information.

Regulatory guides are available for inspection or downloading through the NRC's public Web site under ''Regulatory Guides'' in the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/doc-collections.* Regulatory guides are also available for inspection at the NRC's Public Document Room (PDR), Room O–1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738. The PDR's mailing address is US NRC PDR, Washington, DC 20555–0001. The PDR staff can be reached by telephone at 301–415–4737 or 800–397–4209, by fax at 301–415–3548, and by e-mail to *pdr.resource@nrc.gov.*

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

Dated at Rockville, Maryland, this 29th day of June 2009.

For the Nuclear Regulatory Commission.

R.A. Jervey,

Acting Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. E9–17048 Filed 7–16–09; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review, Request for Comments

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) is forwarding three (3) Information Collection Requests (ICR) to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB).

The RRB invites comments on the proposed ICR's to determine (1) the practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility and clarity of the information that is the subject of collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology. Comments to RRB or OIRA must contain the OMB control number of the ICR. For proper consideration of your comments, it is best if RRB and OIRA receive them within 30 days of publication date

1. Employee Representative's Status and Compensation Reports; OMB 3220–0014

Under Section 1(b)(1) of the Railroad Retirement Act (RRA), the term ''employee'' includes an individual who is an employee representative. As defined in Section 1(c) of the RRA, an employee representative is an officer or official representative of a railway labor organization other than a labor organization included in the term ''employer,'' as defined in the RRA, who before or after August 29, 1935, was in the service of an employer under the RRA and who is duly authorized and designated to represent employees in accordance with the Railway Labor Act, or, any individual who is regularly assigned to or regularly employed by such officer or official representative in connection with the duties of his or her office. The requirements relating to the application for employee representative status and the periodic reporting of the compensation resulting from such status is contained in 20 CFR 209.10.

The RRB utilizes Forms DC–2a, Employee Representative's Status Report, and DC–2, Employee Representative's Report of Compensation, to obtain the information needed to determine employee representative status and to maintain a record of creditable service and compensation resulting from such status. Completion is required to obtain or retain a benefit. One response is requested of each respondent.

No changes are proposed to Form DC–2a and Form DC–2. The completion time for Form DC–2 is estimated at 30 minutes per response. The RRB estimates that approximately 65 Form DC–2's are completed annually. The RRB estimates that less than 10 Form DC–2a's are completed annually.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (74 FR 17895 on April 17, 2009) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Employee Representatives' Status and Compensation Reports.

OMB Control Number: OMB 3220–0014.

Form(s) submitted: DC–2a, DC–2.

Expiration date of current OMB clearance: 7/31/2009.

Type of request: Extension without change of a currently approved collection.

Affected public: Business or other-for-profit.

Abstract: Benefits are provided under the Railroad Retirement Act (RRA) for individuals who are employee representatives as defined in section 1 of the RRA. The collection obtains information regarding the status of such individuals and their compensation.

Changes Proposed: The RRB proposes no changes to the forms in the collection.

The total burden estimate for the ICR is as follows:

Estimated annual number of respondents: 65.

Total annual responses: 65.

Total annual reporting hours: 33.

2. Employer's Deemed Service Month Questionnaire; OMB 3220–0156

Section 3 (i) of the Railroad Retirement Act (RRA), as amended by Public Law 98–76, provides that the Railroad Retirement Board (RRB), under certain circumstances, may deem additional months of service in cases where an employee does not actually work in every month of the year, provided the employee satisfies certain eligibility requirements, including the existence of an employment relation between the employee and his or her employer. The procedures pertaining to the deeming of additional months of service are found in the RRB's regulations at 20 CFR 210, Creditable Railroad Service.

The RRB utilizes Form GL–99, Employer's Deemed Service Months Questionnaire, to obtain service and compensation information from railroad employers needed to determine if an employee can be credited with additional deemed months of railroad service.

The RRB proposes non-burden impacting, editorial and formatting changes to Form GL–99. Completion is mandatory. One response is required for each RRB inquiry. The completion time for Form GL–99 is estimated at 2 minutes per response. The RRB estimates that approximately 4,000 responses are received annually.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (74 FR 18409 on April 22, 2009) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Employer's Deemed Service Month Questionnaire.

OMB Control Number: OMB 3220–0156.

Form(s) submitted: GL–99.

Expiration date of current OMB clearance: 7/31/2009.

Type of request: Revision of a currently approved collection.

Affected public: Business or other-for-profit.

Abstract: Under Section 3(i) of the Railroad Retirement Act, the Railroad Retirement Board may deem months of service in cases where an employee does not actually work in every month of the year. The collection obtains service and compensation information from railroad employers needed to determine if an employee may be credited with additional months of railroad service.

Changes Proposed: The RRB proposes minor non-burden impacting editorial and formatting changes to Form GL–99.

The total burden estimate for the ICR is as follows:

Estimated annual number of respondents: 150.

Total annual responses: 4,000.

Total annual reporting hours: 133.

3. Statement of Claimant or Other Person; OMB 3220–0183

To support an application for an annuity under Section 2 of the Railroad Retirement Act (RRA) or for unemployment benefits under Section 2 of the Railroad Unemployment Insurance Act (RUIA), pertinent information and proofs must be furnished for the RRB to determine benefit entitlement. Circumstances may require an applicant or other person(s) having knowledge of facts relevant to the applicant's eligibility for an annuity or benefits to provide written statements supplementing or changing statements previously provided by the applicant. Under the railroad retirement program these statements may relate to changes in annuity beginning date(s), dates for marriage(s), birth(s), prior railroad or non-railroad employment, an applicant's request for reconsideration of an unfavorable RRB eligibility determination for an annuity or various other matters. The statements may also be used by the RRB to secure a variety of information needed to determine eligibility to unemployment and sickness benefits. Procedures related to providing information needed for RRA annuity or RUIA benefit eligibility determinations are prescribed in 20 CFR 217 and 320 respectively.

The RRB utilizes Form G–93, Statement of Claimant or Other Person, to obtain the supplemental or corrective information from applicants or other persons needed to determine applicant eligibility for an RRA annuity or RUIA benefits. The RRB proposes no changes to Form G–93. Completion is voluntary. One response is requested of each respondent. The completion time for Form G–93 is estimated at 15 minutes per response. The RRB estimates that approximately 900 responses are received annually.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (74 FR 7274–7275 on February 13, 2009) required by 44 U.S.C. 3506(c)(2). That request solicited no comments.

Information Collection Request (ICR)

Title: Statement of Claimant or Other Person.

OMB Control Number: OMB 3220–0183.

Form(s) submitted: G–93.

Expiration date of current OMB clearance: 7/31/2009.

Type of request: Extension with change of a currently approved collection.

Affected public: Individuals or households, Business or other for-profit.

Abstract: Under Section 2 of the Railroad Retirement Act and the Railroad Unemployment Insurance Act, pertinent information and proofs must be submitted by an applicant so that the Railroad Retirement Board can determine his or her entitlement to benefits. The collection obtains information supplementing or changing information previously provided by an applicant.

Changes Proposed: The RRB proposes no changes to the forms in the collection.

The total burden estimate for the ICR is as follows:

Estimated annual number of respondents: 900.

Total annual responses: 900.

Total annual reporting hours: 225.

Additional Information or Comments: Copies of the form and supporting documents can be obtained from Charles Mierzwa, the agency clearance officer at (312–751–3363) or *Charles.Mierzwa@rrb.gov.*

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or *Ronald.Hodapp@rrb.gov* and to the OMB Desk Officer for the RRB, at the Office of Management and Budget,

Room 10230, New Executive Office Building, Washington, DC 20503.

Charles Mierzwa,

Clearance Officer.

[FR Doc. E9–16968 Filed 7–16–09; 8:45 am]

BILLING CODE 7905–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 11785 and # 11786]

South Dakota Disaster Number SD–00023

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of South Dakota (FEMA–1844–DR), dated 06/16/2009.

Incident: Severe Storms and Flooding.

Incident Period: 03/11/2009 through 07/06/2009.

Effective Date: 07/06/2009.

Physical Loan Application Deadline Date: 08/17/2009.

Economic Injury (EIDL) Loan Application Deadline Date: 03/16/2010.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of South Dakota, dated 06/16/2009, is hereby amended to establish the incident period for this disaster as beginning 03/11/2009 and continuing through 07/06/2009.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E9–17120 Filed 7–16–09; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11787 and #11788]

Arkansas Disaster Number AR–00032

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Arkansas (FEMA–1845–DR), dated 06/16/2009.

Incident: Severe Storms, Tornadoes, and Flooding.

Incident Period: 04/27/2009 through 05/23/2009.

Effective Date: 05/23/2009.

Physical Loan Application Deadline Date: 08/17/2009.

Economic Injury (EIDL) Loan Application Deadline Date: 03/16/2010.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Arkansas, dated 06/16/2009, is hereby amended to establish the incident period for this disaster as beginning 04/27/2009 and continuing through 05/23/2009.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Roger B. Garland,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E9–17115 Filed 7–16–09; 8:45 am]

BILLING CODE 8025–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60270; File No. SR–BX–2009–037]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Make Permanent the Quarterly Options Series Pilot Program on the Boston Options Exchange Facility

July 9, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1], and Rule 19b–4[2] thereunder, notice is hereby given that on July 9, 2009, NASDAQ OMX BX, Inc. (the ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6) 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 Exchange proposes to amend the Rules of the Boston Options Exchange Group, LLC (''BOX'') to make permanent its Quarterly Option Series pilot program (''QOS Program''). The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://nasdaqomxbx.cchwallstreet.com/NASDAQOMXBX/Filings/*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Phlx 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. Phlx 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 is proposing to make the QOS Program permanent. On July 17, 2007, the Exchange filed with the Securities and Exchange Commission (''Commission'') SR–BSE–2007–36, which was effective on filing and established the QOS Program.[5] The QOS

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 56086 (July 17, 2007), 72 FR 40182 (July 23, 2007) (SR–

Program allows BOX to list and trade Quarterly Option Series, which expire at the close of business on the last business day or a calendar quarter. Under the QOS Program, BOX may select up to five (5) currently listed exchange traded fund (''ETF'') or index option classes on which Quarterly Option Series may be opened. In addition, BOX may also list Quarterly Option Series on any options classes that are selected by other securities exchanges that employ a similar pilot program under their respective rules. The Exchange may list series that expire at the end of the next consecutive four (4) calendar quarters, as well as the fourth quarter of the next calendar year. For example, if the Exchange is trading Quarterly Options Series in the month of May 2009, it may list series that expire at the end of the second, third, and fourth quarters of 2009, as well as the first and fourth quarters of 2010. Following the second quarter 2009 expiration, the Exchange could add series that expire at the end of the second quarter of 2010.

Quarterly Option Series are P.M. settled.

Quarterly Option Series in ETF Options

If an ETF option is selected for participation in the QOS Program, the strike price of each Quarterly Option Series is fixed at a price per share, with at least two strike prices above and two strike prices below the approximate value of the underlying security at about the time the Quarterly Options Series is opened for trading on the Exchange. BOX shall list strikes prices for a Quarterly Option series that are within $5 from the closing price of the underlying on the preceding day.

The Exchange may open for trading additional Quarterly Options Series of the same class when the Exchange deems is necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying security moves substantially from the initial exercise price or prices. To the extent that any additional strike prices are listed by the Exchange, such additional strike prices shall be within thirty percent (30%) above or below the closing price of the underlying ETF on the preceding day.[6] The Exchange may also open additional strike prices of Quarterly Option Series in ETF options that are more than 30% above or below the current price of the underlying ETF provided that demonstrated customer interest exists for such series, as expressed by institutional, corporate or individual customers or their brokers. Market Makers trading for their own account shall not be considered when determining customer interest under this provision. The opening of the new Quarterly Options Series shall not affect the series of options of the same class previously opened. In addition to the initial listed series, the Exchange may list up to sixty (60) additional series per expiration month for each Quarterly Options Series in ETF options.

The interval between strike prices on Quarterly Options Series shall be the same as the interval for strike prices for series in that same options class that expire in accordance with the normal monthly expiration cycle.

The Exchange has adopted a delisting policy with respect to QOS in ETF options.[7] On a monthly basis, the Exchange reviews series that are outside a range of five (5) strikes above and five (5) strikes below the current price of the underlying ETF, and delists series with no open interest in both the put and the call series having a: (i) Strike higher than the highest strike price with open interest in the put and/or call series for a given expiration month; and (ii) strike lower than the lowest strike price with open interest in the put and/or call series for a given expiration month.

Notwithstanding the delisting policy, customer requests to add strikes and/or maintain strikes in QOS in ETF options in series eligible for delisting shall be granted.

Further, in connection with the delisting policy, if the Exchange identifies series for delisting, the Exchange shall notify other options exchanges with similar delisting policies regarding eligible series for listing, and shall work with such other exchanges to develop a uniform list of series to be delisted, so as to ensure uniform series delisting of multiply listed QOS in ETF options.

During the last quarter of 2008 (and for the new expiration month added after December Quarterly Option Series expiration), the Exchange was permitted to list up to one hundred (100) additional series per expiration month for each Quarterly Options Series in ETF options.[8]

Quarterly Option Series in Index Options

If an index option is selected for participation in the QOS Program, the strike price of each Quarterly Option Series will be fixed at a price per share, with at least two, but no more than five, strike prices above and at least two, but no more than five, strike prices below the value of the underlying index at about the time that a Quarterly Options Series is opened for trading on the Exchange. The Exchange shall list strike prices for Quarterly Options Series that are reasonably related to the current index value of the underlying index to which such series relates at about the time such series of options is first opened for trading on the Exchange. The term ''reasonably related to the current index value of the underlying index'' means that the exercise price is within thirty percent (30%) of the current index value.

The Exchange may open for trading additional Quarterly Options Series of the same class when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying security moves substantially from the initial exercise price or prices. The Exchange may also open for trading additional Quarterly Options Series that are more than thirty percent (30%) of the current index value, provided that demonstrated customer interest exists for such series, as expressed by institutional, corporate, or individual customers or their brokers. Market Makers trading for their own account shall not be considered when determining customer interest under this provision.

The Exchange may open additional strike prices of a Quarterly Option Series that are above the value of the underlying index provided that the total number of strike prices above the value of the underlying index is no greater than five. The Exchange may open additional strike prices of a Quarterly Option Series that are below the value of the underlying index provided that the total number of strike prices below the value of the underlying index is no greater than five. The opening of any new Quarterly Option Series shall not affect the series of options of the same class previously opened.

The Exchange has selected the following five ETF option classes to participate in the QOS Program: DIAMONDS Trust (DIA) options, Standard and Poor's Depositary

BSE–2007–36). The QOS Program has since been extended and is currently scheduled to expire on July 10, 2009. *See* Securities Exchange Act Release No. 58131 (July 9, 2008), 73 FR 41138 (July 17, 2008) (SR–BSE–2008–37) (Immediately effective rule change extending the QOS Program through July 10, 2009).

[6] *See* Securities Exchange Act Release No. 57594 (April 1, 2008), 73 FR 18828 (April 7, 2008) (SR–BSE–2008–17) (Amended QOS Program to permit the listing of additional Quarterly Option Series in ETF options).

[7] *Id.*

[8] *See* Securities Exchange Act Release No. 58996 (November 21, 2008), 73 FR 72878 (December 1, 2008) (SR–BSE–2008–55) (temporary increase to the number of additional Quarterly Options Series in ETF options).

Receipts/SPDRs (SPY) options, iShares Russell 2000 Index Fund (IWM) options, PowerShares QQQ Trust (QQQQ) options and Energy Select SPDR (XLE) options. The Exchange believes the QOS Program has been successful and well received by BOX Participants and the investing public for the nearly two years that it has been in operation as a pilot on BOX.

The Exchange is now proposing to make the QOS Program permanent. In support of approving the QOS Program on a permanent basis, BOX has submitted to the Commission Pilot Program Reports (''Reports'') detailing the Exchange's experience with the QOS Program. Specifically, the Reports contain data and written analysis regarding the five ETF option classes included in the QOS Program. The Reports have been submitted under separate cover with confidential treatment requested under the Freedom of Information Act.

The Exchange believes there is sufficient investor interest and demand in the QOS Program to warrant its permanent approval. The Exchange believes that, for the nearly three [sic] years that it has been in operation in the options markets, the QOS Program has provided investors with additional means of managing their risk exposures and carrying out their investment objectives. Furthermore, the Exchange has not experienced any capacity-related problems with respect to Quarterly Option Series. The Exchange also represents that BOX has the necessary system capacity to continue to support the option series listed under the QOS Program.

In seeking permanent approval, the Exchange is taking this opportunity to update the expiration examples provided in Supplementary Material .04 to Chapter IV, Section 6 and Supplementary Material .01 to Chapter XIV, Section 10. The revisions do not change the substance of the QOS Program.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[9] in general, and Section 6(b)(5) of the Act,[10] in particular, in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism for a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that permanent approval of the QOS Program will result in an ongoing benefit to investors, and will continue to allow them additional means to manage their risk exposures and carry out their investment objectives.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange 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

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12]

The Exchange has requested that the Commission waive the 30-day operative delay so that the Exchange can permanently establish a Quarterly Options Series Program that is consistent with those of other options exchanges.[13] In addition, the Commission notes that the Exchange's QOS Program currently is scheduled to expire on July 10, 2009. The Commission therefore has determined that waiving the 30-day operative delay of the Exchange's proposal is consistent with the protection of investors and the public interest because such waiver will enable the Exchange to permanently establish the QOS program without disruption.[14] Therefore, the Commission designates the proposal operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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–BX–2009–037 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2009–037. 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 inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[13] *See* Securities Exchange Act Release No. 60164 (June 23, 2009), 74 FR 31333 (June 30, 2009) (SR–CBOE–2009–029) (approving the quarterly options series program on a permanent basis).

[14] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–BX–2009–037 and should be submitted on or before August 7, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–17002 Filed 7–16–09; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60275; File No. SR–ISE–2009–50]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Permanently Establish the Quarterly Options Series Pilot Program

July 9, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on July 8, 2009, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I and II below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE is proposing to make permanent its quarterly options series pilot program and make minor changes to conform the program to that of other exchanges. The text of the proposed rule change is available on the Exchange's Web site *http://www.ise.com*, at the Exchange's Office of the Secretary, and at the Commission.

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 is proposing to make permanent an ISE pilot program to list options series that would expire at the close of business on the last business day of a calendar quarter (''Quarterly Options Series Program''). On May 2, 2006, the Exchange filed with the Securities and Exchange Commission (''Commission'') SR–ISE–2006–24 to establish the Quarterly Options Series Program that was subsequently approved by the Commission on July 7, 2006.[3] Under the Quarterly Options Series Pilot Program, the Exchange is allowed to open up to five (5) currently listed options classes that are either index options or options on exchange traded funds (''ETFs''). The Exchange is also allowed to list Quarterly Options Series on any options class that is selected by other securities exchanges that employ a similar pilot program under their respective rules.

The Exchange may list series that expire at the end of the next consecutive four (4) calendar quarters, as well as the fourth quarter of the next calendar year. For example, if the Exchange is trading Quarterly Options Series in the month of May 2009, it may list series that expire at the end of the second, third, and fourth quarters of 2009, as well as the first and fourth quarters of 2010. Following the second quarter 2009 expiration, the Exchange could add series that expire at the end of the second quarter of 2010.

[3] *See* Securities Exchange Act Release No. 54113 (July 7, 2006); 71 FR 39694 (July 13, 2006) (SR–ISE–2006–24) (the ''Quarterly Options Series Pilot Program Approval Order''). The Quarterly Options Series Program has since been extended and is currently scheduled to expire on July 10, 2009. *See* Securities Exchange Act Release Nos. 56031 (July 9, 2007), 72 FR 38637 (July 13, 2007) (SR–ISE–2007–53); 58019 (June 25, 2008), 73 FR 38014 (July 2, 2008) (SR–ISE–2008–49).

Quarterly Option Series in ETF Options

If an ETF option is selected for participation in the Quarterly Options Series Program, the strike price of each Quarterly Option Series is fixed at a price per share, with at least two strike prices above and two strike prices below the approximate value of the underlying security at about the time the Quarterly Options Series is opened for trading on the Exchange. ISE shall list strikes prices for a Quarterly Option series that are within $5 from the closing price of the underlying on the preceding day.

The Exchange may open for trading additional Quarterly Options Series of the same class when the Exchange deems is necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying security moves substantially from the initial exercise price or prices. To the extent that any additional strike prices are listed by the Exchange, such additional strike prices shall be within thirty percent (30%) above or below the closing price of the underlying ETF (or ''Exchange-Traded Fund Shares'') as defined in Rule 502(h) on the preceding day.[4] The Exchange may also open additional strike prices of Quarterly Option Series in ETF options that are more than 30% above or below the current price of the underlying ETF provided that demonstrated customer interest exists for such series, as expressed by institutional, corporate or individual customers or their brokers. Market-Makers trading for their own account shall not be considered when determining customer interest under this provision. The opening of the new Quarterly Options Series shall not affect the series of options of the same class previously opened. In addition to the initial listed series, the Exchange may list up to sixty (60) additional series per expiration month for each Quarterly Options Series in ETF options.

The interval between strike prices on Quarterly Options Series shall be the same as the interval for strike prices for series in that same options class that expire in accordance with the normal monthly expiration cycle.

The Exchange has adopted a delisting policy with respect to Quarterly Options Series in ETF options.[5] On a monthly basis, the Exchange reviews series that are outside a range of five (5) strikes above and five (5) strikes below the current price of the underlying ETF, and delists series with no open interest in both the put and the call series having

[4] *See* Securities Exchange Act Release No. 57425 (March 4, 2008), 73 FR 12783 (March 10, 2008) (SR–ISE–2008–19).

[5] *Id.*

a: (i) strike higher than the highest strike price with open interest in the put and/or call series for a given expiration month; and (ii) strike lower than the lowest strike price with open interest in the put and/or call series for a given expiration month.

Notwithstanding the delisting policy, customer requests to add strikes and/or maintain strikes in Quarterly Options Series in ETF options in series eligible for delisting shall be granted.

Further, in connection with the delisting policy, if the Exchange identifies series for delisting, the Exchange shall notify other options exchanges with similar delisting policies regarding eligible series for listing, and shall work with such other exchanges to develop a uniform list of series to be delisted, so as to ensure uniform series delisting of multiply listed options classes.

During the last quarter of 2008 (and for the new expiration month added after December Quarterly Option Series expiration), the Exchange was permitted to list up to one hundred (100) additional series per expiration month for each Quarterly Options Series in ETF options.[6]

Quarterly Option Series in Index Options

If an index option is selected for participation in the Quarterly Options Series Program, the strike price of each Quarterly Option Series will be fixed at a price per share, with at least two, but no more than five, strike prices above and at least two, but no more than five, strike prices below the value of the underlying index at about the time that a Quarterly Options Series is opened for trading on the Exchange. The Exchange shall list strike prices for Quarterly Options Series that are reasonably related to the current index value of the underlying index to which such series relates at about the time such series of options is first opened for trading on the Exchange. The term ''reasonably related to the current index value of the underlying index'' means that the exercise price is within thirty percent (30%) of the current index value.

The Exchange may open for trading additional Quarterly Options Series of the same class when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying security moves substantially from the initial exercise price or prices. The Exchange may also open for trading additional Quarterly Options Series that are more than thirty percent (30%) of the current index value, provided that demonstrated customer interest exists for such series, as expressed by institutional, corporate, or individual customers or their brokers. Market-Makers trading for their own account shall not be considered when determining customer interest under this provision.

The Exchange may open additional strike prices of a Quarterly Option Series that are above the value of the underlying index provided that the total number of strike prices above the value of the underlying index is no greater than five. The Exchange may open additional strike prices of a Quarterly Option Series that are below the value of the underlying index provided that the total number of strike prices below the value of the underlying index is no greater than five. The opening of any new Quarterly Option Series shall not affect the series of options of the same class previously opened.

By definition, Quarterly Option Series on an option class can never expire in the same week in which monthly option series on the same class expires. The same, however, is not the case with regards to Short Term Option Series. Quarterly Option Series and Short Term Option Series on the same options class may expire concurrently. However, to avoid any confusion in the market place, the Exchange will not list a Short Term Option Series on an options class whose expiration coincides with that of a Quarterly Option Series on the same options class. In other words, the Exchange will not list a Short Term Options Series on an ETF or an index if a Quarterly Option Series on that ETF or index were to expire on a Friday, the only day of the week during which both Quarterly Option Series and a P.M.-settled Short Term Option Series can potentially expire concurrently.

There being one exception to this rule. The Exchange may list a P.M.-settled Quarterly Option Series on an options class concurrent with an A.M.-settled Short Term Options Series on that same options class, both of which may expire on a Friday. In other words, the Exchange may list a P.M.-settled Quarterly Option Series on an ETF on an index concurrent with an A.M.-settled Short Term Option Series on that ETF or index and both of which expire on a Friday. The Exchange believes that the concurrent listing of an A.M.-settled Short Term Option Series and a P.M.-settled Quarterly Option Series on the same underlying ETF or index will provide investors with yet another hedging mechanism. Finally, the interval between strike prices on Quarterly Option Series shall be the same as the interval for strike prices for series in the same options class that expires in accordance with the normal monthly expiration cycles.

The Exchange has selected the following five options classes to participate in the Quarterly Options Series Pilot Program: The Standard & Poor's Depositary Receipts® (SPY), Nasdaq–100® Shares (QQQQ), Diamonds® Trust Series 1 (DIA), iShares Russell 2000® Index Fund (IWM), and Select Sector SPDR®—Energy (XLE). ISE believes the Quarterly Options Series Program has been successful and well received by its members and the investing public for the nearly three years that it has been in operation as a pilot.

ISE is now proposing to make the Quarterly Options Series Program permanent. In support of this proposed rule change, and as required by the Quarterly Options Series Pilot Program Approval Order, the Exchange has submitted to the Commission a report (the ''Quarterly Options Series Program Report'') detailing the Exchange's experience with the Quarterly Options Series Program. Specifically, the Quarterly Options Series Pilot Program Report contains data and written analysis regarding the five options classes included in the Quarterly Options Series Program. The Report was submitted under separate cover and seeks confidential treatment under the Freedom of Information Act.

The Exchange believes there is sufficient investor interest and demand in the Quarterly Options Series Program to warrant its permanent approval. The Exchange further believes that the Quarterly Options Series Program has provided investors with a flexible and valuable tool to manage risk exposure, minimize capital outlays, and the ability to more closely tailor their investment strategies and decisions to the movement of the underlying security. Furthermore, the Exchange notes that it has not detected any material proliferation of illiquid options series resulting from the introduction of the Quarterly Options Series Program nor has it experienced any capacity-related problems with respect to Quarterly Options Series. The Exchange also represents that it has the necessary systems capacity to continue to support the options series listed under Quarterly Options Series Program.

2. Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the

[6] *See* Securities Exchange Act Release No. 58926 (November 10, 2008), 73 FR 69701 (November 19, 2008) (SR–ISE–2008–82).

''Act'') and the rules and regulations thereunder and, in particular, the requirements of section 6(b) of the Act. Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that permanent approval of the Quarterly Options Series Program will result in a continuing benefit to investors, by allowing them to more closely tailor their investment decisions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8]

The Exchange requests that the Commission waive the 30-day operative delay so that the Exchange can permanently establish a Quarterly Options Series Program that is consistent with those of other options exchanges.[9] In addition, the Commission notes that the Exchange's QOS Program currently is scheduled to expire on July 10, 2009. The Commission therefore has determined that waiving the 30-day operative delay of the Exchange's proposal is consistent with the protection of investors and the public interest because such waiver will enable the Exchange to permanently establish the QOS program without disruption.[10] Therefore, the Commission designates the proposal operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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–2009–50 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–2009–50. 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 inspection and copying 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–2009–50 and should be submitted on or before August 7, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–17004 Filed 7–16–09; 8:45 am]

BILLING CODE 8010–01–P

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. ISE has satisfied this requirement.

[9] *See* Securities Exchange Act Release No. 60164 (June 23, 2009), 74 FR 31333 (June 30, 2009) (SR–CBOE–2009–029) (approving the quarterly options series program on a permanent basis).

[10] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60281; File No. SR–ISE–2009–49]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend a Pilot Program for Short Term Options Series

July 10, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 8, 2009, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I and II below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend its rules to extend the Short Term Option Series Pilot Program (''Pilot Program'') for an additional year. The text of the proposed rule change is available on the Exchange's Web site *http://www.ise.com*, at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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

On July 12, 2005, the Commission approved the Short Term Option Series Pilot Program (''Pilot Program'') that allows ISE to list and trade Short Term Option Series.[3] Under the terms of the Pilot Program, the Exchange can select up to five options classes on which Short Term Option Series may be opened on any Short Term Option Series Opening Date. The Exchange is also allowed to list Short Term Option Series on any option class that is selected by other securities exchanges that employ a similar pilot program under their respective rules.

The Pilot Program was subsequently extended[4] and the current Pilot Program is set to expire on July 12, 2009.[5] The purpose of this proposed rule change is to extend the Pilot Program for an additional one year. The Exchange believes that Short Term Option Series provides investors with a flexible and valuable tool to manage risk exposure, minimize capital outlays, and be more responsive to the timing of events affecting the securities that underlie option contracts. While ISE has not listed any Short Term Option Series during the Pilot Program, there has been investor interest in trading short-term options at the Chicago Board Options Exchange. For competitive reasons and in order to have the ability to respond to customer interest in Short Term Option Series, the Exchange proposes the continuation of the Pilot Program at ISE.

In the original proposal to establish the Pilot Program, the Exchange stated that if it were to propose an extension or an expansion of the Pilot Program, the Exchange would submit, along with any filing proposing such amendments to the Pilot Program, a report (''Pilot Program Report'') that would provide an analysis of the Pilot Program covering the entire period during which the Pilot Program was in effect. Since the Exchange did not list any Short Term Option Series during the preceding year of the Pilot Program, there is no data available to compile such a report at this time. Therefore, the Exchange is not submitting a Pilot Program Report with this proposal.

Finally, the Exchange represents that it has the necessary systems capacity to support the listing of Short Term Options Series should it determine to do so in the future.

2. *Statutory Basis*

The Exchange believes that Short Term Option Series increases the variety of listed options available to investors and provides investors with a valuable tool to manage risk exposure, minimize capital outlays and be more responsive to the timing of events affecting the securities that underlie options contracts. For these reasons, the Exchange believes the proposed rule change is consistent with Section 6(b) of the Act.[6] Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(5)[7] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, serve to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9]

The Exchange has asked the Commission to waive the operative delay to permit the proposed rule change to become operative prior to the 30th day after filing. The Commission has determined that waiving the 30-day operative delay of the Exchange's proposal is consistent with the protection of investors and the public interest and will promote competition because such waiver will allow ISE to continue the existing Pilot Program without interruption.[10] Therefore, the Commission designates the proposal operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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.

[3] *See* Securities Exchange Act Release No. 52012 (July 12, 2005), 70 FR 41246 (July 18, 2005).

[4] *See* Securities Exchange Act Release Nos. 54117 (July 12, 2006), 71 FR 40564 (July 17, 2006); 56047 (July 11, 2007), 72 FR 39106 (July 17, 2007).

[5] *See* Securities Exchange Act Release No. 58020 (June 25, 2008), 73 FR 38000 (July 2, 2008).

[6] 15 U.S.C. 78(f)(b).

[7] 15 U.S.C. 78(f)(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. ISE has satisfied this requirement.

[10] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–2009–49 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–2009–49. 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 inspection and copying 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–2009–49 and should be submitted on or before August 7, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–17006 Filed 7–16–09; 8:45 am]

BILLING CODE 8010–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60283; File No. SR–NYSEAmex–2009–41]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Amex LLC Amending Its Option Trading Rules in Order To Adopt the Quarterly Option Series Pilot Program on a Permanent Basis

July 10, 2009.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on July 9, 2009, NYSE Amex LLC (''NYSE Amex'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its option trading rules in order to adopt the Quarterly Option Series Pilot Program on a permanent basis. The text of the proposed rule change is attached as Exhibit 5 to the 19b–4 form. A copy of this filing is available on the Exchange's Web site at *http://www.nyse.com,* at the Exchange's principal office and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to adopt the Quarterly Option Series Pilot Program (''QOS Program'') on a permanent basis. On July 12, 2006, the Exchange filed with the Securities and Exchange Commission (''Commission'') SR–Amex–2006–67, which was effective on filing and established the QOS Program. The QOS Program allows NYSE Amex to list and trade Quarterly Option Series, which expire at the close of business on the last business day or a calendar quarter. Under the QOS Program, NYSE Amex may select up to five (5) currently listed exchange traded fund (''ETF'') or index option classes on which Quarterly Option Series may be opened. In addition, NYSE Amex may also list Quarterly Option Series on any options classes that are selected by other securities exchanges that employ a similar pilot program under their respective rules.

The Exchange may list series that expire at the end of the next consecutive four (4) calendar quarters, as well as the fourth quarter of the next calendar year. For example, if the Exchange is trading Quarterly Options Series in the month of May 2009, it may list series that expire at the end of the second, third, and fourth quarters of 2009, as well as the first and fourth quarters of 2010. Following the second quarter 2009 expiration, the Exchange could add series that expire at the end of the second quarter of 2010.

Quarterly Option Series are P.M. settled.

Quarterly Option Series in ETF Options

If an ETF option is selected for participation in the QOS Program, the strike price of each Quarterly Option Series is fixed at a price per share, with at least two strike prices above and two strike prices below the approximate value of the underlying security at about the time the Quarterly Options Series is opened for trading on the Exchange. NYSE Amex shall list strike prices for a Quarterly Option series that are within $5 of the closing price of the underlying on the preceding day.

The Exchange may open for trading additional Quarterly Options Series of the same class when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying security moves substantially from the initial exercise price or prices. To the extent that any additional strike

prices are listed by the Exchange, such additional strike prices shall be within thirty percent (30%) above or below the closing price of the underlying ETF on the preceding day. The Exchange may also open additional strike prices of Quarterly Option Series in ETF options that are more than 30% above or below the current price of the underlying ETF provided that demonstrated customer interest exists for such series, as expressed by institutional, corporate or individual customers or their brokers. Market-Makers trading for their own account shall not be considered when determining customer interest under this provision. The opening of the new Quarterly Options Series shall not affect the series of options of the same class previously opened. In addition to the initial listed series, the Exchange may list up to sixty (60) additional series per expiration month for each Quarterly Options Series in ETF options.

The interval between strike prices on Quarterly Options Series shall be the same as the interval for strike prices for series in that same options class that expire in accordance with the normal monthly expiration cycle.

The Exchange has adopted a delisting policy with respect to QOS in ETF options. On a monthly basis, the Exchange reviews series that are outside a range of five (5) strikes above and five (5) strikes below the current price of the underlying ETF, and delists series with no open interest in both the put and the call series having a: (i) Strike higher than the highest strike price with open interest in the put and/or call series for a given expiration month; and (ii) strike lower than the lowest strike price with open interest in the put and/or call series for a given expiration month.

Notwithstanding the delisting policy, customer requests to add strikes and/or maintain strikes in QOS in ETF options in series eligible for delisting shall be granted.

Further, in connection with the delisting policy, if the Exchange identifies series for delisting, the Exchange shall notify other options exchanges with similar delisting policies regarding eligible series for listing, and shall work with such other exchanges to develop a uniform list of series to be delisted, so as to ensure uniform series delisting of multiply listed Quarterly Options Series in ETF options.

Quarterly Option Series in Index Options

If an index option is selected for participation in the QOS Program, the strike price of each Quarterly Option Series will be fixed at a price per share, with at least two, but no more than five, strike prices above and at least two, but no more than five, strike prices below the value of the underlying index at about the time that a Quarterly Options Series is opened for trading on the Exchange. The Exchange shall list strike prices for Quarterly Options Series that are reasonably related to the current index value of the underlying index to which such series relates at about the time such series of options is first opened for trading on the Exchange. The term ''reasonably related to the current index value of the underlying index'' means that the exercise price is within thirty percent (30%) of the current index value.

The Exchange may open for trading additional Quarterly Options Series of the same class when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying security moves substantially from the initial exercise price or prices. The Exchange may also open for trading additional Quarterly Options Series that are more than thirty percent (30%) of the current index value, provided that demonstrated customer interest exists for such series, as expressed by institutional, corporate, or individual customers or their brokers. Market-Makers trading for their own account shall not be considered when determining customer interest under this provision.

The Exchange may open additional strike prices of a Quarterly Option Series that are above the value of the underlying index provided that the total number of strike prices above the value of the underlying index is no greater than five. The Exchange may open additional strike prices of a Quarterly Option Series that are below the value of the underlying index provided that the total number of strike prices below the value of the underlying index is no greater than five. The opening of any new Quarterly Option Series shall not affect the series of options of the same class previously opened.

By definition, Quarterly Option Series on an option class can never expire in the same week in which monthly option series on the same class expires. The same, however, is not the case with regard to Short Term Option Series. Quarterly Option Series and Short Term Option Series on the same options class may expire concurrently. However, to avoid any confusion in the marketplace, the Exchange will not list a Short Term Option Series on an options class whose expiration coincides with that of a Quarterly Option Series on the same options class. In other words, the Exchange will not list a Short Term Options Series on an ETF or an index if a Quarterly Option Series on that ETF or index were to expire on a Friday, the only day of the week during which both Quarterly Option Series and a P.M.-settled Short Term Option Series can potentially expire concurrently.

There being one exception to this rule. The Exchange may list a P.M.-settled Quarterly Option Series on an options class concurrent with an A.M.-settled Short Term Options Series on that same options class, both of which may expire on a Friday. In other words, the Exchange may list a P.M.-settled Quarterly Option Series on an ETF on an index concurrent with an A.M.-settled Short Term Option Series on that ETF or index and both of which expire on a Friday. The Exchange believes that the concurrent listing of an A.M.-settled Short Term Option Series and a P.M.-settled Quarterly Option Series on the same underlying ETF or index will provide investors with yet another hedging mechanism. Finally, the interval between strike prices on Quarterly Option Series shall be the same as the interval for strike prices for series in the same options class that expires in accordance with the normal monthly expiration cycles.

The Exchange presently lists and trades Quarterly Option Series on the following five ETF option classes as part of the QOS Program: DIAMONDS Trust (DIA), Standard and Poor's Depositary Receipts/SPDRs (SPY), iShares Russell 2000 Index Fund (IWM), PowerShares QQQ Trust (QQQQ), and Energy Select SPDR (XLE). NYSE Amex believes the QOS Program has been successful and well received by its members and the investing public for the nearly three years that it has been in operation as a pilot program.

NYSE Amex is now proposing to make the QOS Program permanent. In support of approving the QOS Program on a permanent basis, the Exchange has submitted to the Commission a Pilot Program Report (''Report'') detailing the Exchange's experience with the QOS Program. Specifically, the Report contains data and written analysis regarding the five ETF option classes included in the QOS Program. The Report was submitted under separate cover and seeks confidential treatment under the Freedom of Information Act.

The Exchange believes there is sufficient investor interest and demand in the QOS Program to warrant its permanent approval. The Exchange believes that the QOS Program has provided investors with additional means of managing their risk exposures and carrying out their investment

objectives. Furthermore, the Exchange has not experienced any capacity-related problems with respect to Quarterly Option Series. The Exchange also represents that is has the necessary system capacity to continue to support the option series listed under the QOS Program.

This proposal is substantially similar to the recently approved proposal by the Chicago Board Options Exchange (''CBOE''), to make permanent their Quarterly Options Series Program.[4]

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)[5] of the Securities Exchange Act of 1934 (the ''Act''), in general, and furthers the objectives of Section 6(b)(5)[6] 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. The Exchange believes that the QOS Program promotes just and equitable principles of trade and further believes the QOS Program has been successful and well received by the investing public for the nearly three years that it has been in operation as a pilot program.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8]

The Exchange requests that the Commission waive the 30-day operative delay so that the Exchange can permanently establish a Quarterly Options Series Program that is consistent with those of other options exchanges.[9] In addition, the Commission notes that the Exchange's QOS Program currently is scheduled to expire on July 10, 2009. The Commission therefore has determined that waiving the 30-day operative delay of the Exchange's proposal is consistent with the protection of investors and the public interest because such waiver will enable the Exchange to permanently establish the QOS program without disruption.[10] Therefore, the Commission designates the proposal operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSEAmex–2009–41 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAmex–2009–41. 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 inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAmex–2009–41 and should be submitted on or before August 7, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–17008 Filed 7–16–09; 8:45 am]

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[4] *See* Securities Exchange Act Release No. 60164 (June 23, 2009), 74 FR 31333 (June 30, 2009) (order approving SR–CBOE–2009–29).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. NYSE Amex has satisfied this requirement.

[9] *See* Securities Exchange Act Release No. 60164 (June 23, 2009), 74 FR 31333 (June 30, 2009) (SR–CBOE–2009–029) (approving the quarterly options series program on a permanent basis).

[10] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60285; File No. SR–NYSEArca–2009–67]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Arca, Inc. To Extend the One Week Option Series Pilot Program

July 10, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 9, 2009, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I and II below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the One Week Option Series Pilot Program (''Pilot Program'') for an additional one-year period. The text of the proposed rule change is attached as Exhibit 5 to the 19b–4 form. A copy of this filing is available on the Exchange's Web site at *http://www.nyse.com,* at the Exchange's principal office and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On July 12, 2005 the Commission approved the Pilot Program[3] that allows NYSE Arca to list and trade One Week Options Series. Under the terms of the Pilot Program, the Exchange can select up to five options classes on which One Week Option Series may be opened on any One Week Option Opening Date. The Exchange is also allowed to list One Week Option Series on any option class that is selected by other securities exchanges that employ a similar Pilot Program under their respective rules.

The purpose of this proposal is to extend the Pilot Program for a one year period ending on July 12, 2010. The current Pilot Program expires on July 12, 2009.[4] The Exchange believes that One Week Term Option Series can provide investors with a flexible and valuable tool to manage risk exposure, minimize capital outlays, and be more responsive to the timing of events affecting the securities that underlie option contracts. While NYSE Arca has not listed any One Week Option Series during the Pilot Program there has been continued investor interest in trading short-term options at the Chicago Board Options Exchange (''CBOE''). In order to have the ability respond to customer interests if warranted, the Exchange proposes the continuation of the Pilot Program at NYSE Arca.

In the original proposal to establish the Pilot Program the Exchange stated that if it were to propose an extension or an expansion of the program, the Exchange would submit, along with any filing proposing such amendments to the program, a Pilot Program report (''Report''). The Report would provide an analysis of the Pilot Program covering the entire period during which the Pilot Program was in effect. Since the Exchange does not have any One Week Options Series listed as part of the Pilot Program, there is no data available to compile such a report at this time. Therefore there is no Report associated with the program included with this proposal to extend the pilot Program.

The Exchange represents that it has the necessary system capacity needed to support any additional option series listed under the Pilot Program.

2. Statutory Basis

The Exchange believes that One Week Option Series can stimulate customer interest in options and provide a flexible and valuable tool to manage risk exposure, minimize capital outlays, and be more responsive to the timing of events affecting the securities that underlie option contracts. For these reasons, the Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder and, in particular, the requirements of section 6(b) of the Act. Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5)[5] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to 19(b)(3)(A) of the Act[6] and Rule 19b–4(f)(6) thereunder.[7]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 34–52013 (July 12, 2005), 70 FR 41471 (July 19, 2005), approval order for SR–PCX–2005–32.

[4] *See* Securities Exchange Act Release No. 34–58085 (July 2, 2008), 73 FR 39767 (July 10, 2008), SR–NYSEArca–2008–68 (Pilot Program extension).

[5] 15 U.S.C. 78(f)(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. ISE has satisfied this requirement.

The Exchange has asked the Commission to waive the operative delay to permit the proposed rule change to become operative prior to the 30th day after filing. The Commission has determined that waiving the 30-day operative delay of the Exchange's proposal is consistent with the protection of investors and the public interest and will promote competition because such waiver will allow the Exchange to continue the existing Pilot Program without interruption.[8] Therefore, the Commission designates the proposal operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2009–67 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2009–67. 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 inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2009–67 and should be submitted on or before August 7, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Elizabeth M. Murphy,

Secretary.

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BILLING CODE 8010–01–P

[8] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60287; File No. SR–NYSE–2009–69]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange LLC Amending NYSE Rule 72 To Eliminate Parity Allocations for DMM Interest Added Intra Day During a Slow Quote or When Verbally Trading With Floor Brokers at the Point of Sale

July 10, 2009.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b-4 thereunder,[3] notice is hereby given that, on July 9, 2009, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Rule 72 to eliminate parity allocations for DMM interest added intra day during a slow quote or when verbally trading with Floor brokers at the point of sale. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NYSE proposes to amend NYSE Rule 72 to eliminate parity executions for DMM interest added intra-day during a slow quote or when verbally trading with Floor brokers at the point of sale (''slow trading condition''). Through this proposal Exchange systems' allocation logic will be modified so that DMM interest added intra day during a slow trading condition yield to all other interest present at the price point. As such, all other interest eligible to receive an execution at the price will receive share allocation in full before any shares are allocated to the additional DMM interest. If shares remain, then the DMM interest added at the price point during the slow trading condition would receive an allocation. If no shares remain then the DMM interest will not be allocated any shares in the transaction and would be cancelled by operation of the proposed rule.

The Exchange notes that parallel changes are proposed to be made to the rules of the NYSE Amex LLC (formerly the American Stock Exchange).[4]

[4] *See* SR–NYSEAmex–2009–40.

a. Background

Currently market participants' interest for round-lot executions on the Exchange is allocated on an equal basis, (*i.e.,* parity) among the participants at a price point unless one of the participants has established priority,[5] that is, the participant was the only interest at the price point when that price point was quoted. Individual Floor brokers and the Designated Market Maker (''DMM'') registered in the security each constitute a single market participant and all Off-Floor orders entered in Exchange systems at the Exchange BBO together constitute a single market participant (''Off-Floor Participant'') for the purpose of share allocation.

When allocating shares based on parity, Exchange systems divide the size of the executing order by the number of participants. The total number of shares to be allocated to each participant is distributed equally among the participants where possible. Within the single Off-Floor Participant, shares executed are allocated in order of time priority of receipt of Off-Floor Participant Interest into Exchange systems. Executions are allocated in round-lots.

Example Simple Parity Allocation

Display Book has displayed two bids from Off-Floor Participants for a total volume of 200 shares; the DMM and one Floor broker are bidding at the same time for 100 shares each.

Order #1 100 shares & Order #2 100 shares	Off-Floor Participant.
DMM 100 shares	Participant A.
Floor Broker 1 100 shares	Participant B.

A market order for 300 shares to sell being automatically executed by Exchange systems will allocate 100 shares to Off-Floor Participant Order #1, Participant A and Participant B.

In the event the number of shares to be executed at the price point is insufficient to allocate round-lots to all the participants eligible to receive an execution at the price point, the Exchange systems creates an allocation wheel of the eligible participants at the price point and the available shares are distributed to the participants in turn.

On each trading day, the allocation wheel for each security is set to begin with the participant whose interest is entered or retained first on a time basis. Thereafter, participants are added to the wheel as their interest joins existing interest at a particular price point. If a participant cancels his, her or its interest and then rejoins, that participant joins as the last position on the wheel at that time.

Example Parity Allocation Distributed to Multiple Participants

Display Book has displayed two bids from Off-Floor Participants for a total volume of 200 shares, the DMM and three Floor brokers are bidding at the same time for 100 shares each.

Order #1 100 shares & Order #2 100 shares	Off-Floor Participant.
DMM 100 shares	Participant A.
Floor Broker 1 100 shares	Participant B.
Floor Broker 2 100 shares	Participant C.
Floor Broker 3 100 shares	Participant D.

A market order for 300 shares to sell being automatically executed by Exchange systems will allocate 100 shares to Off-Floor Participant Order #1, Participant A and Participant B.

Subsequently, another order to sell 300 shares at the same price is received by Exchange systems. Those shares will be allocated to Participant C, Participant D, and Order #2 Off-Floor Participant.

DMM interest added during a slow trading condition pursuant to provisions of current NYSE Rule 72 also executes on parity. Pursuant to current rules, Exchange systems do not distinguish between the DMM interest added at the time of the slow trading condition and the s-Quotes representing DMM interest present on the Display book prior to the slow trading condition.

Example Current Parity Allocation of DMM Added Interest During a Slow Trading Condition

In the table below, the Exchange Market is 200 shares bid at the price of $20.05 and 200 shares offered at a price of $20.10. The price point of $20.03 is designated as a Liquidity Replenishment Point (''LRP'').[6] An order to sell 600 shares with a limit price of $20.02 is received by Exchange systems. There are 100 shares bid at the prices of $20.04 and $20.03. Additionally, there are 200 shares bid at the price of $20.02 and $20.01.

DISPLAY BOOK PRIOR TO EXECUTION

Protected bid	Bid size	Bid price	Offer price	Offer size
			$20.10	200
	200	$20.05		
	100	$20.04		

[5] *See* NYSE Rule 72(a). A participant that is the *only* interest displayed at the price point when such price is or becomes the best bid or offer published by the Exchange is entitled to priority for the displayed portion of his or her order (Priority Interest). Priority Interest is allocated the first 15% of any execution (a minimum of one round lot). For the remainder of that execution, the participant that established priority receives a parity allocation with other interest available at that price. Exchange systems repeat the allocation logic for the participant that established priority until the participant's order is completely executed or cancelled. Any non Priority Interest of the participant that established priority is executed on parity.

[6] LRPs are pre-determined price points that temporarily convert the automatic Exchange market to an auction market in order to dampen volatility when the market is experiencing a large price movement based on a security's typical trading characteristics or market conditions over short periods of time during the trading day. LRPs allow for the solicitation of additional liquidity.

DISPLAY BOOK PRIOR TO EXECUTION—Continued

Protected bid	Bid size	Bid price	Offer price	Offer size
	100	$20.03[LRP]		
	200	$20.02		
	200	$20.01		

Given the information above, the order will execute 200 shares at the bid price of $20.05 leaving 400 shares. At the next price of $20.04 it will execute an additional 100 leaving 300 shares. The order will then execute an additional 100 shares at the LRP price of $20.03 and have 200 shares of the incoming limit order remaining.

DISPLAY BOOK AFTER INITIAL EXECUTIONS

Protected bid	Bid size	Bid price	Offer price	Offer size	Residual
			$20.10	200	
		$20.05			
		$20.04			
200		$20.03[LRP]			
	200	$20.02			200
	200	$20.01			

After the execution at the LRP price of $20.03, Exchange systems enter a slow trading condition because the previous executions have traded down to an LRP prior to the order's limit price of $20.02. There are now 200 shares of away market interest bid at a price of $20.03. The DMM needs to: (i) Clear the crossed market created by the away market interest bid at the price of $20.03 that is crossed against the residual at $20.02; and (ii) trade the residual against the 200 shares bid at the price of $20.02 to clear the internal lock on the Exchange. The DMM enters an additional 200 shares of DMM interest to sell at the price point of $20.02 below the LRP price point in order to facilitate the clearing of the locked/crossed market. However, when the DMM hits the enter button to consummate the trade, the away market bid is no longer available. The residual 200 shares of the sell limit order will be executed at the price of $20.02 with 100 shares allocated to the interest on the Display Book and 100 shares allocated to the DMM interest added during the slow trading condition. 100 shares of the interest to sell on the Display Book remain unexecuted at the price of $20.02. The remaining 100 shares of sell interest become the Exchange's offer and the best available bid which is 200 shares at the price of $20.01 will be quoted as illustrated in the table below.

DISPLAY BOOK AFTER LRP CLEARED

Protected bid	Bid size	Bid price	Offer price	Offer size
			$20.02	100
	200	$20.01		

b. Proposed Amendment to NYSE Rule 72

The Exchange proposes to amend its allocation logic to have DMM interest added intra day during a slow trading condition yield to all other interest present at the price point. If shares remain after allocation to all other eligible interest, then the DMM interest added at the price point would receive an allocation. If no shares remain then the DMM interest will not be allocated any shares in the transaction.

Example Proposed Parity Allocation During a Slow Trading Condition

In the table below, the Exchange Market is 200 shares bid at the price of $20.05 and 200 shares offered at a price of $20.10. The price point of $20.03 is designated as an LRP. An order to sell 600 shares with a limit price of $20.02 is received by Exchange systems. There are 100 shares bid at the prices of $20.04 and $20.03. Additionally, there are 200 shares bid at the price of $20.02 and $20.01.

DISPLAY BOOK PRIOR TO EXECUTION

Protected bid	Bid size	Bid price	Offer price	Offer size
			$20.10	200

DISPLAY BOOK PRIOR TO EXECUTION—Continued

Protected bid	Bid size	Bid price	Offer price	Offer size
	200	$20.05		
	100	$20.04		
	100	$20.03[LRP]		
	200	$20.02		
	200	$20.01		

Given the information above, the order will execute 200 shares at the bid price of $20.05 leaving 400 shares. At the next price of $20.04 it will execute an additional 100 leaving 300 shares. The order will then execute an additional 100 shares at the LRP price of $20.03 and have 200 shares of the incoming limit order remaining.

DISPLAY BOOK AFTER INITIAL EXECUTIONS

Protected bid	Bid size	Bid price	Offer price	Offer size	Residual
			$20.10	200	
		$20.05			
		$20.04			
200		$20.03[LRP]			
	200	$20.02			200
	200	$20.01			

After the execution at the LRP price of $20.03, Exchange systems enter a slow trading condition because the previous executions have traded down to an LRP prior to the order's limit price. There are now 200 shares of away market interest bid at a price of $20.03. The DMM needs to: (i) Clear the crossed market created by the away market interest bid at the price of $20.03 that is crossed against the residual at $20.02; and (ii) trade the residual against the 200 shares bid at the price of $20.02 to clear the internal lock on the Exchange. The DMM enters an additional 200 shares of DMM interest to sell at the price point of $20.02 below the LRP price point in order to facilitate the clearing of the locked/crossed market. However, when the DMM hits the enter button to consummate the trade, the away market bid is no longer available. Exchange systems will execute the 200 shares of the limit buy order at the price of $20.02. Pursuant to the proposed rule modification, Exchange systems will allocate 200 shares to the interest on the Display Book and no shares will be allocated to the DMM interest added during the slow trading condition. Pursuant to the proposed rule, the DMM interest will be cancelled. Exchange systems will further update the quote to the best bid available on the Exchange, 200 shares bid at the price of $20.01 and 200 shares offered at the price of $20.10.

DISPLAY BOOK AFTER LRP CLEARED

Bid size	Bid price	Offer price	Offer size
		$20.02	100
200	$20.01		

DMM interest entered at the price point prior to the DMM adding interest during a slow trading condition will continue to receive an allocation pursuant to the current parity rule.

Example Proposed Parity Allocation During a Slow Trading Condition With Previously Entered DMM s-Quotes Representing DMM Interest

In the table below, the Exchange Market is 200 shares bid at the price of $20.05 and 200 shares offered at a price of $20.10. The price point of $20.03 is designated as an LRP. An order to sell 800 shares with a limit price of $20.02 is received by Exchange systems. There are 100 shares bid at the prices of $20.04 and $20.03. Additionally, there are 300 shares of non DMM interest and 100 shares of DMM interest bid at the price of $20.02.

DISPLAY BOOK PRIOR TO EXECUTION

Bid size		Bid price	Offer price	Offer size
DMM s-Quotes	Non DMM			
			$20.10	200
	200	$20.05		
	100	$20.04		

DISPLAY BOOK PRIOR TO EXECUTION—Continued

Bid size		Bid price	Offer price	Offer size
DMM s-Quotes	Non DMM			
	100	$20.03 LRP		
100	300	$20.02		
	100	$20.01		

Given the information above, the order will execute 200 shares at the bid price of $20.05 leaving 600 shares. At the next price of $20.04 it will execute an additional 100 leaving 500 shares. The order will then execute an additional 100 shares at the LRP price of $20.03 and have 400 shares of the incoming limit order remaining.

DISPLAY BOOK AFTER INITIAL EXECUTIONS

Bid size		Bid price	Offer price	Offer size	Protected offer	Residual
DMM s-Quotes	Non DMM					
			$20.10	200		
		$20.05				
		$20.04				
		$20.03LRP				
100	300	$20.02				400
	100	$20.01			200	

After the execution at the LRP price of $20.03, Exchange systems enter a slow trading condition because the previous executions have traded down to an LRP prior to the order's limit price. There are also 200 shares of away market interest now offered at a price of $20.01. The DMM needs to clear the internal lock on the Exchange at the price of $20.02 and the cross market condition created by the Exchange's bid at $20.02 and the protected offer at the price of $20.01. To accomplish this, the DMM enters 200 additional shares of DMM interest to buy at the price point of $20.02 below the LRP price point in order to facilitate the clearing of the locked/crossed market. However, when the DMM hits the enter button to consummate the trade, the away market offer is no longer available. Exchange systems will execute the remaining 400 shares of the limit order at the price of $20.02. Pursuant to the proposed rule modification, Exchange systems will allocate 300 shares to the Non DMM Interest on the Display Book and 100 shares to the DMM s-Quote interest originally present at the price point of $20.02 will be fully executed. Pursuant to the proposed rule, the additional DMM interest added during the slow trading condition at the time of the trade is not allocated anything in the trade and is cancelled. Exchange systems will further update the quote to reflect 100 shares bid at the price of $20.01 and 200 shares offered at the price of $20.10.

DISPLAY BOOK AFTER LRP CLEARED

Bid size	Bid price	Offer price	Offer size
		$20.10	200
100	$20.01		

As outlined by the examples above, the Exchange proposes to amend NYSE Rule 72 to add subparagraph (c)(xi) to restrict DMM interest added during a slow trading condition intra day from receiving an allocation on parity; rather, such interest will yield to all other interest at the price point. Pursuant to proposed NYSE Rule 72(c)(xi) DMM interest added during a slow trading condition will be allocated shares only after all other interest eligible to receive an execution at the price point is executed in full and if not executed will be cancelled. Proposed NYSE Rule 72 (c)(xi) will further provide that DMM interest present at the price point prior to the entry of DMM interest during the slow trading condition will continue to be allocated on a parity basis.

The Exchange will commence implementation of the systemic changes to allow Exchange systems to be modified so that DMM interest added intra day during a slow trading condition will yield to all other interest present at the price point on or about July 10, 2009. The Exchange intends to progressively implement this systemic change for DMM interest added intra day on a security by security basis as it gains experience with the new technology until it is operative in all securities traded on the Floor. During the implementation, the Exchange will identify on its website which securities have been transitioned to the new system.

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the ''Act'') [7] for these proposed rule changes is the requirement under Section 6(b)(5) [8] that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that eliminating parity allocations for DMM interest added intra day during a slow quote or when verbally trading

[7] 15 U.S.C. 78a.

[8] 15 U.S.C. 78f(b)(5).

with Floor brokers at the point of sale is consistent with the above principles because it will increase the possibility of executions for the public orders on the Exchange in those situations where DMMs add interest to facilitate an execution.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act [9] and Rule 19b–4(f)(6) thereunder.[10]

A proposed rule change filed under Rule 19b–4(f)(6) [11] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Exchange has requested that the Commission waive the 30-day operative delay in order to permit the Exchange to immediately implement modifications to its systems to require certain DMM interest to yield to other interest on the Display Book during slow trading conditions, as discussed in full above, which should increase the quality of executions on the Exchange, including public customer orders. The Commission believes such waiver is consistent with the protection of investors and the public interest.[13] Accordingly, the Commission designates the proposed rule change operative upon filing with the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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–NYSE–2009–69 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–NYSE–2009–69. 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 inspection and copying in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2009–69 and should be submitted on or before August 7, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–17013 Filed 7–16–09; 8:45 am]

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[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the self-regulatory organization to submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the 30-day operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60289; File No. SR–NYSE–2009–68]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange LLC Amending NYSE Rules 60, 70 and 1000 To Reflect Modifications to the Manner in Which the Exchange Will Quote and Trade With Respect to Liquidity Replenishment Points

July 10, 2009.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b-4 thereunder,[3] notice is hereby given that, on July 9, 2009, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') 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 self-regulatory organization. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [4] and Rule 19b–4(f)(6) thereunder,[5] which renders it effective upon filing with the

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6).

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 Exchange proposes to amend NYSE Rules 60 (Dissemination of Quotations), 70 (Execution of Floor–Broker Interest) and 1000 (Automatic Executions) to reflect modifications to the manner in which the Exchange will quote and trade with respect to Liquidity Replenishment Points. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') proposes to amend Exchange Rules 60 (Dissemination of Quotations), 70 (Execution of Floor Broker Interest) and 1000 (Automatic Executions) to reflect modifications to the manner in which the Exchange will quote and trade with respect to Liquidity Replenishment Points (''LRPs'').[6] As proposed, LRPs will convert the Display Book to an auction market by causing autoquote to be suspended only when an LRP is reached that will result in a locked or crossed market condition on the Exchange or with respect to an away market center (''lock/cross'') or where the next action required is to consummate a trade. Once the locked/crossed condition is cleared or the required trade is consummated, the automatic quoting and executions will resume immediately without any pre-set timing delays. As such, the proposal will allow Exchange systems to quote interest through an LRP price point without converting the Exchange market to an auction market where the next required action is simply to quote the interest.

The Exchange notes that parallel changes are proposed to be made to the rules of the NYSE Amex LLC (formerly the American Stock Exchange).[7]

a. Background

The Exchange uses LRPs to temporarily convert the automatic Exchange market to an auction market in order to dampen volatility when the market is experiencing a large price movement based on a security's typical trading characteristics or market conditions over short periods of time during the trading day. For example, a large sized order on one side of the market, or a series of orders that will trade beyond the current market could cause the price of a security to move to its current LRP value. Conversion to an auction market as a result of an LRP allows the Exchange to solicit additional liquidity.

Floor broker interest with discretionary trading instructions (''d-Quotes'') is prohibited from triggering an LRP. Specifically, a d-Quote participating in a sweep transaction cannot use its price discretion to trade at a price that would trigger an LRP.[8] d-Quotes were designed in this manner so they would not cause the Exchange's market to ''go slow'' by triggering an LRP. It should also be noted that a d-Quote cannot cause a lock/cross market because the d-Quote only trades at prices within its designated discretion but does not quote at a price using its price discretion.

b. Functioning of Autoquote and Auomatic [sic] Executions

Autoquote is a part of the Display Book® [9] that immediately displays customer limit orders received on the Exchange. When autoquote is suspended, it is suspended on both sides of the market. The Exchange will publish a ''slow'' quote (*i.e.,* one that is not eligible for automatic execution) when autoquote is suspended. The Exchange can also publish a slow quote on one side of the market, under certain market conditions, such as when there is no interest on one side of the market.

Pursuant to NYSE Rule 60, autoquote is suspended when an LRP is reached and resumes in no more than ten seconds after the LRP is reached. Specifically, NYSE Rule 60(d)(ii)(C) provides that autoquoting is suspended when an LRP is reached, that is, if an automatic execution would take place at or beyond an LRP. When autoquoting is suspended in this situation, the Display Book ''goes slow'', *i.e.,* quotes and trading in that security do not take place automatically. Pursuant to current Rule 60, autoquoting will resume in no more than ten seconds (but usually in five seconds) after an LRP is reached. Autoquoting resumes unless there is interest on the Display Book system that would lock/cross the market. In such case, autoquoting will resume following a manual transaction.

For example, if the market on the Exchange for a security is 20.10 bid and 20.15 offered. The designated LRP for this security is at a price of 20.15 on the offer side. A buy order is received to lift the offer at 20.15. Exchange systems will execute the buy order against the interest at 20.15 and then suspend autoquote. Autoquote resumes in no more than ten seconds unless there is interest on the NYSE Display Book system that would lock/cross the market. An example of this would be if in the same market situation after autoquote suspended, interest arrived to sell below the bid price (*e.g.,* sell at 20.09 or below), the market would be ''crossed''. In such case, autoquote will resume after a manual transaction, conducted by the DMM to trade out of the cross market and resume automatic quoting.

Similarly, pursuant to NYSE Rule 1000(a)(iv), automatic executions are suspended when an LRP is reached, and resume pursuant to the same parameters for the resumption of autoquote. Automatic executions on the Exchange are suspended when autoquote is suspended. In certain instances, autoquote is available to disseminate a slow quote. This may occur on either the bid or offer side or both sides of the market. In instances when autoquote is disseminating a slow quote, auto executions will not be available against the quote that is slow.

[6] LRPs are pre-determined price points that temporarily convert the automatic Exchange market to an auction market in order to dampen volatility when the market is experiencing a large price movement based on a security's typical trading characteristics or market conditions over short periods of time during the trading day. LRPs allow the DMM to solicit additional liquidity.

[7] *See* SR–NYSEAmex–2009–39.

[8] Exchange systems automatically prevent a d-Quote from using its price discretion to trade at an LRP price.

[9] The Display Book® system is an order management and execution facility. The Display Book system receives and displays orders to the DMMs, contains the Book, and provides a mechanism to execute and report transactions and publish the results to the Consolidated Tape. The Display Book system is connected to a number of other Exchange systems for the purposes of comparison, surveillance, and reporting information to customers and other market data and national market systems.

Pursuant to current NYSE Rules, once an LRP is reached interest may not quote through the price point. For example the Exchange market is 500 shares bid 20.10 and 300 shares offered at 20.15. The designated LRP for this security is at a price of 20.15 on the offer side. An order to buy 600 shares with a limit price of 20.16 is received. There is no interest offered on the Display Book at 20.16. The next offer is 400 shares at 20.20. The order will execute 300 shares at 20.15. Thereafter, autoquote and automatic executions will be suspended. No more than ten seconds later, the quote will be updated to reflect the new bid price of 20.16 and the new offer price of 20.20 and auto quote and auto execution will resume.

Similarly, pursuant to current NYSE Rules interest may also not trade through the price point. Again, the Exchange market is 500 shares bid 20.10 and 300 shares offered at 20.15. The designated LRP for this security is at a price of 20.15 on the offer side. An order to buy 600 shares with a limit price of 20.16 is received. There are 200 shares offered on the Display Book at 20.16 and the next offer on the Display Book is for 400 shares at 20.20. The order will execute 300 shares at 20.15. Thereafter, autoquote and automatic executions will be suspended. The DMM will manually execute an additional 200 shares of the order at 20.16 and auto quote and auto execution will resume. The Exchange quote will be updated to reflect 100 shares bid at 20.16 and 400 shares offered at the price of 20.20.

c. Proposed Amendment to NYSE Rules

In order to have the Exchange market increase the amount of continuous automatic quoting and executions, it is proposed to reduce the number of situations when an LRP converts the Exchange to a manual market. The Exchange is proposing to allow Exchange systems to quote interest through an LRP price point without converting the Exchange market to an auction market where the next required action is simply to quote. In the event a trade is required after reaching an LRP, the Exchange market will continue to be converted to an auction market.

In instances where the next action after the LRP would be to quote because there is no interest capable of trading at the relevant price point, the Exchange proposes to have the Display Book® maintain fast market conditions and not convert to a manual market for any period of time. Rather, interest will be immediately and automatically quoted and available for automatic executions. As proposed, an LRP will convert the Display Book to an auction market when an automated quote following such LRP would result in a locked/crossed market condition. Once the locked/crossed condition is cleared, automatic quoting and executions will resume immediately without any pre-set timing delays.

The Exchange believes that in certain situations, when an LRP is reached, and there is not a locked/crossed market situation, keeping autoquote active is beneficial to the market since interest on the Display Book will continue to be autoquoted, and therefore available for automatic executions.[10] For example, suppose the market on the NYSE is 20.10 bid and 20.15 offered, last sale at 19.90, with the current LRP for this security at 20.15 on the offer side since the LRP is .25. If there is incoming interest that would trade up to the .15 offer, and there is interest on the Display Book to sell at .16, the Exchange believes the .16 offer should be eligible for autoquoting and, therefore, automatic execution, rather than the Exchange's market having to go slow.

Therefore, the Exchange proposes to amend NYSE Rule 60(d) to allow autoquote to continue when an LRP is reached if the market on the Exchange is not locked/crossed. For example the Exchange market is 500 shares bid 20.10 and 300 shares offered at 20.15. The designated LRP for this security is at a price of 20.15 on the offer side. An order to buy 600 shares with a limit price of 20.16 is received. There is no interest offered on the Display Book at 20.16. The next offer is 400 shares at 20.20. The order will execute 300 shares at 20.15. Autoquote and automatic executions *will not* be suspended. Thereafter autoquote will reflect the new quote of 300 shares bid at a price of 20.16 and 400 shares offered at a price of 20.20.

Pursuant to the proposal, there will be no interruption of autoquote unless the market would be locked/crossed by the interest that would be autoquoted. Moreover, Exchange systems will still not allow the Display Book to trade through an LRP. As such, if the Exchange market is 500 shares bid 20.10 and 300 shares offered at 20.15. The designated LRP for this security is at a price of 20.15 on the offer side. An order to buy 600 shares with a limit price of 20.16 is received. There are 200 shares offered on the Display Book at 20.16 and the next offer on the Display Book is 400 shares at 20.20. The order will execute 300 shares at 20.15. Thereafter, autoquote and automatic executions will be suspended as it is today. The DMM must intervene to execute the additional 200 shares of the order at 20.16. Autoquoting will also resume as soon as a locked/crossed market is cleared by a manual execution or cancellation of the locking/crossing interest.[11]

The Exchange further proposes to amend NYSE Rule 1000(a)(iv) to allow for the continuation of automatic execution unless (a) any residual interest of the executing order is locking/crossing the market on the Exchange; or (b) if the resulting bid or offer is beyond the revised LRP in that security. NYSE Rule 1000(a)(iv) will further be amended to suspend automatic executions only on the side of the market that is quoted beyond the newly calculated LRP, except that undisplayed reserve orders at price points before the LRP will continue to be eligible for automatic executions.

For example, suppose the market on the NYSE is 20.10 bid and 20.15 offered, with an LRP Parameter of .25. The designated LRP for this security is at a price of 20.15 on the offer side. An incoming buy order limited to 20.15 is entered. It trades up to the 20.15 offer with residual shares to be executed. There is no other sell interest on the Display Book until 20.45. An LRP will be calculated based on the last sale price of 20.15 (*i.e.,* last sale of 20.15 plus the .25 LRP parameter equals 20.40). The offer will be published as slow since it is beyond the newly calculated offer side LRP of 20.40 (last sale of 20.15 plus .25). The bid will remain fast since the bid side LRP is calculated as 19.90 (last sale of 20.15 minus .25). The offer will stay slow until new interest arrives to quote within the LRP, the LRP is recalculated off of a new trade or the DMM intervenes and trades manually.

Finally, the Exchange proposes to amend NYSE Rule 70.25(d)(ix)(A) to remove the restriction that a d-Quote participating in a sweep transaction must stop within one minimum price variation, for most Exchange securities, one cent, of a security's LRP. Given the proposed modification to LRP functionality, allowing d-Quotes to trade at an LRP price will not cause the Exchange's market to go slow if the next

[10] The Exchange notes that in its experience it does not often receive additional liquidity in the prescribed amount of time during LRP situations where the next required action is to quote the remaining interest, and, therefore, the Exchange believes that allowing for the continuation of autoquoting will be beneficial to its market.

[11] The Exchange is working on technology to replicate certain manual functions currently done by the individual DMM, including trading out of LRPs that would lock/cross the market. The proposed change to Rule 60(d) will thus have the effect of providing for the resumption of Autoquoting when a locked/crossed market is cleared manually or automatically.

action will be a quote. For example, presume the market is 20.05 bid and offered at 20.10, with the security's LRP on the sell side set at 20.13, but with interest on the Display Book to sell higher than the LRP. If a d-Quote to buy has three cents maximum discretion, it would not be able to trade at 20.13 under current rules since this price is a LRP price point. However, since there is interest eligible to be quoted beyond the LRP, under the proposed rule changes allowing the d-Quote to use its maximum discretion to trade at 20.13 would not cause the market to go slow. Therefore, the restriction on the d-quote trading at the LRP no longer serves its original purpose. As such, the Exchange proposes to remove said restriction.

The Exchange will commence implementation of the systemic changes to allow Exchange systems to quote interest through an LRP price point without converting the Exchange market to an auction market where the next required action is simply to quote the interest on or about July 10, 2009. The Exchange intends to progressively implement this systemic change for LRPs on a security by security basis as it gains experience with the new technology until it is operative in all securities traded on the Floor. During the implementation, the Exchange will identify on its Web site which securities have been transitioned to the new system.

In addition to the substantive change proposed above, the Exchange further proposes to make a technical amendment to NYSE Rule 1000 to delete a reference to the timing of the beginning of the New Market Model Pilot [12] from the preliminary provisions of Rule 1000 since this Pilot has been underway for a number of months.

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the ''Act'') [13] for these proposed rule changes is the requirement under Section 6(b)(5) [14] that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1) [15] in that it seeks to assure economically efficient execution of securities transactions, make it practicable for brokers to execute investors' orders in the best market and provide an opportunity for investors' orders to be executed without the participation of a dealer. The Exchange's proposal to maintain fast market conditions more often is consistent with the principles above in that it will increase the amount of time that the Exchange's quote is eligible for immediate and automatic executions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act [16] and Rule 19b-4(f)(6) thereunder.[17]

The Exchange has requested that the Commission waive the 30-day operative delay in order to permit the Exchange to immediately implement the modifications to its systems discussed in full above, which should permit the Exchange to maintain fast market conditions more often, thus increasing the amount of time that the Exchange's quote is eligible for automatic executions. The Commission believes such waiver is consistent with the protection of investors and the public interest. [18] Accordingly, the Commission designates the proposed rule change operative upon filing with the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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–NYSE–2009–68 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–NYSE–2009–68. 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 inspection and copying in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for

[12] *See* Securities Exchange Act Release No. 58845 (October 24, 2008), 73 FR 64379 (October 29, 2008) (SR–NYSE–2008–46).

[13] 15 U.S.C. 78a.

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78k-1(a)(1).

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the self-regulatory organization to submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[18] For purposes only of waiving the 30-day operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–NYSE–2009–68 and should be submitted on or before August 7, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–17015 Filed 7–16–09; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60290; File No. SR–NYSEAmex–2009–39]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Amex LLC Amending NYSE Amex Equities Rules 60, 70 and 1000 To Reflect Modifications to the Manner in Which the Exchange Will Quote and Trade With Respect to Liquidity Replenishment Points

July 10, 2009.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on July 9, 2009, NYSE Amex LLC (the ''Exchange'' or ''NYSE Amex'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[4] and Rule 19b–4(f)(6) thereunder,[5] which renders it 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 Exchange proposes to amend NYSE Amex Equities Rules 60 (Dissemination of Quotations), 70 (Execution of Floor Broker Interest) and 1000 (Automatic Executions) to reflect modifications to the manner in which the Exchange will quote and trade with respect to Liquidity Replenishment Points. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NYSE Amex proposes to amend Exchange Rules 60 (Dissemination of Quotations), 70 (Execution of Floor Broker Interest) and 1000 (Automatic Executions) to reflect modifications to the manner in which the Exchange will quote and trade with respect to Liquidity Replenishment Points (''LRPs'').[6] As proposed, LRPs will convert the Display Book to an auction market by causing autoquote to be suspended only when an LRP is reached that will result in a locked or crossed market condition on the Exchange or with respect to an away market center (''lock/cross'') or where the next action required is to consummate a trade. Once the locked/crossed condition is cleared or the required trade is consummated, the automatic quoting and executions will resume immediately without any pre-set timing delays. As such, the proposal will allow Exchange systems to quote interest through an LRP price point without converting the Exchange market to an auction market where the next required action is simply to quote the interest.

The Exchange notes that parallel changes are proposed to be made to the rules of the New York Stock Exchange (''NYSE'').[7]

a. Background

The Exchange uses LRPs to temporarily convert the automatic Exchange market to an auction market in order to dampen volatility when the market is experiencing a large price movement based on a security's typical trading characteristics or market conditions over short periods of time during the trading day. For example, a large-sized order on one side of the market, or a series of orders that will trade beyond the current market could cause the price of a security to move to its current LRP value. Conversion to an auction market as a result of an LRP allows the Exchange to solicit additional liquidity.

Floor broker interest with discretionary trading instructions (''d-Quotes'') is prohibited from triggering an LRP. Specifically, a d-Quote participating in a sweep transaction cannot use its price discretion to trade at a price that would trigger an LRP.[8] d-Quotes were designed in this manner so they would not cause the Exchange's market to ''go slow'' by triggering an LRP. It should also be noted that a d-Quote cannot cause a lock/cross market because the d-Quote only trades at prices within its designated discretion but does not quote at a price using its price discretion.

b. Functioning of Autoquote and Auomatic [sic] Executions

Autoquote is a part of the Display Book® [9] that immediately displays

[19] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6).

[6] LRPs are pre-determined price points that temporarily convert the automatic Exchange market to an auction market in order to dampen volatility when the market is experiencing a large price movement based on a security's typical trading characteristics or market conditions over short periods of time during the trading day. LRPs allow the DMM to solicit additional liquidity.

[7] *See* SR–NYSE–2009–68 (to be filed July 9, 2009). NYSE Euronext acquired The Amex Membership Corporation (''AMC'') pursuant to an Agreement and Plan of Merger, dated January 17, 2008 (the ''Merger''). *See* Securities Exchange Act Release No. 58673 (September 29, 2008), 73 FR 57707 (October 3, 2008) (SR–NYSE–2008–60 and SR–Amex–2008–62) (approving the Merger). The effective date of the Merger was October 1, 2008. In connection with the Merger, the Exchange's predecessor, the American Stock Exchange LLC (''Amex''), a subsidiary of AMC, became a subsidiary of NYSE Euronext called NYSE Alternext US LLC, and continues to operate as a national securities exchange registered under Section 6 of the Securities Exchange Act of 1934, as amended (the ''Act''). *See* 15 U.S.C. 78f. NYSE Alternext US LLC was subsequently renamed NYSE Amex LLC. *See* Securities Exchange Act Release No. 59575 (March 13, 2009), 74 FR 11803 (March 19, 2009) (SR–NYSEALTR–2009–24).

[8] Exchange systems automatically prevent a d-Quote from using its price discretion to trade at an LRP price.

[9] The Display Book® system is an order management and execution facility. The Display Book system receives and displays orders to the DMMs, contains the Book, and provides a mechanism to execute and report transactions and

customer limit orders received on the Exchange. When autoquote is suspended, it is suspended on both sides of the market. The Exchange will publish a ''slow'' quote (*i.e.,* one that is not eligible for automatic execution) when autoquote is suspended. The Exchange can also publish a slow quote on one side of the market, under certain market conditions, such as when there is no interest on one side of the market.

Pursuant to NYSE Amex Equities Rule 60, autoquote is suspended when an LRP is reached and resumes in no more than ten seconds after the LRP is reached. Specifically, NYSE Amex Equities Rule 60(d)(ii)(C) provides that autoquoting is suspended when an LRP is reached, that is, if an automatic execution would take place at or beyond an LRP. When autoquoting is suspended in this situation, the Display Book ''goes slow'', *i.e.,* quotes and trading in that security do not take place automatically. Pursuant to current Rule 60, autoquoting will resume in no more than ten seconds (but usually in five seconds) after an LRP is reached. Autoquoting resumes unless there is interest on the Display Book system that would lock/cross the market. In such case, autoquoting will resume following a manual transaction.

For example, if the market on the Exchange for a security is 20.10 bid and 20.15 offered. The designated LRP for this security is at a price of 20.15 on the offer side. A buy order is received to lift the offer at 20.15. Exchange systems will execute the buy order against the interest at 20.15 and then suspend autoquote. Autoquote resumes in no more than ten seconds unless there is interest on the NYSE Amex Display Book system that would lock/cross the market. An example of this would be if in the same market situation after autoquote suspended, interest arrived to sell below the bid price (e.g., sell at 20.09 or below), the market would be ''crossed''. In such case, autoquote will resume after a manual transaction, conducted by the DMM to trade out of the cross market and resume automatic quoting.

Similarly, pursuant to NYSE Amex Equities Rule 1000(a)(iv), automatic executions are suspended when an LRP is reached, and resume pursuant to the same parameters for the resumption of autoquote. Automatic executions on the Exchange are suspended when autoquote is suspended. In certain instances, autoquote is available to disseminate a slow quote. This may occur on either the bid or offer side or both sides of the market. In instances when autoquote is disseminating a slow quote, auto executions will not be available against the quote that is slow.

Pursuant to current NYSE Amex Equities Rules, once an LRP is reached interest may not quote through the price point. For example the Exchange market is 500 shares bid 20.10 and 300 shares offered at 20.15. The designated LRP for this security is at a price of 20.15 on the offer side. An order to buy 600 shares with a limit price of 20.16 is received. There is no interest offered on the Display Book at 20.16. The next offer is 400 shares at 20.20. The order will execute 300 shares at 20.15. Thereafter, autoquote and automatic executions will be suspended. No more than ten seconds later, the quote will be updated to reflect the new bid price of 20.16 and the new offer price of 20.20 and autoquote and auto execution will resume.

Similarly, pursuant to current NYSE Amex Equities Rules, interest may also not trade through the price point. Again, the Exchange market is 500 shares bid 20.10 and 300 shares offered at 20.15. The designated LRP for this security is at a price of 20.15 on the offer side. An order to buy 600 shares with a limit price of 20.16 is received. There are 200 shares offered on the Display Book at 20.16 and the next offer on the Display Book is for 400 shares at 20.20. The order will execute 300 shares at 20.15. Thereafter, autoquote and automatic executions will be suspended. The DMM will manually execute an additional 200 shares of the order at 20.16 and auto quote and auto execution will resume. The Exchange quote will be updated to reflect 100 shares bid at 20.16 and 400 shares offered at the price of 20.20.

c. Proposed Amendment to NYSE Amex Equities Rules

In order to have the Exchange market increase the amount of continuous automatic quoting and executions, it is proposed to reduce the number of situations when an LRP converts the Exchange to a manual market. The Exchange is proposing to allow Exchange systems to quote interest through an LRP price point without converting the Exchange market to an auction market where the next required action is simply to quote. In the event a trade is required after reaching an LRP, the Exchange market will continue to be converted to an auction market.

In instances where the next action after the LRP would be to quote because there is no interest capable of trading at the relevant price point, the Exchange proposes to have the Display Book® maintain fast market conditions and not convert to a manual market for any period of time. Rather, interest will be immediately and automatically quoted and available for automatic executions. As proposed, an LRP will convert the Display Book to an auction market when an automated quote following such LRP would result in a locked/crossed market condition. Once the locked/crossed condition is cleared, automatic quoting and executions will resume immediately without any pre-set timing delays.

The Exchange believes that in certain situations, when an LRP is reached, and there is not a locked/crossed market situation, keeping autoquote active is beneficial to the market since interest on the Display Book will continue to be autoquoted, and therefore available for automatic executions.[10] For example, suppose the market on NYSE Amex is 20.10 bid and 20.15 offered, last sale at 19.90, with the current LRP for this security at 20.15 on the offer side since the LRP is .25. If there is incoming interest that would trade up to the .15 offer, and there is interest on the Display Book to sell at .16, the Exchange believes the .16 offer should be eligible for autoquoting and, therefore, automatic execution, rather than the Exchange's market having to go slow.

Therefore, the Exchange proposes to amend NYSE Amex Equities Rule 60(d) to allow autoquote to continue when an LRP is reached if the market on the Exchange is not locked/crossed. For example the Exchange market is 500 shares bid 20.10 and 300 shares offered at 20.15. The designated LRP for this security is at a price of 20.15 on the offer side. An order to buy 600 shares with a limit price of 20.16 is received. There is no interest offered on the Display Book at 20.16. The next offer is 400 shares at 20.20. The order will execute 300 shares at 20.15. Autoquote and automatic executions *will not* be suspended. Thereafter autoquote will reflect the new quote of 300 shares bid at a price of 20.16 and 400 shares offered at a price of 20.20.

Pursuant to the proposal, there will be no interruption of autoquote unless the market would be locked/crossed by the interest that would be autoquoted. Moreover, Exchange systems will still

publish the results to the Consolidated Tape. The Display Book system is connected to a number of other Exchange systems for the purposes of comparison, surveillance, and reporting information to customers and other market data and national market systems.

[10] The Exchange notes that in its experience it does not often receive additional liquidity in the prescribed amount of time during LRP situations where the next required action is to quote the remaining interest, and, therefore, the Exchange believes that allowing for the continuation of autoquoting will be beneficial to its market.

not allow the Display Book to trade through an LRP. As such, if the Exchange market is 500 shares bid 20.10 and 300 shares offered at 20.15. The designated LRP for this security is at a price of 20.15 on the offer side. An order to buy 600 shares with a limit price of 20.16 is received. There are 200 shares offered on the Display Book at 20.16 and the next offer on the Display Book is 400 shares at 20.20. The order will execute 300 shares at 20.15. Thereafter, autoquote and automatic executions will be suspended as it is today. The DMM must intervene to execute the additional 200 shares of the order at 20.16. Autoquoting will also resume as soon as a locked/crossed market is cleared by a manual execution or cancellation of the locking/crossing interest.[11]

The Exchange further proposes to amend NYSE Amex Equities Rule 1000(a)(iv) to allow for the continuation of automatic execution unless (a) any residual interest of the executing order is locking/crossing the market on the Exchange; or (b) if the resulting bid or offer is beyond the revised LRP in that security. NYSE Amex Equities Rule 1000(a)(iv) will further be amended to suspend automatic executions only on the side of the market that is quoted beyond the newly calculated LRP, except that undisplayed reserve orders at price points before the LRP will continue to be eligible for automatic executions.

For example, suppose the market on NYSE Amex is 20.10 bid and 20.15 offered, with an LRP Parameter of .25. The designated LRP for this security is at a price of 20.15 on the offer side. An incoming buy order limited to 20.15 is entered. It trades up to the 20.15 offer with residual shares to be executed. There is no other sell interest on the Display Book until 20.45. An LRP will be calculated based on the last sale price of 20.15 (*i.e.,* last sale of 20.15 plus the .25 LRP parameter equals 20.40). The offer will be published as slow since it is beyond the newly calculated offer side LRP of 20.40 (last sale of 20.15 plus .25). The bid will remain fast since the bid side LRP is calculated as 19.90 (last sale of 20.15 minus .25). The offer will stay slow until new interest arrives to quote within the LRP, the LRP is recalculated off of a new trade or the DMM intervenes and trades manually.

Finally, the Exchange proposes to amend NYSE Amex Equities Rule 70.25(d)(ix)(A) to remove the restriction that a d-Quote participating in a sweep transaction must stop within one minimum price variation, for most Exchange securities, one cent, of a security's LRP. Given the proposed modification to LRP functionality, allowing d-Quotes to trade at an LRP price will not cause the Exchange's market to go slow if the next action will be a quote. For example, presume the market is 20.05 bid and offered at 20.10, with the security's LRP on the sell side set at 20.13, but with interest on the Display Book to sell higher than the LRP. If a d-Quote to buy has three cents maximum discretion, it would not be able to trade at 20.13 under current rules since this price is a LRP price point. However, since there is interest eligible to be quoted beyond the LRP, under the proposed rule changes allowing the d-Quote to use its maximum discretion to trade at 20.13 would not cause the market to go slow. Therefore, the restriction on the d-quote trading at the LRP no longer serves its original purpose. As such, the Exchange proposes to remove said restriction.

The Exchange will commence implementation of the systemic changes to allow Exchange systems to quote interest through an LRP price point without converting the Exchange market to an auction market where the next required action is simply to quote the interest on or about July 10, 2009. The Exchange intends to progressively implement this systemic change for LRPs on a security by security basis as it gains experience with the new technology until it is operative in all securities traded on the Floor. During the implementation, the Exchange will identify on its Web site which securities have been transitioned to the new system.

In addition to the substantive change proposed above, the Exchange further proposes to make a technical amendment to NYSE Amex Equities Rule 1000 to delete a reference to the timing of the beginning of the New Market Model Pilot[12] from the preliminary provisions of Rule 1000 since this Pilot has been underway for a number of months.

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the ''Act'')[13] for these proposed rule changes is the requirement under Section 6(b)(5)[14] that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1)[15] in that it seeks to assure economically efficient execution of securities transactions, make it practicable for brokers to execute investors' orders in the best market and provide an opportunity for investors' orders to be executed without the participation of a dealer. The Exchange's proposal to maintain fast market conditions more often is consistent with the principles above in that it will increase the amount of time that the Exchange's quote is eligible for immediate and automatic executions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[16] and Rule 19b–4(f)(6) thereunder.[17]

[11] The Exchange is working on technology to replicate certain manual functions currently done by the individual DMM, including trading out of LRPs that would lock/cross the market. The proposed change to Rule 60(d) will thus have the effect of providing for the resumption of Autoquoting when a locked/crossed market is cleared manually or automatically.

[12] *See* Securities Exchange Act Release No. 58845 (October 24, 2008), 73 FR 64379 (October 29, 2008) (SR–NYSE–2008–46).

[13] 15 U.S.C. 78a.

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78k-1(a)(1).

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the self-regulatory organization to submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

The Exchange has requested that the Commission waive the 30-day operative delay in order to permit the Exchange to immediately implement the modifications to its systems discussed in full above, which should permit the Exchange to maintain fast market conditions more often, thus increasing the amount of time that the Exchange's quote is eligible for automatic executions. The Commission believes such waiver is consistent with the protection of investors and the public interest.[18] Accordingly, the Commission designates the proposed rule change operative upon filing with the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSEAmex–2009–39 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAmex–2009–39. 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 inspection and copying in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAmex–2009–39 and should be submitted on or before August 7, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–17016 Filed 7–16–09; 8:45 am]

BILLING CODE 8010–01–P

[18] For purposes only of waiving the 30-day operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60288; File No. SR–NYSEAmex–2009–40]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Amex LLC Amending NYSE Amex Equities Rule 72 To Eliminate Parity Allocations for DMM Interest Added Intra Day During a Slow Quote or When Verbally Trading With Floor Brokers at the Point of Sale

July 10, 2009.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on July 9, 2009, NYSE Amex LLC (the ''Exchange'' or ''NYSE Amex'') filed with the Securities and Exchange Commission (''SEC'' or the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Amex Equities Rule 72 to eliminate parity allocations for DMM interest added intra day during a slow quote or when verbally trading with Floor brokers at the point of sale. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NYSE Amex proposes to amend NYSE Amex Equities Rule 72 to eliminate parity executions for DMM interest added intra day during a slow quote or when verbally trading with Floor brokers at the point of sale (''slow trading condition''). Through this proposal Exchange systems' allocation logic will be modified so that DMM interest added intra day during a slow trading condition yield to all other interest present at the price point. As such, all other interest eligible to receive an execution at the price will receive share allocation in full before any shares are allocated to the additional DMM interest. If shares remain, then the DMM interest added at the price point during the slow trading condition would receive an allocation. If no shares remain, then the DMM interest will not be allocated any shares in the transaction and would be cancelled by operation of the proposed rule.

The Exchange notes that parallel changes are proposed to be made to the rules of the New York Stock Exchange LLC.[4]

[4] *See* SR–NYSE–2009–69.

a. Background

Currently market participants' interest for round-lot executions on the Exchange is allocated on an equal basis, (*i.e.* parity) among the participants at a price point unless one of the participants has established priority; [5] that is, the participant was the only interest at the price point when that price point was quoted. Individual Floor brokers and the Designated Market Maker (''DMM'') registered in the security each constitute a single market participant and all Off-Floor orders entered in Exchange systems at the Exchange BBO together constitute a single market participant (''Off-Floor Participant'') for the purpose of share allocation.

When allocating shares based on parity, Exchange systems divide the size of the executing order by the number of participants. The total number of shares to be allocated to each participant is distributed equally among the participants where possible. Within the single Off-Floor Participant, shares executed are allocated in order of time priority of receipt of Off-Floor Participant Interest into Exchange systems. Executions are allocated in round-lots.

Example Simple Parity Allocation

Display Book has displayed two bids from Off-Floor Participants for a total volume of 200 shares; the DMM and one Floor broker are bidding at the same time for 100 shares each.

Order #1 100 shares & Order #2 100 shares.	Off-Floor Participant.
DMM 100 shares	Participant A.
Floor Broker 1 100 shares	Participant B.

A market order for 300 shares to sell being automatically executed by Exchange systems will allocate 100 shares to Off-Floor Participant Order #1, Participant A and Participant B.

In the event the number of shares to be executed at the price point is insufficient to allocate round-lots to all the participants eligible to receive an execution at the price point, the Exchange systems create an allocation wheel of the eligible participants at the price point and the available shares are distributed to the participants in turn.

On each trading day, the allocation wheel for each security is set to begin with the participant whose interest is entered or retained first on a time basis. Thereafter, participants are added to the wheel as their interest joins existing interest at a particular price point. If a participant cancels his, her or its interest and then rejoins, that participant joins as the last position on the wheel at that time.

Example Parity Allocation Distributed to Multiple Participants

Display Book has displayed two bids from Off-Floor Participants for a total volume of 200 shares, the DMM and three Floor brokers are bidding at the same time for 100 shares each.

Order #1 100 shares & Order #2 100 shares.	Off-Floor Participant.
DMM 100 shares	Participant A.
Floor Broker 1 100 shares	Participant B.
Floor Broker 2 100 shares	Participant C.
Floor Broker 3 100 shares	Participant D.

A market order for 300 shares to sell being automatically executed by Exchange systems will allocate 100 shares to Off-Floor Participant Order #1, Participant A and Participant B.

Subsequently, another order to sell 300 shares at the same price is received by Exchange systems. Those shares will be allocated to Participant C, Participant D, and Order #2 Off-Floor Participant.

DMM interest added during a slow trading condition pursuant to provisions of current NYSE Amex Equities Rule 72 also executes on parity. Pursuant to current rules, Exchange systems do not distinguish between the DMM interest added at the time of the slow trading condition and the s-Quotes representing DMM interest present on the Display book prior to the slow trading condition.

Example Current Parity Allocation of DMM Added Interest During a Slow Trading Condition

In the table below, the Exchange Market is 200 shares bid at the price of $20.05 and 200 shares offered at a price of $20.10. The price point of $20.03 is designated as a Liquidity Replenishment Point (''LRP'').[6] An order to sell 600 shares with a limit price of $20.02 is received by Exchange systems. There are 100 shares bid at the prices of $20.04 and $20.03. Additionally, there are 200 shares bid at the price of $20.02 and $20.01.

DISPLAY BOOK PRIOR TO EXECUTION

Protected bid	Bid size	Bid price	Offer price	Offer size
			$20.10	200
	200	$20.05		
	100	$20.04		
	100	$20.03 LRP		
	200	$20.02		
	200	$20.01		

Given the information above, the order will execute 200 shares at the bid price of $20.05 leaving 400 shares. At the next price of $20.04 it will execute an additional 100 leaving 300 shares. The order will then execute an additional 100 shares at the LRP price of $20.03 and have 200 shares of the incoming limit order remaining.

[5] *See* NYSE Amex Equities Rule 72(a). A participant that is the *only* interest displayed at the price point when such price is or becomes the best bid or offer published by the Exchange is entitled to priority for the displayed portion of his or her order (Priority Interest). Priority Interest is allocated the first 15% of any execution (a minimum of one round lot). For the remainder of that execution, the participant that established priority receives a parity allocation with other interest available at that price. Exchange systems repeat the allocation logic for the participant that established priority until the participant's order is completely executed or cancelled. Any non-Priority Interest of the participant that established priority is executed on parity.

[6] LRPs are pre-determined price points that temporarily convert the automatic Exchange market to an auction market in order to dampen volatility when the market is experiencing a large price movement based on a security's typical trading characteristics or market conditions over short periods of time during the trading day. LRPs allow for the solicitation of additional liquidity.

DISPLAY BOOK AFTER INITIAL EXECUTIONS

Protected bid	Bid size	Bid price	Offer price	Offer size	Residual
			$20.10	200	
		$20.05			
		$20.04			
200		$20.03 LRP			
	200	$20.02			200
	200	$20.01			

After the execution at the LRP price of $20.03, Exchange systems enter a slow trading condition because the previous executions have traded down to an LRP prior to the order's limit price of $20.02. There are now 200 shares of away market interest bid at a price of $20.03. The DMM needs to: (i) Clear the crossed market created by the away market interest bid at the price of $20.03 that is crossed against the residual at $20.02; and (ii) trade the residual against the 200 shares bid at the price of $20.02 to clear the internal lock on the Exchange. The DMM enters an additional 200 shares of DMM interest to sell at the price point of $20.02 below the LRP price point in order to facilitate the clearing of the locked/crossed market. However, when the DMM hits the enter button to consummate the trade, the away market bid is no longer available. The residual 200 shares of the sell limit order will be executed at the price of $20.02 with 100 shares allocated to the interest on the Display Book and 100 shares allocated to the DMM interest added during the slow trading condition. 100 shares of the interest to sell on the Display Book remains unexecuted at the price of $20.02. The remaining 100 shares of sell interest becomes the Exchange's offer and the best available bid which is 200 shares at the price of $20.01 will be quoted as illustrated in the table below.

DISPLAY BOOK AFTER LRP CLEARED

Protected bid	Bid size	Bid price	Offer price	Offer size
			$20.02	100
	200	$20.01		

b. Proposed Amendment to NYSE Amex Equities Rule 72

The Exchange proposes to amend its allocation logic to have DMM interest added intra day during a slow trading condition yield to all other interest present at the price point. If shares remain after allocation to all other eligible interest, then the DMM interest added at the price point would receive an allocation. If no shares remain then the DMM interest will not be allocated any shares in the transaction.

Example Proposed Parity Allocation During a Slow Trading Condition

In the table below, the Exchange Market is 200 shares bid at the price of $20.05 and 200 shares offered at a price of $20.10. The price point of $20.03 is designated as an LRP. An order to sell 600 shares with a limit price of $20.02 is received by Exchange systems. There are 100 shares bid at the prices of $20.04 and $20.03. Additionally, there are 200 shares bid at the price of $20.02 and $20.01.

DISPLAY BOOK PRIOR TO EXECUTION

Protected bid	Bid size	Bid price	Offer price	Offer size
			$20.10	200
	200	$20.05		
	100	$20.04		
	100	$20.03 LRP		
	200	$20.02		
	200	$20.01		

Given the information above, the order will execute 200 shares at the bid price of $20.05 leaving 400 shares. At the next price of $20.04 it will execute an additional 100 leaving 300 shares. The order will then execute an additional 100 shares at the LRP price of $20.03 and have 200 shares of the incoming limit order remaining.

DISPLAY BOOK AFTER INITIAL EXECUTIONS

Protected bid	Bid size	Bid price	Offer price	Offer size	Residual
			$20.10	200	
		$20.05			
		$20.04			
	200	$20.03 LRP			
	200	$20.02			200
	200	$20.01			

After the execution at the LRP price of $20.03, Exchange systems enter a slow trading condition because the previous executions have traded down to an LRP prior to the order's limit price. There are now 200 shares of away market interest bid at a price of $20.03. The DMM needs to: (i) Clear the crossed market created by the away market interest bid at the price of $20.03 that is crossed against the residual at $20.02; and (ii) trade the residual against the 200 shares bid at the price of $20.02 to clear the internal lock on the Exchange. The DMM enters an additional 200 shares of DMM interest to sell at the price point of $20.02 below the LRP price point in order to facilitate the clearing of the locked/crossed market. However, when the DMM hits the enter button to consummate the trade, the away market bid is no longer available. Exchange systems will execute the 200 shares of the limit buy order at the price of $20.02. Pursuant to the proposed rule modification, Exchange systems will allocate 200 shares to the interest on the Display Book and no shares will be allocated to the DMM interest added during the slow trading condition. Pursuant to the proposed rule, the DMM interest will be cancelled. Exchange systems will further update the quote to the best bid available on the Exchange, 200 shares bid at the price of $20.01 and 200 shares offered at the price of $20.10.

DISPLAY BOOK AFTER LRP CLEARED

Bid size	Bid price	Offer price	Offer size
200	$20.01	$20.02	100

DMM interest entered at the price point prior to the DMM adding interest during a slow trading condition will continue to receive an allocation pursuant to the current parity rule.

Example Proposed Parity Allocation During a Slow Trading Condition With Previously Entered DMM s-Quotes Representing DMM Interest

In the table below, the Exchange Market is 200 shares bid at the price of $20.05 and 200 shares offered at a price of $20.10. The price point of $20.03 is designated as an LRP. An order to sell 800 shares with a limit price of $20.02 is received by Exchange systems. There are 100 shares bid at the prices of $20.04 and $20.03. Additionally, there are 300 shares of non DMM interest and 100 shares of DMM interest bid at the price of $20.02.

DISPLAY BOOK PRIOR TO EXECUTION

Bid size		Bid price	Offer price	Offer size
DMM s-Quotes	Non DMM			
			$20.10	200
	200	$20.05		
	100	$20.04		
	100	$20.03 LRP		
100	300	$20.02		
	100	$20.01		

Given the information above, the order will execute 200 shares at the bid price of $20.05 leaving 600 shares. At the next price of $20.04 it will execute an additional 100 leaving 500 shares. The order will then execute an additional 100 shares at the LRP price of $20.03 and have 400 shares of the incoming limit order remaining.

DISPLAY BOOK AFTER INITIAL EXECUTIONS

Bid size		Bid price	Offer price	Offer size	Protected offer	Residual
DMM s-Quotes	Non DMM					
			$20.10	200		
		$20.05				
		$20.04				
		$20.03[LRP]				
100	300	$20.02				400
	100	$20.01			200	

After the execution at the LRP price of $20.03, Exchange systems enter a slow trading condition because the previous executions have traded down to an LRP prior to the order's limit price. There are also 200 shares of away market interest now offered at a price of $20.01. The DMM needs to clear the internal lock on the Exchange at the price of $20.02 and the cross market condition created by the Exchange's bid at $20.02 and the protected offer at the price of $20.01. To accomplish this, the DMM enters 200 additional shares of DMM interest to buy at the price point of $20.02 below the LRP price point in order to facilitate the clearing of the locked/crossed market. However, when the DMM hits the enter button to consummate the trade, the away market offer is no longer available. Exchange systems will execute the remaining 400 shares of the limit order at the price of $20.02. Pursuant to the proposed rule modification, Exchange systems will allocate 300 shares to the Non DMM Interest on the Display Book and 100 shares to the DMM s-Quote interest originally present at the price point of $20.02 will be fully executed. Pursuant to the proposed rule, the additional DMM interest added during the slow trading condition at the time of the trade is not allocated anything in the trade and is cancelled. Exchange systems will further update the quote to reflect 100 shares bid at the price of $20.01 and 200 shares offered at the price of $20.10.

DISPLAY BOOK AFTER LRP CLEARED

Bid size	Bid price	Offer price	Offer size
		$20.10	200
100	$20.01		

As outlined by the examples above, the Exchange proposes to amend NYSE Amex Equities Rule 72 to add subparagraph (c)(xi) to restrict DMM interest added during a slow trading condition intra day from receiving an allocation on parity; rather, such interest will yield to all other interest at the price point. Pursuant to proposed NYSE Amex Equities Rule 72(c)(xi) DMM interest added during a slow trading condition will be allocated shares only after all other interest eligible to receive an execution at the price point is executed in full and if not executed will be cancelled. Proposed NYSE Amex Equities Rule 72 (c)(xi) will further provide that DMM interest present at the price point prior to the entry of DMM interest during the slow trading condition will continue to be allocated on a parity basis.

The Exchange will commence implementation of the systemic changes to allow Exchange systems to be modified so that DMM interest added intra day during a slow trading condition yield to all other interest present at the price point on or about July 10, 2009. The Exchange intends to progressively implement this systemic change for DMM interest added intra day on a security by security basis as it gains experience with the new technology until it is operative in all securities traded on the Floor. During the implementation, the Exchange will identify on its Web site which securities have been transitioned to the new system.

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the ''Act'') [7] for these proposed rule changes is the requirement under Section 6(b)(5) [8] that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that eliminating parity allocations for DMM interest added intra day during a slow quote or when verbally trading with Floor brokers at the point of sale is consistent with the above principles because it will increase the possibility of executions for the public orders on the Exchange in those situations where DMMs add interest to facilitate an execution.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

[7] 15 U.S.C. 78a.

[8] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10]

A proposed rule change filed under Rule 19b–4(f)(6)[11] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing.

The Exchange has requested that the Commission waive the 30-day operative delay in order to permit the Exchange to immediately implement modifications to its systems to require certain DMM interest to yield to other interest on the Display Book during slow trading conditions, as discussed in full above, which should increase the quality of executions on the Exchange, including public customer orders. The Commission believes such waiver is consistent with the protection of investors and the public interest.[13] Accordingly, the Commission designates the proposed rule change operative upon filing with the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSEAmex–2009–40 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAmex–2009–40. 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 inspection and copying in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAmex–2009–40 and should be submitted on or before August 7, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–17014 Filed 7–16–09; 8:45 am]

BILLING CODE 8010–01–P

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the self-regulatory organization to submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the 30-day operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60286; File No. SR–NYSEAmex–2009–43]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Amex LLC to Extend the Short Term Option Series Pilot Program

July 10, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 9, 2009, NYSE Amex LLC (''NYSE Amex'' or the ''Exchange'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I and II below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the Short Term Option Series Pilot Program (''Pilot Program'') for an additional one-year period. The text of the proposed rule change is attached as Exhibit 5 to the 19b–4 form. A copy of this filing is available on the Exchange's Web site at *http://www.nyse.com,* at the Exchange's principal office and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, 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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On July 12, 2005 the Commission approved the Pilot Program [3] that allows NYSE Amex to list and trade Short Term Options Series. Under the terms of the Pilot Program, the Exchange can select up to five options classes on which Short Term Option Series may be opened on any Short Term Option Opening Date. The Exchange is also allowed to list Short Term Option Series on any option class that is selected by other securities exchanges that employ a similar Pilot Program under their respective rules.

The purpose of this proposal is to extend the Pilot Program for a one year period ending on July 12, 2010. The current Pilot Program expires on July 12, 2009.[4] The Exchange believes that Short Term Option Series can provide investors with a flexible and valuable tool to manage risk exposure, minimize capital outlays, and be more responsive to the timing of events affecting the securities that underlie option contracts. While NYSE Amex has not listed any Short Term Option Series during the Pilot Program there has been continued investor interest in trading short-term options at the Chicago Board Options Exchange (''CBOE''). In order to have the ability respond to customer interests if warranted, the Exchange proposes the continuation of the Pilot Program at NYSE Amex.

In the original proposal to establish the Pilot Program the Exchange stated that if it were to propose an extension or an expansion of the program, the Exchange would submit, along with any filing proposing such amendments to the program, a Pilot Program report (''Report''). The Report would provide an analysis of the Pilot Program covering the entire period during which the Pilot Program was in effect. Since the Exchange does not have any Short Term Options Series listed as part of the Pilot Program, there is no data available to compile such a report at this time. Therefore there is no Report associated with the program included with this proposal to extend the pilot Program.

The Exchange represents that it has the necessary system capacity needed to support any additional option series listed under the Pilot Program.

2. Statutory Basis

The Exchange believes that Short Term Option Series can stimulate customer interest in options and provide a flexible and valuable tool to manage risk exposure, minimize capital outlays, and be more responsive to the timing of events affecting the securities that underlie option contracts. For these reasons, the Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder and, in particular, the requirements of section 6(b) of the Act. Specifically, the Exchange believes the proposed rule change is consistent with the section 6(b)(5) [5] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to 19(b)(3)(A) of the Act [6] and Rule 19b–4(f)(6) thereunder.[7]

The Exchange has asked the Commission to waive the operative delay to permit the proposed rule change to become operative prior to the 30th day after filing. The Commission has determined that waiving the 30-day operative delay of the Exchange's proposal is consistent with the protection of investors and the public interest and will promote competition because such waiver will allow the Exchange to continue the existing Pilot Program without interruption.[8] Therefore, the Commission designates the proposal operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSEAmex–2009–43 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAmex–2009–43. 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

[3] *See* Securities Exchange Act Release No.34–52014 (July 12, 2005), 70 FR 41244 (July 18, 2005) (approval order for SR–Amex-2005–035).

[4] *See* Securities Exchange Act Release No. 34–58084 (July 2, 2008), 73 FR 39743 (July 10, 2008), SR–Amex-2008–55 (Pilot Program extension).

[5] 15 U.S.C. 78(f)(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. ISE has satisfied this requirement.

[8] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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 inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAmex–2009–43 and should be submitted on or before August 7, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–17012 Filed 7–16–09; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60284; File No. SR–CHX–2009–05]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Article 20, Rule 1 Relating to the Declaration of Trading Halts on the Exchange

July 10, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1], and Rule 19b–4[2] thereunder, notice is hereby given that on July 7, 2009, the Chicago Stock Exchange, Inc. (''CHX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the CHX. CHX has filed this proposal pursuant to Exchange Act Rule 19b–4 (f)(6)[3] and requests that the Commission waive the 30-day pre-operative waiting period contained in Exchange Act Rule 19b–4(f)(6)(iii).[4] If such waiver is granted by the Commission, this rule proposal, which is effective upon filing with the Commission, shall become immediately operative.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CHX proposes to amend Article 20, Rule 1 relating to the declaration of Trading Halts on the Exchange. The text of this proposed rule change is available on the Exchange's Web site at (*http://www.chx.com*) and in 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 CHX included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The CHX 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 is proposing to modify its rules relating to the declaration of Trading Halts on the Exchange. Currently, Article 20, Rule 1 requires two Senior Officers of the Exchange to agree to suspend or restart trading. ''Senior Officers'' has traditionally been defined by the Exchange as a person with the title of Senior Vice President or above. To ensure that it has proper coverage at all times, the Exchange proposes to increase the pool of persons with authority to declare or lift a trading halt to all officers of the Exchange designated by the CEO to have such authority. This action would provide sufficient flexibility to ensure that the Exchange always has adequate personnel available to suspend or reinstate trading on the Exchange when necessary. The requirement that the CEO designate the officers with such authority provides assurance that those officers have sufficient experience, judgment and knowledge to make those decisions.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act in general,[5] and furthers the objectives of Section 6(b)(5) in particular,[6] in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transaction in securities, to remove impediments and perfect the mechanisms of a free and open market, and, in general, to protect investors and the public interest by allowing CHX to amend Article 20, Rule 1 relating to the declaration of Trading Halts on the Exchange to ensure that the Exchange always has adequate personnel available to suspend or reinstate trading on the Exchange when necessary.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8]

A proposed rule change filed under Rule 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[9] However, Rule 19b–

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). When filing a proposed rule change pursuant to Rule 19b–4(f)(6) under the Act, an Exchange is required to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange met this requirement.

[9] 17 CFR 240.19b–4(f)(6)(iii).

4(f)(6)[10] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. CHX has requested that the Commission waive the 30-day operative delay. The Exchange notes that the proposed rule change is substantially similar to a rule change proposed by NYSE Arca, Inc.[11] The Exchange also believes that it is important to implement this rule change as soon as practicable to ensure that the Exchange has adequate personnel available to suspend or reinstate trading on the Exchange when necessary. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it should further the Exchange's ability to suspend or reinstate trading on the Exchange when necessary in the public interest. For this reason, the Commission designates the proposal to be operative upon filing with the Commission.[12]

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate 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 the 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–CHX–2009–05 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–CHX–2009–05. 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 inspection and copying 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 CHX. 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–CHX–2009–05 and should be submitted on or before August 7, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–17010 Filed 7–16–09; 8:45 am]

BILLING CODE 8010–01–P

[10] *Id.*

[11] *See* NYSE Arca Equities Rule 7.13; *see also* Securities Exchange Act Release No. 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001) (SR–PCX–00–25).

[12] For the purposes only of waiving the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60282; File No. SR–NYSEArca–2009–66)

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by NYSE Arca, Inc. Amending Option Trading Rules in Order To Adopt the Quarterly Option Series Pilot Program on a Permanent Basis

July 10, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1], and Rule 19b–4[2] thereunder, notice is hereby given that on July 9, 2009, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its option trading rules in order to adopt the Quarterly Option Series Pilot Program on a permanent basis. The text of the proposed rule change is attached as Exhibit 5 to the 19b–4 form. A copy of this filing is available on the Exchange's Web site at *http://www.nyse.com*, at the Exchange's principal office and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, 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 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 is proposing to adopt the Quarterly Option Series Pilot Program (''QOS Program'') on a permanent basis. On July 12, 2006, the Exchange filed with the Securities and Exchange Commission (''Commission'') SR–NYSEArca–2006–45, which was effective on filing and established the QOS Program. The QOS Program allows NYSE Arca to list and trade Quarterly Option Series, which expire at the close of business of the last business day of a calendar quarter. Under the QOS Program, NYSE Arca may select up to five (5) currently listed exchange traded fund (''ETF'') or index option classes on which Quarterly Option Series may be opened. In addition, NYSE Arca may also list Quarterly Option Series on any

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

options classes that are selected by other securities exchanges that employ a similar pilot program under their respective rules.

The Exchange may list series that expire at the end of the next consecutive four (4) calendar quarters, as well as the fourth quarter of the next calendar year. For example, if the Exchange is trading Quarterly Options Series in the month of May 2009, it may list series that expire at the end of the second, third, and fourth quarters of 2009, as well as the first and fourth quarters of 2010. Following the second quarter 2009 expiration, the Exchange could add series that expire at the end of the second quarter of 2010.

Quarterly Option Series are P.M. settled.

Quarterly Option Series in ETF Options

If an ETF option is selected for participation in the QOS Program, the strike price of each Quarterly Option Series is fixed at a price per share, with at least two strike prices above and two strike prices below the approximate value of the underlying security at about the time the Quarterly Options Series is opened for trading on the Exchange. NYSE Arca shall list strikes prices for a Quarterly Option series that are within $5 from the closing price of the underlying security on the preceding day.

The Exchange may open for trading additional Quarterly Options Series of the same class when the Exchange deems is necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying security moves substantially from the initial exercise price or prices. To the extent that any additional strike prices are listed by the Exchange, such additional strike prices shall be within thirty percent (30%) above or below the closing price of the underlying ETF on the preceding day. The Exchange may also open additional strike prices of Quarterly Option Series in ETF options that are more than 30% above or below the current price of the underlying ETF provided that demonstrated customer interest exists for such series, as expressed by institutional, corporate or individual customers or their brokers. Market-Makers trading for their own account shall not be considered when determining customer interest under this provision. The opening of the new Quarterly Options Series shall not affect the series of options of the same class previously opened. In addition to the initial listed series, the Exchange may list up to sixty (60) additional series per expiration month for each Quarterly Options Series in ETF options.

The interval between strike prices on Quarterly Options Series shall be the same as the interval for strike prices for series in that same options class that expire in accordance with the normal monthly expiration cycle.

The Exchange has adopted a delisting policy with respect to QOS in ETF options. On a monthly basis, the Exchange reviews series that are outside a range of five (5) strikes above and five (5) strikes below the current price of the underlying ETF, and delists series with no open interest in both the put and the call series having a: (i) Strike higher than the highest strike price with open interest in the put and/or call series for a given expiration month; and (ii) strike lower than the lowest strike price with open interest in the put and/or call series for a given expiration month.

Notwithstanding the delisting policy, customer requests to add strikes and/or maintain strikes in QOS in ETF options in series eligible for delisting shall be granted.

Further, in connection with the delisting policy, if the Exchange identifies series for delisting, the Exchange shall notify other options exchanges with similar delisting policies regarding eligible series for listing, and shall work with such other exchanges to develop a uniform list of series to be delisted, so as to ensure uniform series delisting of multiply listed Quarterly Options Series in ETF options.

During the last quarter of 2008 (and for the new expiration month added after December Quarterly Option Series expiration), the Exchange was permitted to list up to one hundred (100) additional series per expiration month for each Quarterly Options Series in ETF options.

Quarterly Option Series in Index Options

If an index option is selected for participation in the QOS Program, the strike price of each Quarterly Option Series will be fixed at a price per share, with at least two, but no more than five, strike prices above and at least two, but no more than five, strike prices below the value of the underlying index at about the time that a Quarterly Options Series is opened for trading on the Exchange. The Exchange shall list strike prices for Quarterly Options Series that are reasonably related to the current index value of the underlying index to which such series relates at about the time such series of options is first opened for trading on the Exchange. The term ''reasonably related to the current index value of the underlying index'' means that the exercise price is within thirty percent (30%) of the current index value.

The Exchange may open for trading additional Quarterly Options Series of the same class when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying security moves substantially from the initial exercise price or prices. The Exchange may also open for trading additional Quarterly Options Series that are more than thirty percent (30%) of the current index value, provided that demonstrated customer interest exists for such series, as expressed by institutional, corporate, or individual customers or their brokers. Market-Makers trading for their own account shall not be considered when determining customer interest under this provision.

The Exchange may open additional strike prices of a Quarterly Option Series that are above the value of the underlying index provided that the total number of strike prices above the value of the underlying index is no greater than five. The Exchange may open additional strike prices of a Quarterly Option Series that are below the value of the underlying index provided that the total number of strike prices below the value of the underlying index is no greater than five. The opening of any new Quarterly Option Series shall not affect the series of options of the same class previously opened.

By definition, Quarterly Option Series on an option class can never expire in the same week in which monthly option series on the same class expires. The same, however, is not the case with regards to Short Term Option Series. Quarterly Option Series and Short Term Option Series on the same options class may expire concurrently. However, to avoid any confusion in the market place, the Exchange will not list a Short Term Option Series on an options class whose expiration coincides with that of a Quarterly Option Series on the same options class. In other words, the Exchange will not list a Short Term Options Series on an ETF or an index if a Quarterly Option Series on that ETF or index were to expire on a Friday, the only day of the week during which both Quarterly Option Series and a P.M.-settled Short Term Option Series can potentially expire concurrently.

There being one exception to this rule. The Exchange may list a P.M.-settled Quarterly Option Series on an options class concurrent with an A.M.-settled Short Term Options Series on that same options class, both of which may expire on a Friday. In other words, the Exchange may list a P.M.-settled

Quarterly Option Series on an ETF on an index concurrent with an A.M.-settled Short Term Option Series on that ETF or index and both of which expire on a Friday. The Exchange believes that the concurrent listing of an A.M.-settled Short Term Option Series and a P.M.-settled Quarterly Option Series on the same underlying ETF or index will provide investors with yet another hedging mechanism. Finally, the interval between strike prices on Quarterly Option Series shall be the same as the interval for strike prices for series in the same options class that expires in accordance with the normal monthly expiration cycles.

The Exchange presently lists and trades Quarterly Option Series on the following six ETF option classes as part of the QOS Program: DIAMONDS Trust (DIA), Standard and Poor's Depositary Receipts/SPDRs (SPY), iShares Russell 2000 Index Fund (IWM), PowerShares QQQ Trust (QQQQ), Energy Select SPDR (XLE), and the KBW Bank Index (BKX). NYSE Arca believes the QOS Program has been successful and well received by its members and the investing public for the nearly three years that it has been in operation as a pilot program.

NYSE Arca is now proposing to make the QOS Program permanent. In support of approving the QOS Program on a permanent basis, the Exchange has submitted to the Commission a Pilot Program Report (''Report'') detailing the Exchange's experience with the QOS Program. Specifically, the Report contains data and written analysis regarding the six ETF option classes included in the QOS Program. The Report was submitted under separate cover and seeks confidential treatment under the Freedom of Information Act.

The Exchange believes there is sufficient investor interest and demand in the QOS Program to warrant its permanent approval. The Exchange believes that the QOS Program has provided investors with additional means of managing their risk exposures and carrying out their investment objectives. Furthermore, the Exchange has not experienced any capacity-related problems with respect to Quarterly Option Series. The Exchange also represents that is has the necessary system capacity to continue to support the option series listed under the QOS Program.

This proposal is substantially similar to the recently approved proposal by the Chicago Board Options Exchange (''CBOE''), to make permanent their Quarterly Options Series Program.[3]

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)[4] of the Securities Exchange Act of 1934 (the ''Act''), in general, and furthers the objectives of Section 6(b)(5)[5] 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. The Exchange believes that the QOS Program promotes just and equitable principles of trade and further believes the QOS Program has been successful and well received by the investing public for the nearly three years that it has been in operation as a pilot program.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[6] and Rule 19b–4(f)(6) thereunder.[7]

The Exchange has requested that the Commission waive the 30-day operative delay so that the Exchange can permanently establish a Quarterly Options Series Program that is consistent with those of other options exchanges.[8] In addition, the Commission notes that the Exchange's QOS Program currently is scheduled to expire on July 10, 2009. The Commission therefore has determined that waiving the 30-day operative delay of the Exchange's proposal is consistent with the protection of investors and the public interest because such waiver will enable the Exchange to permanently establish the QOS program without disruption.[9] Therefore, the Commission designates the proposal operative upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2009–66 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2009–66. This file number should be included on the subject line if e-mail is used. To help the

[3] *See* Securities Exchange Act Release No. 60164 (June 23, 2009), 74 FR 31333 (June 30, 2009) (order approving SR–CBOE–2009–29).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[8] *See* Securities Exchange Act Release No. 60164, *supra* note 3 (approving the quarterly options series program on a permanent basis).

[9] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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 inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2009–66 and should be submitted on or before August 7, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–17007 Filed 7–16–09; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60276; File No. SR–NASDAQ–2009–042]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Approving Proposed Rule Change To Amend Its Limited Liability Agreement and By-Laws

July 9, 2009.

On April 29, 2009, The NASDAQ Stock Market LLC (''NASDAQ Exchange'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its Limited Liability Agreement (''Agreement'') and By-Laws.[3] The proposed rule change was published for comment in the **Federal Register** on May 20, 2009.[4] The Commission received no comments regarding the proposal. This order approves the proposed rule change.

I. Description of the Proposed Rule Change

Currently, the NASDAQ Exchange board and the board of its parent company, NASDAQ OMX Group, Inc. (''NASDAQ OMX''), maintain their own audit committee and management compensation committees. As more fully discussed in the Notice, the Exchange states that it has found the work of these committees to overlap substantially.[5] As a result, the Exchange proposes to revise its Agreement to allow for the elimination of its audit and management compensation committees.

The Exchange also proposes to amend the Agreement to allow for the elimination of its arbitration and mediation committee, provided that the NASDAQ Exchange's arbitration and mediation program is operated by the Financial Industry Regulatory Authority (''FINRA''), which the NASDAQ Exchange states is currently the case.

In addition, as discussed in the Notice, the Exchange proposes changes to its rules governing the selection of Member Representative Directors, as well as to update certain aspects of its Agreement.[6]

II. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[7] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(1) of the Act,[8] which requires a national securities exchange to be so organized and have the capacity to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of the Act. The Commission also finds that the proposed rule change is consistent with Section 6(b)(3) of the Act,[9] which requires that the rules of a national securities exchange assure a fair representation of its members in the selection of its directors and administration of its affairs and provide that one or more directors shall be representative of issuers and investors and not be associated with a member of the exchange, broker, or dealer. The Commission further finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[10] in that it is designed, among other things, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission previously approved a structure in which certain committees of the board of directors of NYSE Euronext, including the audit and compensation committees, were authorized to perform functions for various subsidiaries, including the New York Stock Exchange, LLC (''NYSE'').[11]

A. Elimination of the Exchange's Audit and Management Compensation Committees

Currently, the NASDAQ Exchange audit committee is primarily charged with: (1) Oversight of the NASDAQ Exchange's financial reporting; (2) oversight of the systems of internal controls established by management and the NASDAQ Exchange board, as well as the legal and compliance process; (3) selection and evaluation of independent auditors; and (4) direction and oversight of the internal audit function. The Exchange states that the responsibilities of the NASDAQ Exchange's audit committee are fully duplicated[12] by the

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] The Agreement includes and incorporates an exhibit designated as the By-Laws of the NASDAQ Stock Market LLC. Accordingly, the By-Laws are part of the Agreement. *See* Securities Exchange Act Release No. 59907 (May 12, 2009), 74 FR 23761 (''Notice''), 23761 n.3.

[4] *See* Notice, *supra* note 3.

[5] *See Notice,* 74 FR at 23761.

[6] Specifically, the Exchange would: reflect the name change of The Nasdaq Stock Market, Inc. to The NASDAQ OMX Group, Inc.; reflect the name change of National Association of Securities Dealers, Inc. to FINRA; correct typographical errors in the definition of ''Industry member'' in Article I of the By-Laws and in Section 6 of the Agreement; and redesignate the Agreement as the ''Second Amended Limited Liability Company Agreement of The NASDAQ Stock Market LLC.''

[7] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78f(b)(1).

[9] 15 U.S.C. 78f(b)(3).

[10] 15 U.S.C. 78f(b)(5).

[11] Securities Exchange Act Release No. 55293 (February 14, 2007), 72 FR 8033 (February 22, 2007) (SR–NYSE–2006–120).

[12] Specifically the NASDAQ Exchange states the NASDAQ OMX audit committee, described *infra* at n.13, has broad authority to review the financial information that will be provided to shareholders and others, systems of internal controls, and audit, financial reporting and legal and compliance processes and, because NASDAQ OMX's financial

responsibilities of the NASDAQ OMX audit committee.[13] In addition, the NASDAQ Exchange states that its regulatory oversight committee has broad authority to oversee the adequacy and effectiveness of its regulatory and self-regulatory organization responsibilities, and therefore is able to maintain oversight over internal controls in tandem with the NASDAQ OMX audit committee. Further, the NASDAQ Exchange states that the practice of NASDAQ OMX's Internal Audit Department (''Department''),[14] which performs internal audit functions for all NASDAQ OMX subsidiaries, is to report to the NASDAQ Exchange regulatory oversight committee on all internal audit matters relating to the NASDAQ Exchange will be formally reflected in the Department's written procedures. The Exchange also represents that, to ensure that its board retains authority to direct the Department's activities with respect to the NASDAQ Exchange, the Department's written procedures will be amended to stipulate that the NASDAQ Exchange regulatory oversight committee may, at any time, direct the Department to conduct an audit of a matter of concern to it and report the results of the audit both to the NASDAQ Exchange regulatory oversight committee and the NASDAQ OMX audit committee.[15]

The Exchange also proposes to allow the elimination of its compensation committee, and to prescribe that the functions of that committee be performed by the NASDAQ OMX compensation committee or by the full NASDAQ Exchange board, when required. The NASDAQ OMX By-Laws provide that its compensation committee considers and recommends compensation policies, programs, and practices for employees of NASDAQ OMX. Many employees performing work for the NASDAQ Exchange are also employees of NASDAQ OMX, and certain senior officers of the NASDAQ Exchange are also officers of NASDAQ OMX and other NASDAQ OMX subsidiaries because their responsibilities relate to multiple entities within the NASDAQ OMX corporate structure.[16] As a result, NASDAQ OMX establishes compensation and compensation policy for these employees.

To the extent that policies, programs, and practices must be established for any NASDAQ Exchange officers or employees who are not also NASDAQ OMX officers or employees, the Exchange states that its board will perform such actions without the use of a compensation committee, subject to recusal by Staff Directors.[17]

The Commission notes that the proposed elimination of the NASDAQ Exchange audit and management compensation committees is comparable to a structure for the NYSE that the Commission previously considered and approved.[18] The Commission finds that the proposed elimination of the NASDAQ Exchange's audit and management compensation committees is consistent with the Act.

B. Elimination of the NASDAQ Exchange's Arbitration and Mediation Committee.

As provided in the Agreement, the arbitration and mediation committee is to advise the Board on the development and maintenance of an equitable and efficient system of dispute resolution that will equally serve the needs of public investors and NASDAQ Exchange members, to monitor rules and procedures governing the conduct of dispute resolution, and to have such other powers and authority as are necessary to effectuate the purposes of the NASDAQ Exchange rules. The Exchange states that, at this time, there is no meaningful role for this committee to play because the NASDAQ Exchange's arbitration and mediation program presently is operated by FINRA. All information needed by the NASDAQ Exchange board or staff to evaluate the effectiveness of FINRA's administration of the program is obtained through the Exchange's oversight of FINRA's performance through its authority under its regulatory services agreement to obtain reports from FINRA and to conduct audits.

The Commission notes that neither the Exchange nor its predecessor (The Nasdaq Stock Market, Inc.) has ever operated a dispute resolution program that was not administered by FINRA or its predecessor (the National Association of Securities Dealers, Inc.).[19] Therefore, no ongoing dispute will be affected by the elimination of this committee. In the addition, the Agreement, as revised, would continue to provide for the establishment of such a committee in the event that the NASDAQ Exchange in the future opts to establish an arbitration or mediation program that is not operated by FINRA in accordance with FINRA rules. The Commission therefore finds that the proposed rule change is consistent with the Act, as the Exchange will continue to be organized and have the capacity to carry out the purposes of the Act and to comply with and enforce compliance by its members and persons associated with its members with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange.

C. Selection of Member Representative Directors

Under the Agreement, 20% of the Exchange's directors are selected through a process in which the Exchange's member nominating committee nominates a slate of candidates but members also have the opportunity to nominate alternative candidates. If no alternative candidates are nominated by members, the candidates recommended by the member nominating committee are elected. Alternatively, if alternative candidates are nominated, there is a ''Contested Election'' in which members cast ballots in order to determine who fills the vacancies. The Exchange proposes to prohibit a member, either alone or together with its affiliates, from

statements are prepared on a consolidated basis that includes the financial results of NASDAQ OMX's subsidiaries, including the Exchange, the NASDAQ OMX audit committee's purview necessarily includes these subsidiaries. In addition, the NASDAQ OMX audit committee currently is charged with providing oversight over financial reporting and independent auditor selection for NASDAQ OMX and all of its subsidiaries, including the Exchange; and the NASDAQ OMX audit committee has general responsibility for oversight over internal controls and direction and oversight over the internal audit function for NASDAQ OMX and all of its subsidiaries. *See* Notice, 74 FR at 23761, 23762.

[13] The NASDAQ OMX audit committee is composed of four or five directors, all of whom must be independent under the standards established by Section 10A(m) of the Act and the listing rules of the NASDAQ Exchange. All committee members must be able to read and understand financial statements, and at least one member must have past employment experience in finance or accounting, requisite professional certification in accounting, or any other comparable experience or background that results in the individual's financial sophistication.

[14] *See* Notice, 74 FR at 23762.

[15] *See id.*

[16] *Id.*

[17] *See* NASDAQ Exchange By-Laws, Article I(j). Staff Directors are directors of the Exchange that are also serving as officers. Because the NASDAQ Exchange board would not be responsible for setting the compensation of any Staff Directors who are also officers of NASDAQ OMX, these directors would be permitted to participate in discussions concerning compensation of Exchange employees, but the Exchange states that they must recuse themselves from a vote on the subject to allow the determination to be made by directors that are not officers or employees of the Exchange. The NASDAQ Exchange also states that, if a Staff Director is not also an employee of NASDAQ OMX, that Staff Director also must absent himself or herself from any deliberations regarding his or her compensation.

[18] *See* Securities Exchange Act Release No. 55293 (February 14, 2007), 72 FR 8033 (February 22, 2007) (SR–NYSE–2006–120).

[19] *See* Notice, 72 FR at 23762, n.16.

casting votes representing more than 20% of the votes cast for a candidate, and to provide that any votes cast by the member, either alone or together with its affiliates in excess of the 20%, limit shall be disregarded. The Exchange also proposes to amend its By-Laws to provide that an Election Date is selected by the Exchange's board on an annual basis, and that members only cast votes on such date if there is a Contested Election. The Commission finds that these changes are consistent with the Act, including Section 6(b)(3) of the Act,[20] which requires that a national securities exchange assure the fair representation of its members in the selection of its directors and administration of its affairs. The Commission recently approved similar changes proposed by NASDAQ OMX BX, Inc.[21]

III. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[22] that the proposed rule change (SR–NASDAQ–2009–042) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–17005 Filed 7–16–09; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60271; File No. SR–CBOE–2009–039]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Proposed Rule Change and Amendment No. 1 Thereto To Extend the Delta Hedging Exemption From Equity Options Position Limits to Customers

July 9, 2009.

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 June 19, 2009, the Chicago Board Options Exchange, Incorporated (''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On July 8, 2009, CBOE filed Amendment No. 1 to the proposed rule change. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to amend Interpretation and Policy .04 to Rule 4.11 to extend the delta hedging exemption from equity option position limits to customers whose accounts are carried by a member and who use the pricing model maintained and operated by The Options Clearing Corporation (''OCC''). Although the proposed rule change would not amend the text of Rule 4.12, the proposed change would impact that rule because Rule 4.12 establishes exercise limits for an option at the same level as the option's position limit under Rule 4.11. The text of the rule proposal is available on the Exchange's Web site (*http://www.cboe.org/legal*), at the Exchange's Office of the Secretary and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On December 14, 2007, the SEC approved CBOE's rule proposal to create a delta-based equity hedging exemption from equity options (stock options and options on exchange-traded funds) position limits (''Exemption'').[3] Unlike traditional equity hedging, which requires a one-to-one hedge, delta hedging varies the number of shares of the underlying security used to hedge an options position based on the relative sensitivity of the value of the option contract to a change in the price of the underlying security. For example, a stock option contract with a delta of .5 will move 50¢ for every $1.00 move in the underlying stock.

The Exemption currently only permits members or non-member affiliates of a member that use a ''permitted pricing model'' (as defined in Rule 4.11.04(c)(C)) to use the Exemption. The purpose of this filing is to extend the existing Exemption from equity option position limits to customers who use the pricing model maintained and operated by OCC.

In support of this proposal, the Exchange states that the Exchange considered including customers when the scope of the original filing to create the Exemption was being contemplated. However, based on industry discussions, it was determined that a delta hedging exemption for customers would be proposed and phased in at a later time. Since the adoption of the Exemption over 18 months ago, customers have continued to express interest and have repeatedly requested that the Exchange seek to extend the Exemption to customers. During the time period during which the Exemption has been in effect, the Exchange has not encountered any problems and believes that the Exemption has been a useful tool for members and non-member affiliates. The Exchange believes that it is appropriate to extend the Exemption to customers after observing the positive and useful benefit it has had for members and non-member affiliates.

The Exchange believes that extending the Exemption to customers in the current market environment is particularly relevant as the Exchange has seen a trending of customers holding positions overlying lower-priced securities bumping up against current position limits. Extending the Exemption to customers would provide relief to these customers by recognizing this widely accepted method for risk management and would not result in an increase to their overall notational exposure.

To affect the extension of the Exemption from equity options position limits to customers, the Exchange proposes to layer the term ''customer'' into the existing rule and proposes to codify separately the obligations of a customer using the Exemption. One key difference between members (and non-member affiliates) and customers using the Exemption would be that customers

[20] 15 U.S.C. 78f(b)(3).

[21] *See* Securities Exchange Act Release Nos. 58324 (August 7, 2008), 73 FR 46936, 46940–41 (August 12, 2008) (SR–BSE–2008–02, –23, –25, SR–BSECC–2001–01) and 58864 (October 27, 2008), 73 FR65430 (November 3, 2009) (SR–BSE–2008–45).

[22] 15 U.S.C. 78s(b)(2).

[23] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 34–56970 (December 14, 2007), 72 FR 72428 (December 20, 2007) (SR–CBOE–2007–99).

may only hedge their positions in accordance with the OCC pricing model.[4] Below, the Exchange will specify and describe how the existing Exemption rules will apply to customers.

Delta Neutral-Based Equity Hedge Exemption

The Exchange proposes to extend the existing Exemption from equity options position and exercise limits[5] to positions held by customers that are ''delta neutral.'' Rule 4.11.04(c)(A) currently provides that the term ''delta neutral'' refers to an equity option position that is hedged in accordance with a permitted pricing model by a position in the underlying security or one or more instruments relating to the underlying security, for the purpose of offsetting the risk that the value of the option position will change with incremental changes in the price of the security underlying the option position. The Exchange is proposed to amend the existing definition of the term ''delta neutral'' by requiring that customers seeking to use the Exemption may only hedge their positions in accordance with the pricing model maintained and operated by The Options Clearing Corporation (''OCC Model'').

Any equity option position that is not delta neutral would be subject to position and exercise limits, subject to the availability of other exemptions. Only the ''option contract equivalent of the net delta'' of such position would be subject to the appropriate position limit.[6]

Only financial instruments relating to the security underlying an equity options position are included in any determination of an equity options position's net delta or whether the options position is delta neutral. In addition, (as with members) customers may not use the same equity or other financial instrument position in connection with more than one hedge exemption. Therefore, a stock position used as part of a delta hedging strategy could not also serve as the basis for any other equity hedge exemption.

Aggregation of Accounts

Rule 4.11.04(c)(D) sets forth the aggregation requirements[7] for those seeking to rely on the Exemption. The Exchange proposes to amend this rule so that it extends to customers. Specifically, those eligible to rely on the Exemption are required to ensure that the permitted pricing model (OCC Model only for customers) is applied to all positions in or relating to the security underlying the relevant options position that are owned or controlled by the member and its affiliates or customers.

However, the net delta of an option position held by an entity entitled to rely on the Exemption, or by a separate and distinct trading unit of such entity, may be calculated without regard to positions in or relating to the security underlying the option position held by an affiliated entity or by another trading unit within the same entity, provided that: (i) The entity demonstrates to the Exchange's satisfaction that no control relationship, as defined in Rule 4.11.03, exists between such affiliates or trading units, and (ii) the entity has provided (by the member carrying the account as applicable) the Exchange written notice in advance that it intends to be considered separate and distinct from any affiliate, or, as applicable, which trading units within the entity are to be considered separate and distinct from each other for purposes of the Exemption.

Any member, non-member affiliate or customer relying on the Exemption must designate, by prior written notice to the Exchange (to be obtained and provided by the member carrying the account as applicable), each trading unit or entity whose options positions are required by Exchange rules to be aggregated with the options positions of such member, non-member affiliate or customer relying on the Exemption for purposes of compliance with Exchange position or exercise limits.

Obligations of Member

The Exchange proposes to add new subparagraph (4) to Rule 4.11(c)(E) to set forth the obligations of a member carrying an account that includes an equity option position for a customer who intends to rely on the Exemption. Specifically, the member would be required to obtain from the customer a written certification to the Exchange that the customer is using the OCC Model. In addition, the member would be required to obtain from the customer a written statement confirming that such customer: (a) Is relying on the Exemption; (b) will use only the OCC Model for purposes of calculating the net delta of the customer's option positions for purposes of the Exemption; (c) will promptly notify the member if the customer ceases to rely on the Exemption; and (d) in connection with using the OCC Model, has duly executed and delivered to the Exchange such documents as the Exchange may require to be executed and delivered to the Exchange as a condition to reliance on the Exemption.

Reporting

The Exchange is not proposing to amend the existing rule text of Rule 4.11.04(c)(F). This is because the Exchange believes that the existing rule text would apply to members carrying customer accounts. Specifically, each member that holds or carries an account that relies on the Exemption shall report, in accordance with Rule 4.13,[8] (i) all equity option positions (including those that are delta neutral) that are reportable thereunder, and (ii) on its own behalf or on behalf of a designated aggregation unit pursuant to Rule 4.11.04(c)(D), for each such account that holds an equity option position subject to the Exemption in excess of the levels specified in Rule 4.11, the net delta and the options contract equivalent of the net delta of such position.

[4] Other permitted pricing models include ones used by (i) a member or its affiliate subject to consolidated supervision by the SEC pursuant to Appendix E of SEC Rule 15c3–1; (ii) a financial holding company (''FHC'') or a company treated as an FHC under the Bank Holding Company Act of 1956, or its affiliate subject to consolidated holding company group supervision; (iii) an SEC registered OTC derivatives dealer; and (iv) a national bank. Customers seeking to use the Exemption are not permitted to hedge their positions in accordance with these models.

[5] Exchange Rule 4.12 establishes exercise limits for an option at the same level as the option's position limit under Rule 4.11, therefore no changes are proposed to Rule 4.12.

[6] Under Rule 4.11.04(c)(B), the term ''options contract equivalent of the net delta'' is defined as the net delta divided by the number of shares underlying the option contract, and the term ''net delta'' is defined as, at any time, the number of shares (either long or short) required to offset the risk that the value of an equity option position will change with incremental changes in the price of the security underlying the option position, as determined in accordance with a permitted pricing model (which will be limited to the OCC Model for customers).

[7] Rules 4.11 and 4.12 require that positions maintained in accounts directly or indirectly controlled by the same individual or entity be aggregated for position and exercise limit purposes. Pursuant to Rule 4.11, control exists when an individual or entity makes investment decisions for an account or accounts, or materially influences directly or indirectly the actions of any person who makes investment decisions. Control is also presumed in the following circumstances: (a) Among all participants of a joint account who have authority to act on behalf of the account; (b) among all general partners to a partnership account; (c) when an individual or entity holds an ownership interest of 10% or more in an entity, or shares in 10% or more of profits and/or losses of an account; (d) when accounts have common directors or management; and (e) where an individual or entity has authority to execute transactions in an account.

[8] Exchange Rule 4.13 requires, among other things, that members report to the Exchange aggregate long or short positions on the same side of the market of 200 or more contracts of any single class of options contracts dealt in on the Exchange.

Records

The Exchange proposes to amend existing Rule 4.11.04(c)(G) governing records so that it extends to members carrying customer accounts. Specifically, each member relying on the Exemption would be required to (i) retain, and would be required to undertake reasonable efforts to ensure that any non-member affiliate of the member or customer relying on the Exemption retains, a list of the options, securities and other instruments underlying each options position net delta calculation reported to the Exchange hereunder, and (ii) produce such information to the Exchange upon request.

Clarifying Minor Revisions to Existing Rule Text

The Exchange is taking this opportunity to propose certain minor changes to the existing text of Rule 4.11.04(c) to clarify that the affirmative obligations codified in connection with relying on the Exemption belong to members. For example, any written documentation required to be provided to the Exchange in connection with the Exemption must be provided by the member relying on the Exemption or provided by the member who carries the account of a non-member affiliate or customer relying on the Exemption. The Exchange states that all communications regarding reliance on the Exemption by non-member affiliates or customers will be had with the member carrying such accounts and not with such non-member affiliates or customers.

The Exchange will not implement a delta-based equity hedge exemption for customers until it provides a representation to the Office of Compliance Inspections and Examinations (''OCIE'') that it can adequately surveill for such an exemption.[9]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act [10] and the rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.[11] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [12] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that extension of the Exemption from equity options and exercise limits to customers is appropriate in that it is based on a widely accepted risk management method used in options trading.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange neither solicited nor received comments on the proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 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 such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2009–039 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2009–039. 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 inspection and copying in the Commission's Public Reference Room, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2009–039 and should be submitted on or before August 7, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–17003 Filed 7–16–09; 8:45 am]

BILLING CODE 8010–01–P

[9] *See* Amendment No. 1 to the proposed rule change.

[10] 15 U.S.C. 78s(b)(1).

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2009–0045]

Future Systems Technology Advisory Panel Meeting

AGENCY: Social Security Administration (SSA).

ACTION: Notice of Fourth Panel Meeting.

DATES: August 12, 2009, 10 a.m.–5 p.m. and August 13, 2009, 8:30 a.m.–12 p.m.

Location: The Hyatt Regency Cambridge.

ADDRESSES: 575 Memorial Drive, Cambridge, MA 02215.

SUPPLEMENTARY INFORMATION:

Type of meeting: The meeting is open to the public.

Purpose: The Panel, under the Federal Advisory Committee Act of 1972, as amended, (hereinafter referred to as ''the FACA'') shall report to and provide the Commissioner of Social Security independent advice and recommendations on the future of systems technology and electronic services at the agency five to ten years into the future. The Panel will recommend a road map to aid SSA in determining what future systems technologies may be developed to assist in carrying out its statutory mission. Advice and recommendations can relate to SSA's systems in the area of internet application, customer service, or any other arena that would improve SSA's ability to serve the American people.

Agenda: The Panel will meet on Wednesday, August 12, 2009 from 10 a.m. until 5 p.m. and Thursday, August 13, 2009 from 8:30 a.m. to 12 p.m. The agenda will be available on the Internet at *http://www.ssa.gov/fstap/index.htm* or available by e-mail or fax on request, one week prior to the starting date.

During the fourth meeting, the Panel may have experts address items of interest and other relevant topics to the Panel. This additional information will further the Panel's deliberations and the effort of the Panel subcommittees.

Public comments will be heard on Wednesday, August 12, 2009, from 4:30 p.m. until 5 p.m. Individuals interested in providing comments in person should contact the Panel staff as outlined below to schedule a time slot. Members of the public must schedule a time slot in order to comment. In the event public comments do not take the entire scheduled time period, the Panel may use that time to deliberate or conduct other Panel business. Each individual providing public comment will be acknowledged by the Chair in the order in which they are scheduled to testify and is limited to a maximum five-minute, verbal presentation. In addition to or in lieu of public comments provided in person, individuals may provide written comments to the panel for their review and consideration. Comments in written or oral form are for informational purposes only for the Panel. Public comments will not be specifically addressed or receive a written response by the Panel.

For individuals that are hearing impaired and in need of sign language services please contact the Panel staff as outlined below at least 10 business days prior to the meeting so that timely arrangements can be made to provide this service.

Contact Information: Records are kept of all proceedings and will be available for public inspection by appointment at the Panel office. Anyone requiring information regarding the Panel should contact the staff by:

Mail addressed to SSA, Future Systems Technology Advisory Panel, Room 800, Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–0001; Telephone at 410–966–4150; Fax at 410–965–0201; or e-mail to *FSTAP@ssa.gov.*

Dated: July 13, 2009.

Dianne L. Rose,

Designated Federal Officer, Future Systems Technology Advisory Panel.

[FR Doc. E9–17027 Filed 7–16–09; 8:45 am]

BILLING CODE 4191–02–P

SUSQUEHANNA RIVER BASIN COMMISSION

Notice of Actions Taken at June 18, 2009 Meeting

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice of Commission Actions.

SUMMARY: At its regular business meeting on June 18, 2009, in Binghamton, New York, the Commission held a public hearing as part of its regular business meeting. At the public hearing, the Commission: (1) Approved, modified, and tabled certain water resources projects; (2) approved two water resources projects involving diversions; (3) rescinded approval for one water resources project; (4) approved settlements involving three water resources projects; and (5) considered two requests for an administrative hearing on projects previously approved by the Commission. Details concerning these and other matters addressed at the public hearing and business meeting are contained in the **SUPPLEMENTARY INFORMATION** section of this notice.

DATES: June 18, 2009.

ADDRESSES: Susquehanna River Basin Commission, 1721 N. Front Street, Harrisburg, PA 17102–2391.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, *telephone:* (717) 238–0423, ext. 306; *fax:* (717) 238–2436; *e-mail: rcairo@srbc.net;* or Stephanie L. Richardson, Secretary to the Commission, *telephone:* (717) 238–0423, ext. 304; *fax:* (717) 238–2436; *e-mail: srichardson@srbc.net.* Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: In addition to the public hearing and its related action items identified below, the following items were also presented or acted on at the business meeting: (1) Recognition of Col. Peter Mueller, alternate United States Member of the Commission, who is departing his position as Baltimore District Engineer in July 2009; (2) a report on the present hydrologic conditions of the basin indicating recovery from winter precipitation deficits; (3) a presentation on SRBC's Flooding ''Priority Management Area'' with additional information on the third anniversary of the June 2006 flood and enhancements to flood warning and preparedness; (4) presentation of the Maurice K. Goddard Award to David Nicosia of the National Weather Service, Binghamton Office; (5) adoption of an Application Fee Policy for Mine Drainage Withdrawals to guide the granting of fee waivers or reductions to projects using water impaired by abandoned mine drainage; (6) approval for proposed rulemaking regarding Commission approval of projects undergoing federal licensing/relicensing and other revisions; (7) revisions to the FY–2010 budget commencing July 1, 2009; (8) adoption of a FY–2011 budget commencing July 1, 2010; (9) ratification of a contract with the U.S. Geological Survey on simulation of baseline streamflow conditions, and approval of a grant application to the Pennsylvania Infrastructure Investment Authority (PENNVEST) regarding expansion of an innovative stormwater management project at the Pennsylvania Farm Show Complex; and (10) election of the member representing the U.S. Government as the new Chair of the Commission and the member representing the State of New York as the new Vice Chair of the Commission to serve in the next fiscal year. The Commission also heard counsel's report on legal matters affecting the Commission. The Commission also convened a public hearing and took the following actions:

Public Hearing—Projects Approved

1. Project Sponsor and Facility: ALTA Operating Company, LLC (Turner Lake), Liberty Township, Susquehanna County, PA. Surface water withdrawal of up to 0.393 mgd.

2. Project Sponsor and Facility: Chesapeake Appalachia, LLC (Chemung River), Athens Township, Bradford County, PA. Surface water withdrawal of up to 0.999 mgd.

3. Project Sponsor and Facility: Chesapeake Appalachia, LLC (Sugar Creek), Burlington Township, Bradford County, PA. Surface water withdrawal of up to 0.499 mgd.

4. Project Sponsor and Facility: Chesapeake Appalachia, LLC (Susquehanna River—Newton), Terry

Township, Bradford County, PA. Surface water withdrawal of up to 0.999 mgd.

5. Project Sponsor and Facility: Chesapeake Appalachia, LLC (Susquehanna River—McCarthy), Wyalusing Township, Bradford County, PA. Surface water withdrawal of up to 1.440 mgd.

6. Project Sponsor and Facility: Chesapeake Appalachia, LLC (Towanda Creek—Monroe Hose), Monroe Township, Bradford County, PA. Surface water withdrawal of up to 0.400 mgd.

7. Project Sponsor and Facility: Chesapeake Appalachia, LLC (Towanda Creek—DeCristo), Leroy Township, Bradford County, PA. Surface water withdrawal of up to 0.499 mgd.

8. Project Sponsor and Facility: Chesapeake Appalachia, LLC (Wyalusing Creek—Vanderfeltz), Rush Township, Susquehanna County, PA. Surface water withdrawal of up to 0.499 mgd.

9. Project Sponsor and Facility: Citrus Energy (Inez Moss Pond), Benton Township, Columbia County, PA. Surface water withdrawal of up to 0.099 mgd.

10. Project Sponsor and Facility: East Resources, Inc. (Tioga River—Greer), Richmond Township, Tioga County, PA. Surface water withdrawal of up to 0.107 mgd.

11. Project Sponsor and Facility: EXCO–North Coast Energy, Inc. (Little Muncy Creek—LYC–01, Jordan), Franklin Town, Lycoming County, PA. Surface water withdrawal of up to 0.041 mgd.

12. Project Sponsor and Facility: EXCO–North Coast Energy, Inc. (Little Muncy Creek—LYC–02, Temple), Franklin Town, Lycoming County, PA. Surface water withdrawal of up to 0.091 mgd.

13. Project Sponsor and Facility: EXCO–North Coast Energy, Inc. (South Branch Tunkhannock Creek—WSC), Benton Township, Lackawanna County, PA. Surface water withdrawal of up to 0.091 mgd.

14. Project Sponsor and Facility: EXCO–North Coast Energy, Inc. (West Branch Susquehanna River—Sproul State Forest), Burnside Township, Centre County, PA. Surface water withdrawal of up to 1.080 mgd.

15. Project Sponsor: Exelon Generation Company, LLC. Project Facility: Three Mile Island Generating Station, Unit 1, Londonderry Township, Dauphin County, PA. Modification to project features of the consumptive water use approval (Docket No. 19950302).

16. Project Sponsor and Facility: Grand Water Rush, LLC (Grand Farm Pond), Dunnstable Township, Clinton County, PA. Surface water withdrawal of up to 0.022 mgd.

17. Project Sponsor: Pennsylvania Department of Environmental Protection, Bureau of Abandoned Mine Reclamation. Project Facility: Hollywood AMD Treatment Plant, Huston and Jay Townships, Clearfield and Elk Counties, PA. Groundwater withdrawal of up to 2.890 mgd from six deep mine complexes.

18. Project Sponsor: Pennsylvania Department of Environmental Protection, Bureau of Abandoned Mine Reclamation. Project Facility: Lancashire No. 15 AMD Treatment Plant, Barr Township, Cambria County, PA. Groundwater withdrawal of up to 7.400 mgd from Recovery Wells 1, 2, and 3, and D Seam Discharge.

19. Project Sponsor: PPL Holtwood, LLC. Project Facility: Holtwood Hydroelectric Station, Martic and Conestoga Townships, Lancaster County, and Chanceford and Lower Chanceford Townships, York County, PA. Redevelopment modifications of its operations on the lower Susquehanna River, including the addition of a second power station and associated infrastructure.

20. Project Sponsor and Facility: Schuylkill County Municipal Authority, Pottsville Public Water Supply System, Mount Laurel Subsystem, Butler Township, Schuylkill County, PA. Groundwater withdrawal of up to 0.362 mgd from the Gordon Well.

21. Project Sponsor and Facility: Southwestern Energy Company (Tunkhannock Creek—Price), Gibson Township, Susquehanna County, PA. Surface water withdrawal of up to 0.380 mgd.

22. Project Sponsor and Facility: Stone Energy Corporation (Wyalusing Creek—Hogan), Rush Township, Susquehanna County, PA. Surface water withdrawal of up to 0.750 mgd.

23. Project Sponsor and Facility: Stone Energy Corporation (Wyalusing Creek—Stang), Rush Township, Susquehanna County, PA. Surface water withdrawal of up to 0.750 mgd.

24. Project Sponsor and Facility: Susquehanna Gas Field Services, L.L.C. (Meshoppen Creek), Meshoppen Borough, Wyoming County, PA. Surface water withdrawal of up to 0.100 mgd.

25. Project Sponsor: Titanium Metals Corporation. Project Facility: Titanium Hearth Technologies, Inc., d.b.a. TIMET North American Operations, Caernarvon Township, Berks County, PA. Groundwater withdrawal of up to 0.099 mgd from Well 1.

26. Project Sponsor and Facility: Ultra Resources, Inc. (Elk Run), Gaines Township, Tioga County, PA. Surface water withdrawal of up to 0.020 mgd.

27. Project Sponsor and Facility: Valley Country Club, Sugarloaf Township, Luzerne County, PA. Groundwater withdrawal of up to 0.090 mgd from the Pumphouse Well and 0.090 mgd from the Shop Well.

Public Hearing—Projects Tabled

1. Project Sponsor and Facility: Charles Header-Laurel Springs Development, Barry Township, Schuylkill County, PA. Application for groundwater withdrawal of 0.099 mgd from Laurel Springs.

2. Project Sponsor and Facility: Charles Header-Laurel Springs Development, Barry Township, Schuylkill County, PA. Application for consumptive water use of up to 0.099 mgd.

3. Project Sponsor and Facility: EXCO–North Coast Energy, Inc. (Black Moshannon Creek), Snow Shoe Township, Centre County, PA. Application for surface water withdrawal of up to 0.140 mgd.

4. Project Sponsor and Facility: Fortuna Energy Inc. (Towanda Creek—Franklin Township Volunteer Fire Department), Franklin Township, Bradford County, PA. Application for surface water withdrawal of up to 2.000 mgd.

5. Project Sponsor and Facility: J–W Operating Company (Abandoned Mine Pool—Unnamed Tributary to Finley Run), Shippen Township, Cameron County, PA. Application for surface water withdrawal of up to 0.090 mgd.

6. Project Sponsor: UGI Development Company. Project Facility: Hunlock Power Station, Hunlock Township, Luzerne County, PA. Application for consumptive water use of up to 0.870 mgd.

7. Project Sponsor: UGI Development Company. Project Facility: Hunlock Power Station, Hunlock Township, Luzerne County, PA. Application for surface water withdrawal from the Susquehanna River of up to 55.050 mgd.

Public Hearing—Projects Withdrawn

1. Project Sponsor and Facility: Chesapeake Appalachia, LLC (Wyalusing Creek—Wells), Wyalusing Borough, Bradford County, PA. Application for surface water withdrawal of up to 0.999 mgd.

2. Project Sponsor and Facility: EXCO–North Coast Energy, Inc. (East Branch Tunkhannock Creek), Clifford Township, Lackawanna County, PA. Application for surface water withdrawal of up to 0.130 mgd.

Public Hearing—Projects Approved Involving Diversions

1. Project Sponsor: Pennsylvania Department of Environmental Protection, Bureau of Abandoned Mine Reclamation. Project Facility: Lancashire No. 15 AMD Treatment Plant, Barr Township, Cambria County, PA. Into-basin diversion of up to 10.000 mgd from the Ohio River Basin.

2. Project Sponsor and Facility: Schuylkill County Municipal Authority, Pottsville Public Water Supply System, Mount Laurel Subsystem, Butler Township, Schuylkill County, PA. Out-of-basin diversion of up to 0.428 mgd to the Delaware River Basin for water supply; and an existing into-basin diversion of up to 0.485 mgd from the Delaware River Basin.

Public Hearing—Rescission of Project Approval

1. Project Sponsor. Corning Incorporated; Fall Brook Facility (Docket No. 19960301), Corning, Steuben County, N.Y.

Public Hearing—Enforcement Actions

The Commission approved settlements in lieu of civil penalties for the following projects:

1. Belden & Blake Corporation (EnerVest Operating, LLC)—$150,000

2. Chester County Solid Waste Authority—$51,000

3. East Resources, Inc. (Tioga River)—$75,000

Public Hearing—Administrative Appeals

1. Docket No. 20081203 from petitioner Mark A. Givler, Esq.—The Commission granted Mr. Givler's request to supplement his filing, but denied his request for an administrative hearing and his request to reopen the docket.

2. Docket No. 20090315, from petitioner Delta Borough—The Commission tabled action on this appeal at the request of the petitioner.

Authority: Pub. L. 91–575, 84 Stat. 1509 *et seq.,* 18 CFR PArts 806, 807, and 808.

Dated: July 8, 2009.

Thomas W. Beauduy,

Deputy Director.

[FR Doc. E9–16971 Filed 7–16–09; 8:45 am]

BILLING CODE 7040–01–P

SUSQUEHANNA RIVER BASIN COMMISSION

Notice of Projects Approved for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice of approved projects.

SUMMARY: This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in **DATES**.

DATES: June 1, 2009, through June 30, 2009.

ADDRESSES: Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, PA 17102–2391.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, telephone: (717) 238–0423, ext. 306; fax: (717) 238–2436; e-mail: *rcairo@srbc.net* or Stephanie L. Richardson, Secretary to the Commission, telephone: (717) 238–0423, ext. 304; fax: (717) 238–2436; e-mail: *srichardson@srbc.net.* Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR 806.22(f) for the time period specified above:

Approvals by Rule Issued:

1. Chesapeake Appalachia, LLC, Pad ID: Benscoter, ABR–20090601, Auburn Township, Susquehanna County, PA.; Consumptive Use of up to 7.500 mgd; Approval Date: June 2, 2009.
2. Chesapeake Appalachia, LLC, Pad ID: Strom, ABR–20090602, Monroe Township, Bradford County, PA.; Consumptive Use of up to 7.500 mgd; Approval Date: June 2, 2009.
3. Chesapeake Appalachia, LLC, Pad ID: Evanchick, ABR–20090604, Granville Township, Bradford County, PA.; Consumptive Use of up to 7.500 mgd; Approval Date: June 3, 2009.
4. Chesapeake Appalachia, LLC, Pad ID: Vargson, ABR–20090605, Granville Township, Bradford County, PA.; Consumptive Use of up to 7.500 mgd; Approval Date: June 3, 2009.
5. Range Resources Appalachia, LLC, Pad ID: Ogontz 3, ABR–20090606, Cummings Township, Lycoming County, PA.; Consumptive Use of up to 5.000 mgd; Approval Date: June 5, 2009.
6. Range Resources Appalachia, LLC, Pad ID: McWilliams 1, ABR–20090607, Cogan House Township, Lycoming County, PA.; Consumptive Use of up to 5.000 mgd; Approval Date: June 5, 2009.
7. Alta Operating Company, LLC, Pad ID: Ivey Pad Site, ABR–20090608, Forest Lake Township, Susquehanna County, PA.; Consumptive Use of up to 3.000 mgd; Approval Date: June 10, 2009.
8. Fortuna Energy, Inc., Pad ID: Shedden D 13–43, ABR–20090603, Troy Township, Bradford County, PA.; Consumptive Use of up to 3.000 mgd; Approval Date: June 10, 2009.
9. Fortuna Energy, Inc., Pad ID: State Lands 587 Pad #1, ABR–20090609, Ward Township, Tioga County, PA.; Consumptive Use of up to 3.000 mgd; Approval Date: June 16, 2009.
10. Chesapeake Appalachia, LLC, Pad ID: Welles 1, ABR–20090610, Terry Township, Bradford County, PA.; Consumptive Use of up to 7.500 mgd; Approval Date: June 18, 2009.
11. Fortuna Energy, Inc., Pad ID: Williams 41–42, ABR–20090611, Troy Township, Bradford County, PA.; Consumptive Use of up to 3.000 mgd; Approval Date: June 23, 2009.

Authority: Public Law 91–575, 84 Stat. 1509 *et seq.,* 18 CFR Parts 806, 807, and 808.

Dated: July 8, 2009.

Thomas W. Beauduy,

Deputy Director.

[FR Doc. E9–16972 Filed 7–16–09; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket DOT–OST–2009–0149]

Notice of Order Soliciting Community Proposals

AGENCY: Department of Transportation.

ACTION: Notice of Order Soliciting Community Proposals (Order 2009–7–11).

SUMMARY: The Department of Transportation is soliciting proposals from communities or consortia of communities interested in receiving a grant under the Small Community Air Service Development Program. The full text of the Department's order is attached to this document. There are two mandatory requirements for filing of applications, both of which must be completed for a community's application to be deemed timely and considered by the Department. The first requirement is the filing of an Application for Federal Domestic Assistance (SF424) through *http://www.grants.gov.* The second is the submission of the community's proposal as an attachment to its SF424. Applicants must complete a one-time registration at *http://www.grants.gov,* a process required by grants.gov that can take up to three weeks to complete. For this reason, applicants should register with grants.gov as soon as possible to

ensure they can meet the application deadline.

DATES: Grant proposals and the SF424 must be submitted no later than 5 p.m. Eastern Daylight Time (EDT), on August 28, 2009.

ADDRESSES: Interested parties must submit applications electronically as an attachment to the SF424 through *http://www.grants.gov.* The application should bear the title, ''Proposal under the Small Community Air Service Development Program, Docket DOT–OST–2009–0149,'' as well as (1) the name of the applicant community or consortium of communities, (2) the legal sponsor and its DUNS number (including + 4), and (3) the 2-digit Congressional district code applicable to the sponsoring organization and, if a consortium, to each participating community.

FOR FURTHER INFORMATION CONTACT: Aloha Ley, Office of Aviation Analysis, 8th Floor, Room W86–310, 1200 New Jersey Ave., SE., Washington, DC 20590 (202) 366–2347.

Dated: July 10, 2009.

Christa Fornarotto,

Acting Assistant Secretary, for Aviation and International Affairs.

In the Matter of Grant Applications; Small Community Air Service Development Program; Under 49 U.S.C. 41743 *et seq.*; Order Soliciting Community Grant Proposals

Overview

By this order, the Department invites proposals from communities and/or consortia of communities interested in obtaining a Federal grant under the Small Community Air Service Development Program (Small Community Program) to address air service and airfare problems in their communities. Proposals must be submitted in the above-referenced docket no later than 5 p.m., Eastern Daylight Time (EDT), on August 28, 2009. Applicants *must* first register with *http://www.grants.gov* before submitting an Application for Federal Domestic Assistance (SF424), a standard Federal government grant application form, *and* must include their proposals as an attachment to the SF424. An application will *not* be deemed complete until and unless all required materials are filed by the August 28, 2009, deadline. Communities are reminded to register with Grants.gov early in the application period since the mandatory grants.gov registration process can take up to three weeks to complete. Tutorials and other guidance for completing the required registration and application procedures are available at the ''Applicant Resources'' page of Grants.gov.[1]

Funding Opportunity

The Small Community Program was established under the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR–21), Public Law 106–181, and reauthorized under the Vision 100—Century of Aviation Reauthorization Act, Public Law 108–176 (Vision 100). The program is designed to provide financial assistance to small communities to help them enhance their air service. The Department provides this assistance in the form of financial grants that are disbursed on a reimbursable basis.[2] Under the Omnibus Appropriations Act, 2009 (Pub. L. 111–8), the Department received up to $8 million to carry out the Small Community Program.[3]

The program is limited to a maximum of 40 grant awards, with a maximum of four grants per State, in each year the program is funded. There are no limits on the amounts of individual awards, and the amounts awarded will vary depending upon the features and merits of the proposals selected. Over the past eight years, the Department's individual grants have ranged from $20,000 to nearly $1.6 million. Authorized grant projects may include activities that extend over a multi-year period under a single grant award; however, grant funds are to be used in a timely manner. Generally speaking, individual grant awards have not exceeded a three-to-four-year period.

Eligibility Information

Who Is Eligible To Apply for a Grant?

Basic criteria. Eligible applicants are those communities that (1) are served by an airport that was not larger than a small hub airport for calendar year 1997 [4] and (2) have insufficient air service or unreasonably high airfares. Communities that do not currently have commercial air service are also eligible, but they must have met or be able to meet in a reasonable period all necessary requirements of the Federal Aviation Administration for the type of service involved in their grant proposals. Communities served by medium and large hubs are *not* eligible to apply.

Essential Air Service communities may apply. Small communities that meet the basic criteria and currently receive subsidized air service under the Essential Air Service (EAS) program are eligible to apply for funds under the Small Community Program. Indeed, a number of EAS-subsidized communities applied in past years and some have received grant awards. However, grant awards to EAS-subsidized communities are limited to marketing or promotion projects that support existing or newly subsidized air services. Grant funds will *not* be authorized for EAS-subsidized communities to support any *new* air service. Furthermore, no funds will be authorized to support additional flights by EAS carriers or changes to those carriers' existing schedules. These restrictions are necessary to avoid conflicts with the EAS program.

Additional consideration for communities/members of consortia that have previously received a grant. Communities or members of a consortia that were awarded grants in previous years and want to apply for a grant this year should be aware that (1) they are precluded from seeking new funds for projects for which they have already received an award under the Small Community Program and (2) they cannot accept a new grant while they are a party to an existing grant under the program, either as an individual community or as a member of a consortium.

Grant must be for a new project. No community may participate in the program in support of the same project more than once. 49 U.S.C. 41743(c)(4). In assessing whether a previous grantee's current proposal represents a new project, we would compare the goals and objectives of the earlier grant, including the key components of the means by which those goals and objectives were to be achieved, to the current proposal. For example, if a community received an earlier grant to support a revenue guarantee for service to a particular destination or direction,

[1] *See http://www07.grants.gov/applicants/app_help_reso.jsp.*

[2] For detailed background on the Small Community Program, see our Web site at: *http://ostpxweb.dot.gov/aviation/X-50%20Role_files/smallcommunity.htm.*

[3] Program funding for this year may be affected by a provision that directs the Secretary to transfer funds from any program within or administered by the Office of the Secretary to the Essential Air Service program if that program does not have sufficient funds to meet its statutory obligations. In addition, a portion of the funds available for the Small Community Program are used by the Department for grants-management purposes.

[4] The hub classifications are based on the Federal Aviation Administration's CY 1997 enplanement data.

a new application for another revenue guarantee for the same service would be disqualified under § 41743(c), even if the revenue guarantee were structured differently or the type of carrier were different. However, we do not read § 41743(c) to disqualify a new application for service to a new destination or direction using a revenue guarantee, or for general marketing of the airport and the various services it offers. We recognize, for example, that not all revenue guarantees or marketing agreements are of the same nature, and that if a subsequent proposal incorporates different goals or significantly different components, it may be sufficiently different to constitute a new project under § 41743(c).

In its application, a community that is a previous grant recipient should compare and contrast its proposed project with its previously funded one(s) to demonstrate why its latest proposal represents a new project. Communities should also note that in each of the prior six years of the program, interest in participation exceeded both the funds available and the number of communities that could take part in any one year. For this reason, the fact that a community has already received one or more grants will be a consideration when comparing its new proposal with those of other applicant communities.

No concurrent grants are permitted. A community or member of a consortia may participate in the program a subsequent time only after its participation in a prior grant has terminated. 49 U.S.C. 41743(c)(4). Simply stated, a community can have only one Small Community Program grant at any time. If a grant applicant is applying for a subsequent grant and its current grant has not yet expired, it must notify the Department of its intent to terminate the current grant prior to entering into the new grant. In addition, for grant applicants that are members of a consortia grant, permission must be granted from both the grant sponsor and the Department to withdraw from the current grant prior to being eligible to receive a subsequent grant.

Subsidies for a carrier to compete against an incumbent raise concerns. The Department is reluctant to subsidize one carrier but not others in a competitive market. For this reason, communities that propose to use the grant funds for service in a city-pair market that is already served by a carrier must explain in detail why the existing service is insufficient or unsatisfactory, or provide other compelling information to support such proposals. This information is necessary for the Department to consider the competitive implications of giving financial or other tangible incentives for one carrier that the other carrier is not receiving.

Subsidy proposals should reflect market analysis and a complementary marketing commitment. A thorough understanding of the target market is essential for the ultimate success of new or expanded air service. Likewise, the chances that such a service will become self-sustaining are enhanced when its implementation is supported by a well-designed marketing campaign. For these reasons, communities requesting funds for a revenue guarantee/subsidy/financial incentive are encouraged to include in their proposals an in-depth analysis evidencing close familiarity with their target markets. Such communities also are encouraged to designate in their proposals a portion of their requested funds for the development and implementation of a marketing plan in support of the service sought.

A consortium is more than a collection of communities. The statute permits individual communities and consortia of communities to apply for grant awards under this program. In some instances in the past, several communities in a State have filed a single application as a ''consortium,'' but in effect the application was a collection of individual community requests involving different projects. We do not view this as a consortium. Rather, an application representing a consortium would be one that facilitates efforts of communities working together toward a joint grant project. For example, several communities surrounding an airport may apply together to improve air services at that airport, or surrounding airports may work together to provide regional air service.

Multiple applications by a community will not be considered. The Department requests that communities file only one application for a grant. In the past, some communities have filed both individual applications and applications as part of a consortium. In many cases these applications have involved the same project at the same or different funding levels. We will not consider the stand-alone application if a community is also submitting a largely identical request as part of a consortium. To the extent that a community files separately and as part of a consortium for complementary projects—for example, one for a revenue guarantee and one for marketing—we will consider such proposals. However, communities should be aware that they can receive only one grant, either the stand-alone grant or as a member of a consortium, because no community can have concurrent grants.

Cost Sharing and Local Contributions Are Important Factors

The statute does not require communities to contribute toward a grant project, but those communities that contribute from local sources other than airport revenues are accorded priority consideration. One core objective of the Small Community Program is to promote community involvement in addressing air service/air fare issues through public/private partnerships. As a financial stakeholder in the process, the community gains greater control over the type, quality, and success of the air service initiatives that will best meet its needs, and demonstrates a greater commitment towards achieving the stated goals. The Department has historically received many more applications than can be accommodated and nearly all of those applications have proposed a community financial contribution to the project. Thus, proposals that do not propose a community financial contribution will be at a competitive disadvantage.

Types of contributions. Contributions should represent a *new* financial commitment or *new* financial resources devoted to attracting new or improved service, or addressing specific high-fare or other service issues, such as improving patronage of existing service at the airport. Contributions from already-existing programs or projects (*e.g.,* designating a portion of an airport's existing annual marketing budget to the project) are considered less favorably than contributions for new and innovative programs or projects. For those communities that propose to contribute to the grant project, that contribution can be in the following forms:

Cash from non-airport revenues. A cash contribution can include funds from the State, the County or the local government, and/or from local businesses, or other private organizations in the community. Contributions that are comprised of intangible non-cash items, such as the ''value'' of donated advertising, are considered ''in-kind'' contributions (*see* further discussion below).

Cash from airport revenues. This includes contributions from funds generated by airport operations. Airport revenues may not be used for revenue guarantees to airlines.[5] Community

[5] 49 U.S.C. 47107, 47133.

proposals that include local contributions based on airport revenues do not receive priority consideration for selection.

In-Kind Contributions from the airport. This can include such items as waivers of landing fees, terminal rents, fuel fees, and/or vehicle parking fees.

In-Kind Contributions from the community. This can include such items as donated advertising from media outlets, catering services for inaugural events, or in-kind trading, such as advertising in exchange for free air travel. Travel banks and travel commitments/pledges are considered to be in-kind contributions,[6] as are reduced fares offered by airlines.

Cash vs. in-kind contributions. Only expenditures of cash contributions will be eligible for reimbursement. ''In-kind'' or non-cash contributions, which encompass property or services contributed by non-Federal third parties without charge to the grantee, are not eligible. Because they are not reimbursable, in-kind contributions are not considered as part of the community's *cash* financial contribution to the project. Of course, communities should include any in-kind contributions in their proposals and are encouraged to offer in-kind inducements as an *extra* incentive to facilitate air service/fare improvements. While these contributions will not be considered as part of the community's cash contribution toward the project on which reimbursements are made, they *will* be considered as illustrative of the community's overall commitment to the proposed grant project. If there is any question about whether a proposed contribution would be considered as ''in-kind'' or cash, the applicant should contact the Department before submitting its proposal.

Financial commitments must be fulfilled. Applicant communities should also note that, as part of the grant agreement between the Department and the community, the community has legally committed itself to fulfilling its proposed financial contribution to the project and that its failure to meet this commitment could lead the Department to terminate the grant. Community participation in all aspects of the proposal, including the financial aspects, is critical to the success of the authorized project initiative. As with the grant awards in past years, receipt of the full Federal contribution awarded will thus be linked to the community's fulfillment of its financial contribution. Furthermore, communities cannot propose a certain level of cash contribution from non-airport sources, and subsequent to being awarded a grant, seek to substitute or replace that contribution with either ''in-kind'' contributions or contributions from airport revenues, or both. Given the statute's priority for contributions from *non-airport* sources and the competitive nature of the selection process, a community's grant award could be reduced or terminated altogether if it is unable to replace the committed funds from non-airport revenue sources.

[6] A travel ''bank'' involves the actual deposit of funds from participating parties (*e.g.,* businesses, individuals) into a designated bank account for the purpose of purchasing air travel on the selected airline, with defined procedures for the subsequent use or withdrawal of those funds under an agreement with the airline. Often, however, what communities refer to as a travel ''bank'' in reality involves travel ''pledges'' from businesses in the community without any collection of funds or formal procedures for use of the funds. As with other types of in-kind contributions, the Department views travel banks and pledges included in grant proposals as an indicator of local community support.

Application and Submission Information

Filing Deadline and Procedures

Grant applications are due by 5 p.m. EDT on August 28, 2009. As part of the submission process, an applicant must register as a grant applicant at *http://www.grants.gov* and complete the Application for Federal Domestic Assistance form SF424. An applicant must also include its grant proposal as an attachment to its SF424. In addition, the cover page of each application should contain the information specified under ''Cover page contents,'' below. Questions regarding the program should be directed to the Office of Aviation Analysis on (202) 366–2347 or *aloha.ley@dot.gov*. Communities not previously registered are encouraged to register with Grants.gov early during the application period because the registration and SF424 application process required by www.grants.gov can take up to three weeks to complete. A community may file its proposal anytime after the initial registration process has been completed on *http://www.grants.gov* as long as the entire application is filed by August 28, 2009. Communities are encouraged to contact the Grants.gov help desk for any technical assistance in filing their applications.

SF424 required. To comply with the Grants.gov initiative, a mandate of the President's Management Agenda, all applicants must submit form SF424, Application for Federal Domestic Assistance, found on *http://www.grants.gov*. Further, grant proposals must be submitted as an attachment to the SF424. An application will *NOT* be deemed complete unless the SF424 *and* the attached proposal have been submitted through Grants.gov by the 5 p.m. EDT, August 28, 2009, deadline.

Applicants must complete a mandatory one-time registration process in order to submit the SF424 application. This mandatory grants.gov registration process can take up to three weeks to complete, depending on the type of organization and whether all steps are met in a timely manner. For this reason, communities intending to file applications should register with grants.gov as soon as possible to ensure they can meet the application deadline. The Grants.gov ''Applicant Resources'' page (*http://www07.grants.gov/applicants/app_help_reso.jsp*) provides instructions and guidance on completing the registration and application processes.

Cover page contents. The cover page for all applications should bear the title ''Proposal Under the Small Community Air Service Development Program, Docket DOT–OST–2009–0149'' and should include:

(1) The name of the community or consortium of communities applying for the grant;

(2) The legal sponsor and its Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number, including + 4; and

(3) The 2-digit Congressional district code applicable to the sponsoring organization and, if a consortium, to each participating community.

Confidential treatment of information. Applicants will be able to provide certain information relevant to their proposals on a confidential basis. Under the Department's Freedom of Information Act regulations (49 CFR 7.17), such information is limited to commercial or financial information that, if disclosed, would either likely cause substantial harm to the competitive position of a business or enterprise or make it more difficult for the Federal Government to obtain similar information in the future.

Applicants seeking confidential treatment of a portion of their applications must segregate the confidential material in a sealed envelope marked ''Confidential Submission of X (the applicant) in Docket DOT–OST–2009–0149,'' and include with that material a request in the form of a motion seeking confidential treatment of the material under 14 CFR 302.12 (Rule 12) of the Department's regulations. The applicant should submit an original and two copies of its motion and an original and two copies of the confidential material

in the sealed envelope. The confidential material should *not* be included with the original of the applicant's proposal that is submitted via *http://www.grants.gov*. The applicant's original submission, however, should indicate clearly where the confidential material would have been inserted. If an applicant invokes Rule 12, the confidential portion of its filing will be treated as confidential pending a final determination. All confidential material must be received by August 28, 2009, and delivered to the Office of Aviation Analysis, 8th Floor, Room W86–310, 1200 New Jersey Ave., SE., Washington, DC 20590.

Types of Projects and Application Content

The statute is very general about the types of projects that can be authorized so that communities are provided flexibility in addressing their particular air service and airfare issues. Because circumstances may differ among communities, applicants have some latitude in identifying their own objectives and developing strategies for accomplishing them.

One objective of the Small Community Program is to help communities secure enhancements that will be responsive to their air transportation/air fare needs on a long-term basis after the financial support of the grant has ended. There are many ways that a community might enhance its current air service or attract new service, such as:

- Promoting awareness among residents of locally available service;
- Attracting a new carrier through revenue guarantees or operating cost offsets;
- Attracting new forms of service, such as on-demand air taxi service;
- Offering an incumbent carrier financial or other incentives to lower its fares, increase its frequencies, add new routes, or deploy more suitable aircraft, including upgrading its equipment from turboprops to regional jets;
- Combining traffic support from surrounding communities with regionalized service through one airport; or
- Providing local ground transportation service to improve access to air service to the community and the surrounding area.[7]

Communities are encouraged to be innovative and to consider a wide range of initiatives and air transportation services in developing their proposals, such as intermodal or regional solutions. At the same time, proposals must not be general, vague, or unsupported. The more highly defined and focused the proposal, the more competitive it will be, particularly in light of the priority consideration afforded by the statute to those applicants that can use the funds in a timely manner. 49 U.S.C. 41743(c)(5)(E).

There is no set format that must be used in submitting grant proposals. At a minimum, however, a proposal must provide the following information:

- *A description of the community's existing air service,* including the carrier(s) providing service, service frequency, direct and connecting destinations offered, available fares, and equipment types.
- *A synopsis of the community's historical service,* including destinations, traffic levels, service providers, and any extenuating factors that might have affected traffic in the past or that can be expected to influence service needs in the near to intermediate term.
- *A description of the community's air service development efforts over the past five years and the results of those efforts.* Many communities have been active on an on-going basis for many years in air service development efforts, while others are just beginning. To the extent that a community has previously engaged in other air service initiatives, including through public/private partnerships, it should describe those efforts and their results in its grant proposal. The description should include marketing and promotional efforts of airport services as well as efforts to recruit additional or improved air service and airfare initiatives.
- *A description of the community's air service needs or deficiencies.* A community should submit any information about (1) major origin/destination markets that are not now served or are not served adequately, and (2) fare levels that the community deems relevant to consideration of its grant request, including market analyses or studies demonstrating an understanding of local air service needs.
- *A strategic plan for meeting those needs under the Small Community Program,* including the community's specific project goal(s) and detailed plan for attaining such goal(s). Plans should:
  - Clearly identify the target audience of each component of the proposed transportation initiative, including all advertising and promotional efforts.
  - Set forth a realistic timetable for implementation of the grant project. Because the statute includes timely use of the grant funds as a priority consideration, a community must have a well-developed project plan and a detailed timetable for implementing that plan. In establishing the timetable, however, the community should be realistic about its ability to meet its project deadlines.[8]
  - For proposals involving new or improved service, explain how the service will become self-sufficient. Under the statute, a community cannot seek grant funding in subsequent years in support of the same project. Moreover, in developing a proposal, it is important that a community seriously consider the scale of its proposed project and the timetable for achieving it. To the extent that a proposed project is dependent upon or relevant to the completion of other federally funded capital improvement projects, the community should provide a description of, and the construction time-line for, those projects, keeping in mind the statutory requirement to use Small Community Program funding in a timely manner.
  - Fully and clearly outline the goals and objectives sought to be achieved; e.g., ''to broaden the awareness by residents in the Tri-County area of the various services provided by passenger carriers at the Tri-County airport,'' or ''to obtain new and affordable service to a hub airport in a direction where there is no such service.'' When an application is selected, these goals and objectives will be incorporated into the grant agreement and define its basic project scope. Once an agreement is signed, if circumstances change and an amendment is sought to allow for different activities or a different approach, the Department will look to whether the change being sought is consistent with those fundamental project goals and objectives. Proposed changes that would alter those fundamental goals and objectives cannot be authorized, because doing so would

[7] These examples are illustrative only and are not meant as a list of projects favored by the Department. Interested communities can view actual proposals submitted in prior years. Go to *http://www.regulations.gov* and, under ''Search,'' enter one of the following depending on the desired filing year: DOT–OST–2002–11590, DOT–OST–2003–15065, DOT–OST–2004–17343, DOT–OST–2005–20127, DOT–OST–2006–23671; DOT–OST–2007–27370 and DOT–OST–2008–0100 for proposals filed in 2002, 2003, 2004, 2005, 2006, 2007 and 2008, respectively.

[8] The projected timetable will be an integral part of the grant agreements between the selected communities and the Department. Therefore, there is no advantage to a community in proposing an aggressive timetable that cannot be met, and there may be disadvantages if the community finds that it cannot meet its timetable. Communities should carefully consider all factors affecting implementation of their projects and develop realistic timeframes for achieving those objectives, keeping in mind that authorized projects generally have averaged three to four years.

undermine the competitive nature of the selection process. Applicants are also encouraged to include in their proposals alternative or back-up strategies for achieving their desired goals and objectives. By incorporating such information into the grant agreement, desired changes may be accommodated.

○ If the applicant received a Small Community Program grant in the past, explain how its proposed project differs from its earlier one by comparing and contrasting project goals, objectives and methods of achieving them.

• *A description of any public-private partnership that will participate in the project.* Full community involvement is a key aspect of the Small Community Program. The statute gives a priority to those communities that already have established, or will establish, a public-private partnership to facilitate air service to the public. The proposal should fully describe the public-private partnership that will participate in the community's proposal and how the partnership will *actively* participate in the implementation of the proposed project. In addition, applicants should identify each member of the partnership, the role that each will play, and the specific responsibilities of each member in project implementation. If the application does not include specific information on the partnership participation in the project, the Department will not be able to evaluate how well a community has met this consideration, and the applicant will *not* be deemed to have met this priority consideration in the Department's evaluation of the community's proposal.

• *A detailed description of the funding necessary for implementation of the community's project, including the Federal and non-Federal contributions.* Proposals should clearly identify the level of Federal funding sought. They should also clearly identify the community's cash contributions to the proposed project, ''in-kind'' contributions from the airport, and ''in-kind'' contributions from the community. Cash contributions from airport revenues should be identified separately from cash contributions from other community sources. Similarly, cash contributions from the State and/or local government should be separately identified and described.

Applicant communities should be aware that, if awarded a grant, the Department will not reimburse the community for pre-award expenses such as the cost of preparing the grant application or for any expenses incurred prior to the community executing a grant agreement with the Department. In addition, 10 percent of the grant funds will be withheld until the Department receives the final report of the grant project. See ''Award Administration Information,'' below.

• *An explanation of how the community will ensure that its own funding contribution is spent in the manner proposed.*

• *Descriptions of how the community will monitor the progress of the grant project* and the identity of critical milestones to be met during the life of the grant, including the need to modify or discontinue funding if identified milestones cannot be achieved. This is an important component of the community's proposal and serves to demonstrate the thoroughness of the community's planning of the proposed grant project.

• *A description of how the community plans to continue with the project if it is not self-sustaining after the grant award expires.* A particular goal of the Small Community Program is to provide long-term, self-sustaining improvements to air service at small communities. A community cannot seek further grant funding in support of the same project. 49 U.S.C. 41743(c)(4). It is possible that a new or improved service at a community will be well on its way to becoming self-sustaining, but not have reached that goal before the grant expires. Similarly, it is possible that extensive marketing and promotional efforts may be in process, but not have been completed at the end of the grant period and will require continued support. Therefore, in developing its proposal, the community should carefully consider and describe in detail its plans for providing continued financial support for the project after the grant funding is no longer available. This aspect of the application reflects on the community's commitment to the grant project and is an important component to the Department's consideration of the community's proposal for selection for a grant award.

• *Designation of a legal sponsor responsible for administering the program.* The legal sponsor of the grant project *must* be a government entity. If the applicant is a public-private partnership, a public government member of the organization must be identified as the community's sponsor to receive program reimbursements. In this regard, communities can designate only a single government entity as the legal sponsor, even if applying as consortium, that consists of two or more local government entities. Private organizations cannot be designated as the legal sponsor of a grant under the Small Community Program.[9]

Air Service Development Zone Designation

The statute authorizing the Small Community Program also provides that the Department will designate one of the grant recipients in the program as an Air Service Development Zone (ASDZ). Because a previous grant recipient is still active as an ASDZ designee, the Department is not required by the statute to make another ASDZ designation in the FY 2009 round of awards. However, communities are welcome to apply for the designation, as described below.

The purpose of the designation is to provide communities interested in attracting business to the area surrounding the airport or in developing land-use options for the area with an opportunity to work with the Department on means to achieve those goals. There are no additional funds associated with this designation, and applying for the designation will provide no special benefit or preference to a community in receiving a grant award under the Small Community Program.

If selected, the Department will assist the designated community in establishing contacts with and obtaining advice and assistance from appropriate government agencies, including the Department of Commerce as well as other offices within the Department of Transportation, and in identifying other pertinent resources that may aid the community in its efforts to attract businesses and to develop land-use options. The community receiving the designation (if any) will be responsible for developing, implementing, and managing activities related to the air service development zone initiative. Only communities that are interested in these objectives and have a plan to accomplish them should consider applying for the designation since none is required.

Grant applicants interested in being selected for the Air Service Development Zone designation must include in their applications a separate section, titled, *Support for Air Service Development Zone Designation.* That section should include:

Detailed information regarding the property and facilities available for development such as an existing airpark or land for such an airpark near or adjacent to the local airport;

[9] The community has the responsibility to ensure that the recipient of any funding has the legal authority under State and local laws to carry out all aspects of the grant.

• The other modes of transportation that would be available to support additional economic development, such as rail, road, and/or water access;

• Information concerning historic, existing, and any future business activity in the area that would support further development;

• Demographic information concerning the community and its environs relevant to the developmental efforts, including population, employment, and per capita income data;

• Information as to whether the community has or had applied to other State or Federal agencies for economic assistance in the previous five years, including the Economic Development Administration of the United States Department of Commerce, and if so whether its application(s) were approved and the result, if any, of the assistance provided; and

• Any other information that the community believes is relevant to its plans to enhance air service development.

The community should provide as detailed a plan as possible, including the goals it expects to achieve from the air service development zone designation and the types of activities on which it would like to work with the Department in achieving those goals. The community should also indicate whether further local government approvals are required in order to implement the proposed activities, and, if so, the projected timeframe under which decisions on applications would be expected.

Application Review Information

The Department will carefully review each proposal, and the staff may contact applicants if clarification is needed. The grant awards will be made as quickly as possible so that communities awarded grants can complete the grant agreement process and proceed to implement their plans. Pending unforeseen circumstances, the grant selection process should be completed by December 2009. Given the competitive nature of the grant process, the Department will not meet with grant applicants with respect to their grant proposals. The Department's selection of communities for grant awards will be based on the communities' written submissions.

Priority factors considered. The law directs the Department to give priority consideration to those communities or consortia where: [10]

• Air fares are higher than the national average air fares for all communities;

• The community or consortium will provide a portion of the cost of the activity from local sources other than airport revenue sources;

• The community or consortium has established or will establish a public-private partnership to facilitate air carrier service to the public;

• The assistance will provide material benefits to a broad segment of the traveling public, including business, educational institutions, and other enterprises, whose access to the national air transportation system is limited; and

• The assistance will be used in a timely manner.

Additional factors considered. Applications will be evaluated against the priority considerations listed above. Our experience has been that more applications are received than can be funded under the Small Community Program. Consequently, consistent with the criteria stated above, the selection process will take into consideration such additional factors as:

• The relative size of each applicant community;

• The geographic location of each applicant, including the community's proximity to larger centers of air service and low-fare service alternatives;

• The community's existing level of air service and whether that service has been increasing or decreasing;

• Whether the community's proposal, if successfully implemented, could serve as a working model for other communities;

• Current demographic indicators for the community, such as population, income and business activity;

• The community's demonstrated commitment to and participation in the proposed grant project;

• The grant amount requested compared with total funds available for all communities;

• The proposed Federal grant amount requested compared with the local share offered;

• Whether the community has a realistic plan to use the funds in a timely manner;

• The uniqueness of an applicant's claimed problems and whether the proposed project addresses those problems;

• The extent to which the applicant's proposed solution(s) to solving the problem(s) is new or innovative;

• Whether the community's proximity to an existing grant recipient could impact its proposal; and

• Whether the applicant community has previously received a grant award under this program and, if so, whether its application includes an explanation of how the community's proposed project differs from its previously funded project.

Full community participation is a key goal of this program as demonstrated by the statute's focus on local contributions and active participation in the project. Therefore, applications that demonstrate broad community support will be more attractive. For example, communities providing proportionately higher levels of cash contributions from other than airport revenues will have more attractive proposals. Communities that provide multiple levels of contributions (cash and in-kind contributions) also will have more attractive proposals. Similarly, communities that demonstrate participation in the development and execution of the proposed air service project will enhance the attractiveness of their proposals. In this regard, the Department welcomes letters of intent from airlines on behalf of community proposals that are specifically intended to enlist new or expanded air carrier presence. Such letters will be accorded greater credence when authorized by airline planning departments.

Proposals that offer innovative solutions to the transportation issues facing the community will be more attractive. Small communities have faced many problems retaining and improving their air services and in coping with air fares that are higher than typical for larger communities. Therefore, proposals that offer new, creative approaches to addressing these problems, to the extent that they are reasonable, will have their attractiveness enhanced. Proposals that provide a well-defined plan, a reasonable timetable for use of the grant funds, and a plan for continuation and/or monitoring of the project after the grant expires also will have greater attractiveness.

Award Administration Information

The Department will announce its grant selections in a selection order, which will be served on each grant recipient, all other applicants, and all parties served with this solicitation order. The selection order will also be posted in the Docket at *http://www.regulations.gov* and on the Department's Web page.

Grant agreement. Communities awarded grants are required to execute a grant agreement with the Department *before* they begin to spend funds under the grant award. Grant funds will be provided on a *reimbursable basis* only, with reimbursements made only for

[10] 49 U.S.C. 41743(c)(5).

expenses incurred and billed during the period that the grant agreement is in effect. Applicants should not assume they have received a grant, nor should they obligate or spend local funds prior to receiving and fully executing a grant agreement with the Department. Expenditures made prior to the execution of a grant agreement, including costs associated with preparation of the grant application, will *not* be reimbursed. Moreover, there are numerous assurances that grant recipients must sign and honor when Federal funds are awarded. All communities receiving a grant under the Small Community Program will be required to accept the responsibilities of these assurances and to execute the assurances when they execute their grant agreements. Copies of the applicable assurances are available for review on the Department's Web page at *http://ostpxweb.dot.gov/aviation/X-50%20Role_files/smallcommunity.htm#Funds* (click on ''FAA Grant Assurances'').

Grantee reports. The grant agreement between the Department and each selected community will require the submission of quarterly reports on the progress the community has made during the previous quarter in implementing its grant project. In addition, the grant agreement will require the submission on a quarterly or other time-specific basis other materials relevant to the grant project, such as copies of advertising and promotional material and copies of contracts with consultants and service providers. In addition, each community will be required to submit a final report on its project to the Department, and 10 percent of the grant funds will not be reimbursed to the community until such final report is received.

Cost reimbursement. Communities will be permitted to seek reimbursement of project implementation costs on a regular basis. The frequency of such requests will be established in the grant agreement, which will be tailored to the specific features of the community's grant project. In most cases, reimbursements will be made on a monthly basis. In this regard, the Department will provide the grant recipient communities with details and procedures for securing reimbursements electronically.

Grant amendments. A grantee may wish to amend its agreement with the Department in the event of a change in circumstances after the date the agreement is executed. Typically, amendments involve an extension to the time period for completing the grant or a change in the types of activities authorized for reimbursement under the goals and objectives (''project scope'') of the grant agreement. Grantees are cautioned, however, that the Department cannot authorize amendments that are incompatible with the scope of the agreement. For example, a grant awarded solely for the purpose of developing an airport marketing plan cannot be amended to permit subsidization of an air carrier's startup costs, since the latter was never contemplated by the original agreement.

Grantees are also advised that the Department will not extend the expiration date of an agreement simply to allow more time for a community to solicit air carriers for new air service. Many grants have been awarded for the purpose of subsidizing new or additional air service for a small community, with the goal of that service becoming self-sustaining by the end of the subsidy period. In virtually all cases, the community seeking the grant funds received expressions of interest from one or more air carriers. In some instances, these expressions of interest failed to pan out and the community was left without any immediate prospects, at which time it asked for a grant extension to allow more time to pursue other carriers. Because the Department is charged by law to consider timely use of funds when selecting grant recipients, the Department will grant an extension only when the community can provide strong evidence of a firm commitment on the part of an air carrier to deliver the desired service.

To avoid misunderstandings, grantees contemplating amendments to their agreements are urged to discuss their situations with the Small Community Program staff before requesting a formal amendment.

This order is issued under authority delegated in 49 CFR 1.56a(f).

Accordingly,

1. Community proposals for funding under the Small Community Air Service Development Program should be submitted via *http://www.grants.gov* as an attachment to the SF424 no later than August 28, 2009; and

2. This order will be published in the **Federal Register** and also will be served on the Conference of Mayors, the National League of Cities, the National Governors Association, the National Association of State Aviation Officials (NASAO), the Association of County Executives, the American Association of Airport Executives (AAAE), and the Airports Council International—North America (ACI), and posted on *http://www.grants.gov.*

By:

Christa Fornarotto,
Acting Assistant Secretary for Aviation and International Affairs.

Appendix A—Small Community Air Service Development Program

United States Code Annotated
Title 49. Transportation
Subtitle VII. Aviation Programs
Part A. Air Commerce and Safety
Subpart II. Economic Regulation
Chapter 417. Operations of Carriers
Subchapter II. Small Community Air Service

• *§ 41743. Airports Not Receiving Sufficient Service*

(a) *Small community air service development program.*—The Secretary of Transportation shall establish a program that meets the requirements of this section for improving air carrier service to airports not receiving sufficient air carrier service.

(b) *Application required.*—In order to participate in the program established under subsection (a), a community or consortium of communities shall submit an application to the Secretary in such form, at such time, and containing such information as the Secretary may require, including—

(1) An assessment of the need of the community or consortium for access, or improved access, to the national air transportation system; and

(2) An analysis of the application of the criteria in subsection (c) to that community or consortium.

(c) *Criteria for participation.*—In selecting communities, or consortia of communities, for participation in the program established under subsection (a), the Secretary shall apply the following criteria:

(1) *Size.*—For calendar year 1997, the airport serving the community or consortium was not larger than a small hub airport, and—

(A) Had insufficient air carrier service; or

(B) Had unreasonably high air fares.

(2) *Characteristics.*—The airport presents characteristics, such as geographic diversity or unique circumstances, that will demonstrate the need for, and feasibility of, the program established under subsection (a).

(3) *State limit.*—Not more than 4 communities or consortia of communities, or a combination thereof, from the same State may be selected to participate in the program in any fiscal year.

(4) *Overall limit.*—No more than 40 communities or consortia of communities, or a combination thereof, may be selected to participate in the program in each year for which funds are appropriated for the program.

No community, consortia of communities, or combination thereof may participate in the program in support of the same project more than once, but any community, consortia of communities, or combination thereof may apply, subsequent to such participation, to participate in the program in support of a different project.

(5) *Priorities.*—The Secretary shall give priority to communities or consortia of communities where—

(A) Air fares are higher than the average air fares for all communities;

(B) The community or consortium will provide a portion of the cost of the activity to be assisted under the program from local sources other than airport revenues;

(C) The community or consortium has established, or will establish, a public-private partnership to facilitate air carrier service to the public;

(D) The assistance will provide material benefits to a broad segment of the traveling public, including business, educational institutions, and other enterprises, whose access to the national air transportation system is limited; and

(E) The assistance will be used in a timely fashion.

(d) *Types of assistance.*—The Secretary may use amounts made available under this section—

(1) To provide assistance to an air carrier to subsidize service to and from an underserved airport for a period not to exceed 3 years;

(2) To provide assistance to an underserved airport to obtain service to and from the underserved airport; and

(3) To provide assistance to an underserved airport to implement such other measures as the Secretary, in consultation with such airport, considers appropriate to improve air service both in terms of the cost of such service to consumers and the availability of such service, including improving air service through marketing and promotion of air service and enhanced utilization of airport facilities.

(e) *Authority to make agreements.*—

(1) *In general.*—The Secretary may make agreements to provide assistance under this section.

(2) *Authorization of appropriations.*—There is authorized to be appropriated to the Secretary $20,000,000 for fiscal year 2001, $27,500,000 for each of fiscal years 2002 and 2003, and $35,000,000 for each of fiscal years 2004 through 2008 to carry out this section. Such sums shall remain available until expended.

(f) *Additional action.*—Under the program established under subsection (a), the Secretary shall work with air carriers providing service to participating communities and major air carriers (as defined in section 41716(a)(2)) serving large hub airports to facilitate joint-fare arrangements consistent with normal industry practice.

(g) *Designation of responsible official.*—The Secretary shall designate an employee of the Department of Transportation—

(1) To function as a facilitator between small communities and air carriers;

(2) To carry out this section;

(3) To ensure that the Bureau of Transportation Statistics collects data on passenger information to assess the service needs of small communities;

(4) To work with and coordinate efforts with other Federal, State, and local agencies to increase the viability of service to small communities and the creation of aviation development zones; and

(5) To provide policy recommendations to the Secretary and Congress that will ensure that small communities have access to quality, affordable air transportation services.

(h) *Air Service Development Zone.*—The Secretary shall designate an airport in the program as an Air Service Development Zone and work with the community or consortium on means to attract business to the area surrounding the airport, to develop land use options for the area, and provide data, working with the Department of Commerce and other agencies.

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APPENDIX B - SMALL COMMUNITY AIR SERVICE DEVELOPMENT PROGRAM

DOCKET DOT-OST-2009-0149

SUMMARY INFORMATION

All applicants must submit this information with their proposal, along with a completed form SF424 on *http://www.grants.gov*.

A. APPLICANT INFORMATION: (CHECK ALL THAT APPLY)

☐ **Not a Consortium** ☐ **Interstate Consortium** ☐ **Intrastate Consortium**

☐ **Community now receives EAS subsidy**

☐ **Community (or Consortium member) previously received a Small Community Grant**
If previous recipient, expiration date of grant: _____

B. PUBLIC/PRIVATE PARTNERSHIPS: (LIST ORGANIZATION NAMES)

Public	Private
1.	1.
2.	2.
3.	3.
4.	4.
5.	5.

C. PROJECT PROPOSAL: (CHECK ALL THAT APPLY)

☐ Marketing	☐ Upgrade Aircraft	☐ New Route
☐ Personnel	☐ Increase Frequency	☐ Low Fare Service
☐ Travel Bank	☐ Service Restoration	☐ Subsidy

☐ Surface Transportation ☐ Regional Service ☐ Other (specify)

☐ Revenue Guarantee ☐ Launch New Carrier _____

☐ Start Up Cost Offset ☐ First Service _____

☐ Study ☐ Secure Additional Carrier _____

D. EXISTING LANDING AIDS AT LOCAL AIRPORT:

☐ Full ILS ☐ Outer/Middle Marker ☐ Published Instrument Approach

☐ Localizer ☐ Other (specify)

E. PROJECT COST:

1. Federal amount requested: _____
2. State cash financial contribution: _____
3. Local cash financial contribution...
   - 3a. Airport cash funds: _____
   - 3b. Non-airport cash funds: _____
   - 3c. Total local cash funds (3a. + 3b.): _____
4. TOTAL CASH FUNDING (1. + 2. + 3c.): _____
5. Local funds contributed from already-existing programs or projects included in line 3c. amount: _____
6. Local funds contributed from new commitments or new resources included in line 3c. amount: _____
7. Airport In-Kind contribution: _____ (amount & description)
8. Other In-Kind contribution: _____ (amount & description)
9. TOTAL IN-KIND CONTRIBUTION (7. + 8.): _____
10. TOTAL PROJECT COST (4. + 9.): _____

F. ENPLANEMENTS:

2000 _____	2004 _____	2008 _____
2001 _____	2005 _____	
2002 _____	2006 _____	
2003 _____	2007 _____	

G. IS THIS APPLICATION SUBJECT TO REVIEW BY STATE UNDER EXECUTIVE ORDER 12372 PROCESS?

☐ a. This application was made available to the State under the Executive Order 12372 Process for review on (date) _____.

☐ b. Program is subject to E.O. 12372, but has not been selected by the State for review.

☐ c. Program is not covered by E.O. 12372.

H. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? (IF "YES", PROVIDE EXPLANATION)

☐ No ☐ Yes (explain) _____

[FR Doc. E9–17093 Filed 7–16–09; 8:45 am]
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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Seeking OMB Approval

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) revision of a current information collection. The Federal Register Notice with a 60-day comment period soliciting comments on the following collection of information was published on February 2, 2009, vol. 74, no. 20, page 5884. Title 49 U.S.C., Section 44702 authorizes issuance of air carrier operating certificates. 14 CFR prescribes requirements for Air Carrier/ Commercial Operators. The info collected shows compliance & applicant eligibility.

DATES: Please submit comments by August 17, 2009.

FOR FURTHER INFORMATION CONTACT: Carla Mauney at Carla.Mauney@faa.gov.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Operating Requirements: Commuter and On-Demand Operation.

Type of Request: Revision of a currently approved collection.

OMB Control Number: 2120–0039.

Forms(s) FAA Form 8070–1.

Affected Public: An estimated 2.765 Respondents.

Frequency: This information is collected on occasion.

Estimated Average Burden Per Response: Approximately 7.7 minutes per response.

Estimated Annual Burden Hours: An estimated 1,154,674 hours annually

Abstract: Title 49 U.S.C., Section 44702 authorizes issuance of air carrier operating certificates. 14 CFR prescribes requirements for Air Carrier/ Commercial Operators. The info collected shows compliance and applicant eligibility.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov*, or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, NW., Washington, DC 20503.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other formns of information technology.

Issued in Washington, DC, on July 10, 2009.

Carla Mauney,

FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES–200.

[FR Doc. E9–16806 Filed 7–16–09; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA–2009–0035]

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: The Federal Transit Administration invites public comment about our intention to request the Office of Management and Budget's (OMB's) approval to renew the following information collection: 49 U.S.C. Section 5317—New Freedom Program.

The information to be collected for this program is used to determine eligibility for funding and to monitor the grantees' progress in implementing and completing project activities. The information submitted ensures FTA's compliance with applicable Federal laws and OMB Circular A–102. The **Federal Register** Notice with a 60-day comment period soliciting comments was published on April 23, 2009.

DATES: Comments must be submitted before August 17, 2009. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Sylvia L. Marion, Office of Administration, Office of Management Planning, (202) 366–6680.

SUPPLEMENTARY INFORMATION:

Title: 49 U.S.C. Section 5317—New Freedom Program.

Abstract: 49 U.S.C. Section 5317, the New Freedom Program, authorizes the Secretary of Transportation to make grants to States for areas with a population of less than 200,000 and designated recipients in urbanized areas of 200,000 persons or greater to reduce barriers to transportation services and expand the transportation mobility options available to people with disabilities beyond the requirements of the Americans with Disabilities Act (ADA) of 1990. Grant recipients are required to make information available to the public and to publish a program of projects which identifies the subrecipients and projects for which the State or designated recipient is applying for financial assistance. FTA uses the information to determine eligibility for funding and to monitor the grantees' progress in implementing and completing project activities. FTA collects performance information annually from designated recipients in rural areas, small urbanized areas, other direct recipients for small urbanized areas, and designated recipients in urbanized areas of 200,000 persons or greater. FTA collects milestone and financial status reports from designated recipients in large urbanized areas on a quarterly basis. The information submitted ensures FTA's compliance with applicable Federal laws and OMB Circular A–102.

Estimated Total Annual Burden: 122,374 hours.

ADDRESSES: All written comments must refer to the docket number that appears at the top of this document and be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: FTA Desk Officer.

Comments Are Invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued on: July 14, 2009.

Ann M. Linnertz,

Associate Administrator for Administration.

[FR Doc. E9–17077 Filed 7–16–09; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35095]

Alaska Railroad Corporation—Construction and Operation Exemption—a Rail Line Extension to Port MacKenzie, AK

AGENCY: *Lead:* Surface Transportation Board. *Cooperating:* U.S. Army Corps of Engineers, Alaska District; Federal Railroad Administration; and United States Coast Guard.

ACTION: Notice of Availability of Final Scope of Study for the Environmental Impact Statement (EIS).

SUMMARY: The Alaska Railroad Corporation (ARRC or Applicant) petitioned the Surface Transportation Board (Board) pursuant to 49 U.S.C. 10502 for authority to construct and operate a new rail line from Matanuska-Susitna Borough's (MSB) Port MacKenzie to ARRC's existing main line between Wasilla and north of Willow, Alaska. The project would involve the construction and operation of approximately 30 to 45 miles of new rail to the main line track. Figure 1 shows ARRC's existing track and the proposed rail line extension from Port MacKenzie to ARRC's existing main line (All figures are available for viewing on the Board's Web site at *http://www.stb.dot.gov* by going to ''Environmental Matters,'' then selecting ''Key Cases'' in the dropdown; and then when the next page appears, clicking ''Alaska Railroad—Port MacKenzie Rail Extension).

Because the construction and operation of this project has the potential to result in significant environmental impacts, the Board's Section of Environmental Analysis (SEA) has determined that the preparation of an Environmental Impact Statement (EIS) is appropriate. For further information about the Board's environmental review process and the EIS, you may also visit a Board-sponsored project Web site at *http://www.stbportmacraileis.com.*

To help determine the scope of the EIS, and as required by the Board's regulations at 49 CFR 1105.10(a)(2), SEA published in the **Federal Register** and mailed to the public on February 12, 2008, the Notice of Availability of Draft Scope of Study for the EIS, Notice of Scoping Meetings, and Request for Comments. SEA also prepared and distributed to the public a fact sheet that introduced ARRC's Port MacKenzie Rail Extension, announced SEA's intent to prepare an EIS, requested comments, and gave notice of six public scoping meetings to citizens; elected officials; Federal, state, and local agencies; tribal organizations; and other potentially interested stakeholders. SEA held six public scoping meetings in Knik, Big Lake, Willow, Houston, Wasilla, and Anchorage, Alaska on March 3, 4, 5, 6, 10, and 11, 2008, respectively.

The scoping comment period concluded March 21, 2008. The U.S. Army Corps of Engineers, Alaska District (USACE); Federal Railroad Administration (FRA); and United States Coast Guard (USGC) requested and were granted cooperating agency status in preparation of the EIS. After review and consideration of all comments received, this notice sets forth the final scope of the EIS. The final scope reflects any changes to the draft scope as a result of the comments, summarizes and addresses the principal environmental concerns raised by the comments, and briefly discusses pertinent issues concerning this project that further clarify the final scope.

FOR FURTHER INFORMATION CONTACT:

David Navecky, Section of Environmental Analysis, Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001, 202–245–0294, or call SEA's toll-free number for the project at 1–888–257–7560. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339. The Web site for the Surface Transportation Board is *http://www.stb.dot.gov.*

Serena Sweet, U.S. Army Corps of Engineers—P.O. Box 6898, Elmendorf Air Force Base, AK 99506, 907–753–2819.

John Winkle, Passenger Programs Division, Federal Railroad

Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590, 202–493–6067.

James Helfinstine, Seventeenth District, U.S. Coast Guard, P.O. Box 25517, Juneau, AK 99802–5517, 907–463–2268.

SUPPLEMENTARY INFORMATION:

Background

Port MacKenzie is a deepwater facility on the west side of the Knik Arm in upper Cook Inlet in south-central Alaska. At present, freight truck is the only available surface mode of transportation to and from Port MacKenzie. The Applicant has stated that the proposed rail line would satisfy the need for an additional mode of transportation for the movement of bulk materials, intermodal containers, and other freight to and from Port MacKenzie. The proposed project is consistent with the MSB's economic development plans and with ARRC's statutory goal to foster and promote long-term economic growth in the State of Alaska. The project would support the Port's continued development as a multi-modal and bulk materials export and import facility. ARRC plans to support commercial freight rail service needs with the proposed project.

Major elements of the project would include:

- Approximately 30 to 45 miles of new railroad track depending on the alternative;
- A 200-foot wide right-of-way (ROW);
- Crossings (depending on the alternative) of the Little Susitna River, Lake Creek, Goose Creek, Little Willow Creek, Fish Creek, Rogers Creek, Lucile Creek, Little Meadow Creek, and Willow Creek, along with many other small stream crossings;
- Crossings of local roads and streets, including grade-separations;
- Pipeline, utility, and recreational trail crossings, including the Iditarod National Historic Trail;
- Road closures and relocations;
- Track sidings along the existing ARRC mainline;
- A terminal reserve area (consists of yard sidings, storage areas, and a terminal building to support train maintenance); and
- Ancillary railroad support facilities including, but not limited to, communications towers and facilities, maintenance, power, signals, and access road.

Environmental Review Process

The Board is the lead agency, pursuant to 40 CFR 1501.5. SEA is responsible for ensuring that the Board complies with the National Environmental Policy Act (NEPA), 42 U.S.C. 4321–4335, and related environmental statutes, and for completing the environmental review process. The NEPA review process is intended to assist the Board, the cooperating agencies and the public in identifying and assessing the potential environmental consequences of a proposed action and the reasonable alternative before a decision is made.

ICF International is serving as an independent third-party contractor to assist SEA in the environmental review process. SEA is directing and supervising the preparation of the EIS. The USACE, FRA, and USCG are cooperating agencies, pursuant to 40 CFR 1501.6.

The Federal agency actions considered in this EIS will include decisions, permits, approvals and funding related to the proposed action. The Board will decide whether to grant authority to ARRC to construct and operate the rail line pursuant to 49 U.S.C. 10901 and 10502. The USACE will decide whether to issue permits pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1251–1376, as amended) and/or Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403). The USCG will decide whether to issue authority to construct bridges over navigable waters of the United States pursuant to the Department of Transportation Act of 1966 (49 U.S.C. 1651–1659). The FRA could provide funding to ARRC; however, the FRA would not provide funding for a Board-authorized alternative, if any, that would require the use of resources protected under Section 4(f) of the U.S. Department of Transportation (USDOT) Act (23 CFR 774) if there is a prudent and feasible alternative that does not use Section 4(f) resources, unless the Secretary of Transportation determines that the impacts to the protected resources would be *de minimis* in accordance with Section 6009(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) amendment to the Section 4(f) requirements, which do not require avoidance. The EIS should include all of the information necessary for the decisions by the Board and the cooperating agencies.

SEA and the cooperating agencies are preparing a Draft EIS for the proposed action. The Draft EIS will address those environmental issues and concerns identified during the scoping process and detailed in this final scope. It will also discuss a reasonable range of alternatives to the proposed action, including a no-action alternative, and recommend environmental mitigation measures, as appropriate.

The Draft EIS will be made available upon its completion for public review and comment. A Final EIS will then be prepared reflecting further analysis by SEA and the cooperating agencies and the public and agency comments on the Draft EIS. In reaching their decisions on this case, the Board and the cooperating agencies will take into account the full environmental record, including the DEIS, the Final EIS, and all public and agency comments received.

Purpose and Need

The Applicant has stated that the purpose of the Port MacKenzie Rail Extension is to establish a rail link between Port MacKenzie (or Port) and the ARRC rail system, providing Port customers and shippers with rail transportation between the Port and Interior Alaska. The Port is a deepwater facility on the west side of Knik Arm in upper Cook Inlet, in south-central Alaska. At present, freight truck is the only available surface mode of transportation to and from the Port.

The Applicant has also stated that the proposed rail line would satisfy the need for an additional mode of transportation for the movement of bulk materials, intermodal containers, and other freight to and from the Port. According to ARRC, the proposed project would support ARRC's statutory goal to foster and promote long-term economic growth and development in the State of Alaska and would be consistent with the Port's economic development plans, which include the continued development of the Port as a multi-modal and bulk materials export and import facility.

Port Activities

The proposed rail line extension would end at a terminal reserve (rail yard) approximately 2 or 3 miles, depending on the route, from the existing Port docks. Rail facilities the Port might construct to connect to the rail line extension would be particular to the specific traffic needs and would be expected to be generally consistent with Port master planning documents. These facilities might include buildings, roads, industrial spurs, sidings, loading/unloading tracks, and other ancillary facilities throughout the upland port district. These facilities would be developed as the Port continued to grow, but would be independent of the planned rail extension. At present, the MSB is developing a bulk materials facility at the Port to accommodate the

need for expansion of Port facilities to handle bulk material cargo to be transported to the Port by truck, independent of the planned rail line extension to the Port. The MSB has stated that as it continues to plan for the bulk materials facility and future Port development, it will consider the location of ARRC's proposed rail extension in its decision making. The bulk material facility is not part of the proposed action, and a detailed environmental review of the bulk material facility is not within the scope of this EIS. The bulk materials facility, however, will be addressed in the cumulative impacts section of the EIS.

Proposed Action and Alternatives

The NEPA regulations require Federal agencies to consider a reasonable range of feasible alternatives to the proposed action. The President's Council on Environmental Quality (CEQ), which oversees the implementation of NEPA, has stated in *Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations* that ''[R]easonable alternatives include those that are practical or feasible from the technical and economic standpoint and using common sense * * *.'' In this EIS, SEA and the cooperating agencies are considering a full range of alternatives that meet the purpose and need of the project, as well as the no-action alternative. The reasonable and feasible alternatives included for detailed analysis and alternatives considered but not included in detailed study are discussed in more detail below.

A. Alternatives

Based on agency consultations, feedback from stakeholders, and a constraints analysis based on engineering and environmental studies, in January 2008 ARRC developed the Preliminary Environmental and Alternatives Report, which presented eight possible alignment configurations. All alignments start at a terminal reserve area near Port MacKenzie at the southern end and connect to the existing ARRC mainline to the north. The alignments are composed of a southern and northern segment with a possible connector tying the segments together. The southern segments, Mac West or Mac East, run either east or west of the Point MacKenzie Agricultural Project. Just north of the Point MacKenzie Agricultural Project, there are three main northern segments—Willow, Houston, and Big Lake—with Houston having a north or south variant. Connector segments link the north and south segments together to create eight possible alignment configurations as listed below and depicted in Figure 1.

After reviewing the eight ARRC-proposed alignments and considering all comments received during the scoping period, SEA and the cooperating agencies have decided to carry all eight alignments forward as alternatives for detailed analysis in the EIS. The no-action alternative will also be considered. The eight alternatives are listed below. Each would consist of a 200-foot right-of-way (ROW) for the railroad and associated facilities.

1. *Mac West—Connector 1—Willow.* This alternative would be 44.8 miles long and contains the segments farthest west.

2. *Mac West—Connector 1—Houston—Houston North.* This alternative would be 35.1 miles long, and is geographically one of the middle alignments.

3. *Mac West—Connector 1—Houston—Houston South.* This alternative would be 34.5 miles, and is geographically one of the middle alternatives.

4. *Mac West—Connector 2—Big Lake.* This alternative would be 35.8 miles. It includes the southern segment along the west side of the Point MacKenzie Agricultural Project and the most eastern north segment going towards Big Lake.

5. *Mac East—Connector 3—Willow.* This alternative would be 45 miles and is the longest. It includes the southern segment along the east side of the Point MacKenzie Agricultural Project and the most western north segment going towards Willow.

6. *Mac East—Connector 3—Houston—Houston North.* This alternative would be 35.3 miles, and is geographically one of the middle alternatives.

7. *Mac East—Connector 3—Houston—Houston South.* This alternative would be 34.7 miles long, and is geographically one of the middle alignments.

8. *Mac East—Big Lake.* This alternative would be 31.8 miles long and is the shortest alternative. It includes the southern segment along the east side of the Point MacKenzie Agricultural Project and the most eastern north segment going toward Big Lake.

Descriptions of the individual segments that complete the eight build alternatives for the EIS are provided below.

Southern Segments

Mac West Segment

The Mac West Segment would begin in the terminal reserve area and would proceed northwest across relatively flat terrain toward the southwest corner of the Point MacKenzie Agricultural Project. The segment would continue west of the agricultural area, traversing along the eastern boundary of Susitna Flats State Game Refuge. The terminal reserve area is proposed along the southern side of Mac West.

Mac East Segment

The Mac East Segment would begin in the terminal reserve area and would proceed north along the side of a ridge along the east side of the Point MacKenzie Agricultural Project. Near Mile Post 4.7, the segment would cross a ravine and then curve to the northeast along the top of another ridge. North of Mile Post 6, the segment would follow the alignment of Port MacKenzie Road, offset 200 feet or more to the west. The segment would continue along undulating terrain before reaching its junction with the Big Lake Segment or Connector Segment 3. The terminal reserve area is proposed along the north side of Mac East.[1]

See Figure 2 for a detailed map of the southern segments and terminal reserve area.

Connectors

Connector Segment 1

This 4.1-mile-long segment would connect the Mac West Segment to the Willow or Houston segments. From Mac West, this connector segment would continue north along the eastern boundary of the Susitna Flats State Game Refuge on level terrain. The segment would cross a tributary of the Little Susitna River.

Connector Segment 2

This 3.7-mile-long segment would connect the Mac West Segment to the Big Lake Segment. At the northwestern end of the Point MacKenzie Agricultural Project, this connector segment would turn due east and travel along the southern boundary of the Point MacKenzie Correctional Farm.

Connector Segment 3

This 4.5-mile-long segment would connect the Mac East Segment to the Willow or Houston segments. At the northeastern end of the Point MacKenzie Agricultural Project, this

[1] Based on Port planning and development information and additional field data collected during the summer of 2008, ARRC has revised the proposed location for the terminal reserve area to serve Mac East. This terminal reserve area is shifted slightly to the west relative to the previous location. This change occurred after issuance of ARRC's Preliminary Environmental and Alternatives Report and the scoping period for the EIS.

connector segment would shift to the northwest and cross Ayrshire Avenue and Farmers Road at grade. The segment would continue north of My Lake and cross an adjacent ravine. The remaining mile of the segment is nearly level.

See Figure 3 for a detailed map of the connector segments.

North Segments

Willow Segment

From Connector Segment 1 or 3, the Willow Segment would continue northwest where it would immediately cross the Little Susitna River (see Figure 4). Over the next 7 miles, the segment would continue north through rolling terrain. The segment would cross Fish Creek, the outlet for Red Shirt and Cow lakes. The Willow Segment would then proceed north, generally following the west-facing slope of a glacial moraine west of Red Shirt Lake. It would continue north through the Nancy Lake State Recreation Area for approximately 0.5 mile. The Willow Segment would cross the outlet for Vera Lake, continue over rolling terrain, and cross Willow Landing Road at grade. The segment would then continue through the Willow Creek State Recreation Area, where it would cross Willow Creek. The segment would curve to the east and cross Parks Highway with a grade separation, before connecting to the existing ARRC main line near Mile Post 188.9 along the proposed rail line.

Houston Segment

From Connector Segment 1 or 3, the Houston Segment would proceed northeast, traveling through slightly undulating terrain with areas of wetland (see Figure 5). The segment would pass between Papoose Twins Lakes and Crooked Lake, traversing an area of hilly terrain. The remaining 4 miles of the Houston Segment would be in a gradually rising wetland area to a point near Muleshoe Lake and Little Horseshoe Lake, where it would connect to either the Houston North Segment or the Houston South Segment.

Houston North Segment [2]

From the Houston Segment, the Houston North Segment would continue north (see Figure 5), crossing over the Castle Mountain Fault. The Houston North Segment would cross the Cow Lake Trail, which is part of the Houston Lake Loop Trail. It would continue through the Little Susitna Recreation Area, where it would cross the Little Susitna River. The segment would continue north on rolling terrain along the east side of Houston and Little Houston lakes, descending gradually to lower terrain adjacent to Lake Creek. The Houston North Segment would tie into the existing ARRC main line near Mile Post 178 without crossing the Parks Highway.

Houston South Segment

Also beginning between Muleshoe Lake and Little Horseshoe Lake, this proposed segment would traverse northeast, passing just west of Pear Lake (see Figure 5). The segment would traverse several gravel ridges that parallel the lakes in this area. The segment would tie into the existing mainline near Mile Post 174.0 without crossing the Parks Highway.

Big Lake Segment

From the Mac East Segment or Connector Segment 2, the Big Lake Segment would run northeast for approximately 3 miles, crossing Burma Road at grade (see Figure 6). It would continue on rolling terrain, crossing over Goose Creek, Fish Creek, Lucille Creek, and tributaries of Lucille Creek and Little Meadow Creek. The segment would cross Burma Road at grade and Big Lake Road, where it would be grade-separated above Big Lake Road. The Big Lake Segment would continue north through a residential area before crossing under Parks Highway. The Big Lake Segment would connect with the existing ARRC main line near Mile Post 170.3 along the proposed rail line in a wetland area surrounding a stream that feeds into Long Lake.

The refined information collected during the 2008 summer field season provided ARRC with better data to consider the tie-in location for the Big Lake Segment. The following information supplements the Preliminary Environmental and Alternatives Report (see Figure 6). These refinements of the Big Lake Segment will be addressed in the EIS.

- Construct an approximately 430-foot bridge on the Parks Highway over the proposed rail line and an unnamed anadromous fish stream.
- Relocate approximately 2,400 feet of unnamed anadromous fish streams adjacent to the proposed rail line.
- Relocate approximately 1,000 feet of Hawk Lane on the south side of the Parks Highway (because of the new Parks Highway bridge).
- Close approximately 865 feet of Cheri Lake Drive where it crosses the existing main line and intersects with the Parks Highway.
- Extend Ray Street approximately 1,405 feet from Loon Street to the Parks Highway, which would include an at-grade crossing of the existing ARRC main line.
- Acquire eight recreational/residential parcels along Loon Lake because access to the parcels would be permanently blocked due to lack of access from the relocated road crossing (Cheri Lake Drive) and the new siding.
- Relocate the business on the southwest corner of the Parks Highway and Cheri Lake Drive due to the Hawk Lane relocation.

B. Alternatives Considered But Not Included in Detailed Study

Following review of scoping comments received and the potential route alignments presented by ARRC in the Preliminary Environmental and Alternatives Report, SEA asked ARRC to consider the feasibility of making adjustments to the Willow, Big Lake, Mac West, and Houston North Segments, and to consider a new segment to reduce potential environmental impacts. The adjustments were proposed to reduce potential impacts to state recreation areas and game refuges, a road crossing, and wetlands. The proposed new segment would have utilized already existing corridors. ARRC considered SEA's proposed changes and explained that making these adjustments would create additional impacts or the terrain would be unsuitable for railroad construction. For example, SEA proposed shifting the Willow Segment west to avoid Willow Creek State Recreation Area, but ARRC explained that this approach would require closing or relocating the Willow Airport. In response to ARRC's concerns about the feasibility of SEA's proposed changes, and based on its own independent analysis, SEA determined that its proposed modifications to the routes were not feasible.

SEA also notes that rail across the proposed Knik Arm crossing connecting Port MacKenzie to the ARRC main line in Anchorage was considered, but determined impractical for several reasons. The Federal Highway Administration (FHWA) determined this option to be financially infeasible in the Knik Arm Crossing Final Environmental Impact Statement. The nearly $1 billion cost (in 2005 dollars) estimated for constructing this rail crossing would have exceeded the $600 million limit for the Knik Arm Crossing project. In addition, a route to Interior Alaska via the Knik Arm crossing would

[2] Based on environmental impact associated with the original proposed connection with the main line as presented in the Preliminary Environmental and Alternatives Report and considered during the scoping period, ARRC shifted the connection point approximately 1 mile southeast to its present location.

have been considerably longer than the alternatives being analyzed and would not meet the Applicant's stated purpose of providing a rail connection suitable for shipment of bulk materials from Interior Alaska to Port Mackenzie.

C. Public Participation

As part of the environmental review process to date, SEA has conducted broad public outreach activities to inform the public about the proposed action and to facilitate public participation. SEA consulted with and will continue to consult with Federal, state, and local agencies; affected communities: and all interested parties to gather and disseminate information about the proposal. SEA and the cooperating agencies have also developed and implemented a Government-to-Government Consultation and Coordination Plan to seek, discuss, and consider the views of federally recognized Tribal Governments regarding the proposed action and alternatives.

D. Response to Comments

SEA and the cooperating agencies reviewed and considered the comments received on the draft scope (130 comments with approximately 1,332 signatures) in preparing this final scope of the EIS. The final scope reflects any changes to the draft scope as a result of comments. Other changes in the final scope were made for clarification or as a result of additional analysis. Additions and modifications reflected in the final scope include:

- Analysis of impacts on fisheries and fish habitat, specifically anadromous streams. Federal and state agencies provided comments on the potential impacts on fish and fish habitat. As a point of clarification, the EIS will consider project-related effects on fish resources including impacts from rail and road construction, types and locations of water crossings and the accommodation of ice formation.
- Analysis of impacts on nesting waterfowl and eagles. Comments stated concerns about the potential impacts on nesting waterfowl and eagles, as well as migrating waterfowl, including cranes and grebes. As a point of clarification, the analysis in the EIS will consider the locations of eagle nests and migrating waterfowl near proposed alignments.
- Analysis of impacts on moose and other wildlife. Comments stated that moose strikes by trains are among the greatest wildlife concerns. Comments also indicated that other mammals that reside in the area could be affected. To clarify, the EIS will address wildlife habitat impacts, including potential impacts to moose.
- Analysis of socioeconomic impacts. Comments recommend that the EIS consider the impacts of the proposed project on property values, land access and use (*i.e.,* agricultural), and quality of life. Comments also stated concerns about the potential negative affects on income generated from recreation tourism. The EIS will consider potential project-related effects on local services as potential land use impacts.
- Analysis of impacts on water resources. Comments requested that the EIS evaluate the potential loss of wetland habitat. Comments also stated concerns regarding the potential project impacts on watersheds (*i.e.,* rail embankment acting as a barrier that would disrupt natural drainage systems). Comments also recommended the study of possible impacts of the Little Susitna River overflowing its banks and the compounded effect of a possible spill on this interconnected hydrologic system. The EIS will consider these potential impacts.
- Analysis of impacts on cultural resources. Comments stated concerns over potential impacts to known and unidentified cultural resources (*e.g.,* Iditarod Trail and native sites). Comments also stated concerns over loss of subsistence resources. The EIS will address cultural resources and subsistence.
- Analysis of rail safety. Comments stated concerns over rail and highway safety related to hazardous materials transport, at-grade crossings, fire hazards, and crossing seismic zones (*i.e.,* crossing fault lines). In addition, comments stated concerns about the safety of potential rail crossings at recreational trails. The EIS will examine the potential safety impacts of the proposed action.
- Analysis of noise and vibration impacts. Comments stated concerns over noise and vibration impacts near residential and wilderness areas. The EIS will consider noise and vibration impacts including potential project-related impacts to sensitive receptors.
- Analysis of recreation and access. Comments requested that the EIS address the potential impacts on recreation areas, access to these areas, and safety. Concerns specifically addressed the potential loss of access to recreational trails including the Iditarod, Junior Iditarod, and Iron Dog trails. Comments noted that many trails are unmarked through most recreation areas. Concerns were also raised about undisturbed state and Federal parks. Analysis of these issues will be included in the EIS.
- Analysis of land use impacts. Comments stated concerns about impacts to private properties as well as Federal, state and borough public lands. Analysis of these issues will be included in the EIS.
- Analysis of geology and soils. Comments stated concerns about the Castle Mountain fault, which would be crossed by one of the proposed alternatives. This issue will be addressed in the EIS.

E. Environmental Impact Analysis

Proposed New Construction

Analysis in the EIS will address the proposed activities associated with construction and operation of new rail facilities and their potential environmental impacts, as appropriate.

Impact Categories

The EIS will analyze potential impacts from construction and operation of new rail facilities on the human and natural environment for each alternative, or in the case of the no-action alternative, the potential impacts of these activities not occurring. Impact areas addressed will include the categories of geology and soils, water resources including wetlands and other waters of the U.S., biological resources, cultural and historic resources, subsistence, air quality, noise and vibration, energy resources, transportation safety and delay, navigation, land use, socioeconomics as they relate to physical changes in the environment, and environmental justice. The EIS will include a discussion of each of these categories as they currently exist in the project area and will address the potential impacts of each alternative on each category as described as follows:

1. Geology and Soils

The EIS will:

a. Describe the geology, soils, and seismic conditions found within the project area, including unique or problematic geologic formations or soils, prime farmland, prime and unique soils, and hydric soils and analyze the potential impacts on these resources resulting from the various alternatives for construction of a new rail line.

b. Propose mitigative measures to minimize or eliminate potential project impacts to geology and soils, and seismic hazards, as appropriate.

2. Water Resources

The EIS will:

a. Describe the existing surface water and groundwater resources within the project area, including lakes, rivers, streams, ponds, wetlands, and

floodplains and analyze the potential impacts on these resources resulting from each alternative.

b. Describe the permitting requirements applicable to wetlands, stream and river crossings, water quality, floodplains, and erosion control.

c. Propose mitigative measures to avoid, minimize, or compensate for potential project impacts to water resources, as appropriate.

d. Identify and evaluate potential impacts to the Su-Knik Mitigation Bank along the Big Lake Segment.

Note: The Big Lake Segment would go through two mitigation bank parcels that are part of the Su-Knik Mitigation Bank. Use of these two mitigation bank parcels for the proposed rail line could require concurrence from the entities that created the mitigation bank or ROW acquisition by ARRC through eminent domain.

3. Biological Resources

The EIS will:

a. Evaluate the existing biological resources within the project area, including vegetative communities, wildlife and fisheries, and Federal and state threatened or endangered species and the potential impacts to these resources resulting from each alternative.

b. Describe any wildlife sanctuaries, refuges, national or state parks, forests, or grasslands and evaluate the potential impacts to these resources resulting from each alternative.

c. Propose mitigative measures to avoid, minimize, or compensate for potential impacts to biological resources, as appropriate.

4. Cultural and Historic Resources

The EIS will:

a. Analyze the potential project-related impacts to historic structures or districts previously recorded and determined potentially eligible, eligible, or listed on the National Register of Historic Places within or immediately adjacent to the right-of-way for the proposed rail alignments.

b. Evaluate the potential impacts of each alternative to archaeological sites previously recorded and either listed as unevaluated or determined potentially eligible, eligible, or listed on the National Register of Historic Places within the right-of-way for the alternative rail alignments and the no-action alternative.

c. Analyze the potential impacts to historic structures or districts or archaeological sites identified by ground survey and determined potentially eligible, eligible, or listed on the National Register of Historic Places within or immediately adjacent to the right-of-way for the alternative rail alignments.

d. Evaluate the potential general impacts to paleontological resources in the project area due to project construction, if necessary and required.

e. Propose mitigative measures to minimize or eliminate potential project impacts to cultural and historic resources, as appropriate.

5. Subsistence

The EIS will:

a. Analyze the potential impacts of the project alternatives on subsistence activities in the project area.

b. Propose mitigative measures to minimize or eliminate potential project impacts on subsistence activities, as appropriate.

6. Air Quality

The EIS will:

a. Evaluate air emissions from rail operations, if the alternative would affect a Class I or non-attainment or maintenance area as designated under the Clean Air Act.

b. Describe the potential air quality impacts resulting from new rail line construction activities.

c. Propose mitigative measures to minimize or eliminate potential project impacts to air quality, as appropriate.

7. Noise and Vibration

The EIS will:

a. Describe the potential noise and vibration impacts during new rail line construction.

b. Describe the potential noise and vibration impacts of rail line operations over new and existing rail lines.

c. Propose mitigative measures to minimize or eliminate potential project impacts to sensitive noise receptors, as appropriate.

8. Energy

The EIS will:

a. Describe and evaluate the potential impact of the new rail line on the distribution and use of energy resources in the project area for each alternative, including petroleum and gas pipelines and overhead electric transmission lines.

b. Propose mitigative measures to minimize or eliminate potential project impacts to energy resources, as appropriate.

9. Transportation

The EIS will:

a. Evaluate the potential impacts of each alternative, including new rail line construction and operation, on the existing transportation network in the project area, including vehicular delays at grade crossings.

b. Describe existing road/rail grade crossing safety and analyze the potential for an increase in accidents related to the new rail operations, as appropriate.

c. Describe existing rail operations and analyze the potential for increased probability of train accidents, as appropriate.

d. Evaluate the potential for disruption and delays to the movement of emergency vehicles due to new rail line construction and operation for each alternative.

e. Propose mitigative measures to minimize or eliminate potential project impacts to transportation systems, as appropriate.

10. Navigation

The EIS will:

a. Identify existing navigable waterways within the project area and analyze the potential impacts on navigability resulting from each alternative.

b. Describe the permitting requirements for the various alternatives concerning navigation.

c. Propose mitigative measures to minimize or eliminate potential impacts to navigation, as appropriate.

11. Land Use

The EIS will:

a. Evaluate potential impacts of each alternative on existing land use patterns within the project area and identify those land uses that would be potentially impacted by new rail line construction.

b. Analyze the potential impacts associated with each alternative to land uses identified within the project area. Such potential impacts could include incompatibility with existing land uses and conversion of land to railroad uses.

c. Propose mitigative measures to minimize or eliminate potential impacts to land use, as appropriate.

d. Evaluate existing conditions and the potential impacts of the alternatives on recreational opportunities in the project area.

e. Propose mitigative measures to minimize or eliminate potential project impacts on recreational opportunities, as appropriate.

f. Identify and evaluate potential impacts to resources protected under the U.S. Department of Transportation (USDOT) regulation known as ''Section 4(f).'' (**Note:** The STB is an independent agency and is not subject to Section 4(f) requirements). 23 Code of Federal Regulations (CFR) 774 and 49 U.S.C. 303 mandate that the Secretary of Transportation shall not approve any

transportation project requiring the use of publicly owned parks, recreation areas or wildlife and waterfowl refuges, or significant historic sites, regardless of ownership, unless there is no prudent and feasible alternative to using that land, and the program or project includes all possible planning to minimize harm to the public park, recreation area, wildlife or waterfowl refuge, or significant site, resulting from that use. Because FRA is a USDOT agency, they could not provide funding for the project if the Board authorizes construction and operation of an alternative that requires the use of resources protected under Section 4(f) of the USDOT Act if there is a prudent and feasible alternative that does not use Section 4(f) resources, unless the use would result in *de minimis* impacts to Section 4(f) resources, which do not require avoidance.

Note: The Willow-Connector 1–Mac West alternative would traverse the Willow Creek State Recreation Area, Nancy Lake State Recreation Area, Little Susitna Recreation River, and Susitna Flats State Game Refuge. The Houston North Segment would cross the Little Susitna Recreation River. These recreation and refuge areas are all Section 4(f) resources and FRA funding for any rail line alternative affecting these resources could be prohibited.

g. Identify sites in the proposed project area that are known to or might have been contaminated by hazardous materials, identify sites that are regulated hazardous waste facilities, and describes the potential impacts of constructing and operating the proposed rail line on or near known hazardous materials and waste sites.

12. Socioeconomics

The EIS will:

a. Analyze the effects of a potential influx of construction workers and the potential increase in demand for local services interrelated with natural or physical environmental effects.

b. Propose mitigative measures to minimize or eliminate potential project adverse impacts to social and economic resources, as appropriate.

13. Environmental Justice

The EIS will:

a. Evaluate the potential impacts of each alternative, including construction and operation of the rail lines, on local and regional minority populations and low-income populations.

b. Propose mitigative measures to minimize or eliminate potential project impacts on environmental justice issues, as appropriate.

Cumulative Impacts

The EIS will analyze cumulative impacts for the alternatives for the proposed construction and operation of new rail facilities on the human and natural environment, or in the case of the no-action alternative, of the lack of these activities. SEA will analyze the potential additive effects of the proposed action and alternatives to the effects on applicable resources of relevant past, present, and reasonably foreseeable projects or actions in the area of the proposed action. SEA will determine appropriate time and geographic boundaries for applicable resource-specific analyses in order to focus the cumulative impacts analysis on truly meaningful effects. Resources addressed may include the categories of geology and soils, water resources including wetlands and other waters of the U.S., biological resources, cultural and historic resources, subsistence, air quality, noise and vibration, energy resources, transportation safety and delay, navigation, land use, socioeconomics as they relate to physical changes in the environment, and environmental justice. The EIS will review all relevant past, concurrent, and reasonably foreseeable actions that could result in collectively significant impacts to each of the categories of impacts listed above, and to any other categories of impacts that may be addressed as a result of comments received during the scoping process or the Draft EIS comment period.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Kulunie L. Cannon,

Clearance Clerk.

[FR Doc. E9–17018 Filed 7–16–09; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Office of Thrift Supervision

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities; Renewal of a Currently Approved Collection; Comment Request

AGENCIES: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); and Office of Thrift Supervision (OTS), Treasury.

ACTION: Joint notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the OCC, the OTS, the Board, and the FDIC (the agencies), may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The agencies have approved the publication for public comment the proposal to extend, without revision, the Advanced Capital Adequacy Framework information collection, which is a currently approved information collection. At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the agencies should modify the report. The agencies will then submit the report to OMB for review and approval.

DATES: Comments must be submitted on or before September 15, 2009.

ADDRESSES: Interested parties are invited to submit written comments to any or all of the agencies. All comments, which should refer to the OMB control number(s), will be shared among the agencies.

OCC: Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mail Stop 2–3, Attention: 1557–0234, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874–5274, or by electronic mail to *regs.comments@occ.treas.gov.* You may personally inspect and photocopy comments at the OCC, 250 E Street, SW., Washington, DC. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874–4700. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

Board: You may submit comments, which should refer to FR 4200, by any of the following methods:

- *Agency Web Site: http://www.federalreserve.gov.* Follow the instructions for submitting comments on the *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*

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

• *E-mail: regs.comments@federalreserve.gov.* Include FR 4200 in the subject line of the message.

• *Fax:* 202–452–3819 or 202–452–3102.

• *Mail:* Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP–500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

FDIC: You may submit comments, which should refer to ''Basel II Capital: Disclosures and Recordkeeping, 3064–0153,'' by any of the following methods:

• *http://www.FDIC.gov/regulations/laws/federal/notices.html.*

• *E-mail: comments@FDIC.gov.* Include ''Basel II Capital: Disclosures and Recordkeeping, 3064–0153,'' in the subject line of the message.

• *Mail:* Leneta G. Gregorie, Counsel, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

• *Hand Delivery:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m.

Public Inspection: All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal/notices.html* including any personal information provided. Comments may be inspected at the FDIC Public Information Center, Room E–1002, 3501 Fairfax Drive, Arlington, VA 22226, between 9 a.m. and 5 p.m. on business days.

OTS: You may submit comments, identified by ''1550–0115 (Risk-Based Capital Standards: Advanced Capital Adequacy Framework),'' by any of the following methods:

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

• *E-mail address: infocollection.comments@ots.treas.gov.* Please include ''1550–0115 (Risk-Based Capital Standards: Advanced Capital Adequacy Framework),'' in the subject line of the message and include your name and telephone number in the message.

• *Fax:* (202) 906–6518.

• *Mail:* Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention: ''1550–0115 (Risk-Based Capital Standards: Advanced Capital Adequacy Framework).''

• *Hand Delivery/Courier:* Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9 a.m. to 4 p.m. on business days, Attention: Information Collection Comments, Chief Counsel's Office, Attention: ''1550–0115 (Risk-Based Capital Standards: Advanced Capital Adequacy Framework).''

Instructions: All submissions received must include the agency name and OMB Control Number for this information collection. All comments received will be posted without change to the OTS Internet Site at *http://www.ots.treas.gov/pagehtml.cfm?catNumber=67&an=1,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.ots.treas.gov/pagehtml.cfm?catNumber=67&an=1.*

In addition, you may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment for access, call (202) 906–5922, send an e-mail to *public.info@ots.treas.gov,* or send a facsimile transmission to (202) 906–7755. (Prior notice identifying the materials you will be requesting will assist us in serving you.) We schedule appointments on business days between 10 a.m. and 4 p.m. In most cases, appointments will be available the next business day following the date we receive a request.

Additionally, commenters may send a copy of their comments to the OMB desk officer for the agencies by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW., Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: For further information about the revisions discussed in this notice, please contact any of the agency clearance officers whose names appear below.

OCC: Mary Gottlieb, OCC Clearance Officer, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

Board: Cindy Ayouch, Acting Federal Reserve Board Clearance Officer, (202) 452–3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may call (202) 263–4869.

FDIC: Leneta G. Gregorie, Counsel, (202) 898–3719, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

OTS: Ira L. Mills, OTS Clearance Officer, at *Ira.Mills@ots.treas.gov,* (202) 906–6531, or facsimile number (202) 906–6518, Litigation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

Proposal To Extend for Three Years Without Revision the Following Currently Approved Collection of Information

Title: Advanced Capital Adequacy Framework information collection.

For OCC

OMB Number: 1557–0234.

Frequency of Response: Annually and quarterly.

Affected Public: National banks and Federal branches and agencies of foreign banks.

Estimated Number of Respondents: 52.

Estimated Time per Response: Written implementation plan 14,650 hours; prior written approvals 520 hours; disclosures 400 hours.

Estimated Total Annual Burden: 809,640.

For Board

OMB Number: 7100–0313.

Frequency of Response: Annually and quarterly.

Affected Public: Banks and bank holding companies (BHCs).

Estimated Number of Respondents: 19.

Estimated Time per Response: Written implementation plan 13,268 hours; prior written approvals 1,009 hours; disclosures 36.25 hours.

Estimated Total Annual Burden: 113,793.

For FDIC

OMB Number: 3064–0153.

Frequency of Response: Annually.

Affected Public: Insured State nonmember banks, insured State branches of foreign banks, and certain subsidiaries of those entities.

Estimated Number of Respondents: 19.

Estimated Time per Response: Written implementation—6,270 hours; documentation—361 hours; systems

maintenance—530 hours; prior written approvals—320 hours; control, oversight and verification of systems—210 hours; disclosures—110 hours.

Estimated Total Annual Burden: 7,801.

For OTS

OMB Number: 1550–0115.

Frequency of Response: Annually.

Affected Public: Financial Institutions.

Estimated Number of Respondents: 3.

Estimated Time per Response: 4,000 hours.

Estimated Total Annual Burden: 12,000 hours.

General Description of Report: These information collections are mandatory: 12 U.S.C. 93a, 161, 3907–9 (OCC); 12 U.S.C. 1462, 1463, 1464, 1467, and 1828 (OTS); 12 U.S.C. 324 and 1844(c) Board); and 12 U.S.C. 1831(o) (FDIC). The written implementation plan and prior approvals are given confidential treatment (5 U.S.C. 552 (b)(8)).

Abstract: On December 7, 2007, the agencies issued the joint final rule titled Risk-Based Capital Standards: Advanced Capital Adequacy Framework (final rule) implementing a new risk-based regulatory capital framework for institutions in the United States. The final rule requires certain large or internationally active banks and bank holding companies (BHCs) to (1) adopt a written implementation plan, (2) update that plan for any mergers, (3) obtain prior written approvals for the use of certain approaches for determining risk-weighted assets, and (4) make certain public disclosures regarding their capital ratios, their components, and information on implicit support provided to a securitization. There are no required reporting forms associated with this information collection.

Request for Comment

Comments are invited on:

a. Whether the information collections are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

b. The accuracy of the agencies' estimates of the burden of the information collections, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collections 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.

Comments submitted in response to this notice will be shared among the agencies. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology as well as other relevant aspects of the information collection request.

Dated: July 10, 2009.

Michele Meyer,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

Board of Governors of the Federal Reserve System, July 13, 2009.

Jennifer J. Johnson,

Secretary of the Board.

Dated at Washington, DC, this 10th day of July, 2009.

Robert E. Feldman,

Executive Secretary, Federal Deposit Insurance Corporation.

Dated: July 10, 2009.

Deborah Dakin,

Acting Chief Counsel, Office of Thrift Supervision.

[FR Doc. E9–17056 Filed 7–16–09; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P; 6720–01–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Privacy Act of 1974; Systems of Records

AGENCY: Bureau of the Public Debt, Treasury.

ACTION: Notice of modification of privacy act system of records.

SUMMARY: The Bureau of the Public Debt (BPD) is publishing notice of a proposed modification of our Controlled Access Security System (Treasury/BPD.004) system of records, as required under the Privacy Act of 1974. The modification adds a new category of records maintained in the system and a new method of retrieving the records in the system.

DATES: Comments must be received no later than August 17, 2009. The proposed alteration will be effective August 26, 2009 unless BPD receives comments that result in BPD determining that the modification should not be made.

ADDRESSES: Submit comments to the Office of the Chief Counsel, Bureau of the Public Debt, 799 9th Street, NW., Washington, DC 20239–001. All comments, including attachments and other supporting materials, received are part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Amy Mertz Brown, Deputy Chief Counsel, Bureau of the Public Debt, (202) 504–3715, *Amy.Mertz.Brown@bpd.treas.gov* or Mary Schaffer, Attorney Advisor, Bureau of the Public Debt, (304) 480–8692, *Mary.Schaffer@bpd.treas.gov.*

SUPPLEMENTARY INFORMATION:

BPD proposes to modify our system of records entitled Controlled Access Security System (Treasury/BPD.004) to revise the ''Categories of Records'' to include biographic and biometric information. The records in this system cover BPD employees, employees of contractors and service companies, and official visitors. We control and verify access to our facilities. As part of the access control, we may obtain and use biographic information (name, addresses, date of birth, Social Security Number) and biometric information (fingerprints, digital color photograph, height, weight, hair/eye color) concerning individuals. We also propose to revise ''Retrievability'' to state that records in this system can be retrieved by the biographic and biometric information. BPD last published its systems of records in the **Federal Register** in their entirety on July 23, 2008, at 73 FR 42904.

We have submitted the report of an altered system of records to the Office of Management and Budget and to Congress, as required by 5 U.S.C. 552a(r) and Appendix I to OMB Circular A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals.''

BPD proposes to amend its system of records number Treasury/BPD.004 as follows:

Treasury/BPD.004

SYSTEM NAME:

Controlled Access Security System

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Description of change: Remove current entry and in its place add the following: ''A record is created for each physical access to designated areas and includes card number, work shift, access level, and the time, date and location of each use of the access card

at a card reader. The access record also includes the individual's biographic information (full legal name, date of birth, and Social Security Number) and biometric information (fingerprints, digital color photograph, height, weight, and eye/hair color).''

* * * * *

RETRIEVABILITY:

Description of change: Remove current entry and in its place add the following: ''Information on individuals can be retrieved by name or card number or other assigned identifier such as biometric or biographic information.''

* * * * *

Dated: July 13, 2009.

Elizabeth Cuffe,

Deputy Assistant Secretary for Privacy and Treasury Records.

[FR Doc. E9–17132 Filed 7–16–09; 8:45 am]

BILLING CODE 4810–39–P

TENNESSEE VALLEY AUTHORITY

Meeting; Sunshine Act

AGENCY HOLDING THE MEETING: Tennessee Valley Authority (Meeting No. 09–04).

TIME AND DATE: 3 p.m., July 21, 2009. TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, TN.

STATUS: Open.

Agenda

Action on the following New Business

1. Selection of Senior Vice President, Communications.

2. Kingston Report.

FOR MORE INFORMATION: Please call TVA Media Relations at (865) 632–6000, Knoxville, Tennessee. People who plan to attend the meeting and have special needs should call (865) 632–6000. Anyone who wishes to comment on any of the agenda in writing may send their comments to: TVA Board of Directors, Board Agenda Comments, 400 West Summit Hill Drive, Knoxville, Tennessee 37902.

Dated: July 14, 2009.

Maureen H. Dunn,

General Counsel and Secretary.

[FR Doc. E9–17141 Filed 7–15–09; 11:15 am]

BILLING CODE 8120–08–P

Federal Register

Friday,
July 17, 2009

Part II

Election Assistance Commission

Publication of State Plan Pursuant to the Help America Vote Act; Notice

ELECTION ASSISTANCE COMMISSION

Publication of State Plan Pursuant to the Help America Vote Act

AGENCY: U.S. Election Assistance Commission (EAC).

ACTION: Notice.

SUMMARY: Pursuant to sections 254(a)(11)(A) and 255(b) of the Help America Vote Act (HAVA), Public Law 107–252, the U.S. Election Assistance Commission (EAC) hereby causes to be published in the **Federal Register** changes to the HAVA State plans previously submitted by Massachusetts, New York, South Carolina, and Washington.

DATES: This notice is effective upon publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Bryan Whitener, Telephone 202–566–3100 or 1–866–747–1471 (toll-free).

Submit Comments: Any comments regarding the plans published herewith should be made in writing to the chief election official of the individual State at the address listed below.

SUPPLEMENTARY INFORMATION: On March 24, 2004, the U.S. Election Assistance Commission published in the **Federal Register** the original HAVA State plans filed by the fifty States, the District of Columbia and the Territories of American Samoa, Guam, Puerto Rico, and the U.S. Virgin Islands. 69 FR 14002. HAVA anticipated that States, Territories and the District of Columbia would change or update their plans from time to time pursuant to HAVA section 254(a)(11) through (13). HAVA sections 254(a)(11)(A) and 255 require EAC to publish such updates. This is the first revision to the State plans for Massachusetts, New York, and Washington and the forth revision to South Carolina's plan.

The revised State plans from Massachusetts, South Carolina, and Washington provide information on program accomplishments and address changes in the respective budgets to account for the use of Fiscal Year 2008 and 2009 requirements payments. The revised State plan from New York presents an updated framework for becoming compliant with Title III of HAVA and also updates the budget to account for full funding of requirements payments. In accordance with HAVA section 254(a)(12), all the State plans submitted for publication provide information on how the respective State succeeded in carrying out its previous State plan. The States all confirm that these changes to their respective State plans were developed and submitted to public comment in accordance with HAVA sections 254(a)(11), 255, and 256.

Upon the expiration of thirty days from July 17, 2009, the State is eligible to implement the changes addressed in the plan that is published herein, in accordance with HAVA section 254(a)(11)(C).

EAC wishes to acknowledge the effort that went into revising this State plan and encourages further public comment, in writing, to the State election officials listed below.

Chief State Election Officials

The Honorable William Francis Galvin, Secretary of the Commonwealth of Massachusetts, One Ashburton Place, Room 1611, Boston, Massachusetts, Phone: (617) 727–7030, Fax: (617) 742–4528.

Messers. Stanley L. Zalen and Todd D. Valentine, Co-Executive Directors, New York State Board of Elections, 40 Steuben Street, Albany, New York 12207–2108, Phone: (518) 474–6336, Fax: (518) 474–1008.

Ms. Marci Andino, Executive Director, South Carolina State Election Commission, P.O. Box 5987, Columbia, South Carolina 29250, Phone: (803) 734–9060, Fax: (803) 734–9366.

Honorable Sam Reed, Secretary of State, Legislative Building, P.O. Box 40220, Olympia, Washington 98504–0220, Phone: (360) 902–4151, Fax: (360) 664–4619.

Thank you for your interest in improving the voting process in America.

Dated: July 7, 2009.

Thomas R. Wilkey,

Executive Director, Election Assistance Commission.

BILLING CODE 6820–KF–P

HELP AMERICA VOTE ACT

AMENDED STATE IMPLEMENTATION PLAN

NEW YORK STATE BOARD OF ELECTIONS

Version 5-20, 2009

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New York State HAVA State Plan Introduction

For the first time in the history of the United States, the federal government has committed to sweeping election reforms which enhance the voting process in this country. The Help America Vote Act of 2002 (HAVA), requires all states to meet minimum standards for voting systems and for the administration of the electoral process, from voter registration to the casting of the ballot.

HAVA is the result of 18 months of negotiations between congressional representatives and members of the elections community, advocates for persons with disabilities, and members of ethnic and language minority groups. The problems surrounding the 2000 Presidential election were the catalyst for this legislation. In order to guarantee the intended results, HAVA leaves very little discretion to the states in enacting the changes mandated by the legislation. For example, while states may decide which voting system(s) it wishes to use, the system selected must meet the stringent minimum standards set out in the federal legislation.

The implementation of HAVA in New York State required several changes which would improve the conduct of elections and our voter registration procedures. Among the major changes required by HAVA are:

- replacement of 19,843 lever machines used in 15, 571 election districts in the November 2000 election with voting system which increase the accessibility for persons with disabilities; provides alternate language accessibility as required by the Voting Rights Act of 1965; and gives all voters an opportunity to assure the accuracy of their vote before it is cast;
- establishment of a single, interactive computerized statewide voter registration list, maintained by the state, which will enable the elimination of duplicate registrations;
- verification of voter identification information, enhancing New York's ability to maintain complete and correct voter registration lists;
- creation of a state-based administrative procedure for hearing and resolving citizen complaints involving violations of HAVA provisions, and
- use of provisional ballots.

HAVA provides significant federal funding for the many mandates placed upon the states, including replacement of lever machines and punch card voting devices, the training of election officials and workers, the education of the general public, and the creation of a statewide voter registration system. The statute requires each State intending to use these funds to apply for and certify that the funds will be used for the purposes outlined in the statute. Additionally, the law requires the submission of a plan which outlines how the State will use the funds to meet the requirements of the law, and how it will monitor and disperse those funds. The procedures for developing the State Plan, as well as the contents of the plan, are set out in detail in the statute.

Because federal money was appropriated in FY2003, New York submitted its plan before the end of that fiscal year to ensure our fair share of federal money. New York met the requirements of HAVA through the development of the initial State Plan with the input of the HAVA Task Force. The Task Force participated in five public meetings, where an open discussion between

members and the public ensued Issues were discussed and alternative methods for resolving those issues were explored. Ultimately the State's Chief Election Official prepared and submitted the Plan which articulated the priorities for the State in implementing HAVA.

This Amended State Plan includes the participation of a newly constituted Task Force. It provides a framework within which the State of New York will continue to work to meet the statutory requirements of HAVA. That framework includes goals and a time frame for meeting them, as well as standards for determining the success of our progress. While this plan provides the framework to allow New York access to its fair share of federal money, it is not intended to provide definitive answers to all of the questions which need to be addressed for the implementation of HAVA. The Amended Plan sought to update the original Plan, recognizing that ongoing discussions and decisions in New York are needed to fully implement this important piece of legislation. The Chief Election Official is committed to engaging in these discussions with all interested parties, as has been done throughout this process.

Outline of the State Plan

Section 254 of the Help America Vote Act of 2002 outlines the required elements for the State Plan. New York's State Plan follows the 13 subsections found in Section 254 and uses them as a series of questions which the State Plan then addresses in detail.

The State Plan contains a description of each of the following:

Section (1): How the State will use the requirements payment to meet the requirements of title III; (Voting Systems Standards (§301); Provisional Voting and Information Requirements (§302); Computerized Statewide List and Voters who Register by Mail (§303), and to carry out other activities to improve the administration of elections.

Section (2): How the State will distribute and monitor the distribution of the requirements payment to units of local government or other entities in the State for carrying out the activities described in Section (1), including a description of:

– The criteria to be used to determine the eligibility of such units or entities for receiving the payment; and

– The methods to be used by the State to monitor the performance of the units or entities to which the payment is distributed, consistent with the performance goals and measures adopted under Section (8).

Section (3): How the State will provide for programs for voter education, election official education and training, and poll worker training which will assist the State in meeting the requirements of Title III.

Section (4): How the State will adopt voting system guidelines and processes which are consistent with the requirements of Section 301.

Section (5): How the State will establish a fund for the purposes of administering the State's activities under this part, including information on fund management.

Section (6): The State's proposed budget for activities under this part, based on the State's best estimates of the costs of such activities and the amount of funds to be made available, including specific information on:

– The costs of the activities required to be carried out to meet the requirements of Title III;

– The portion of the requirements payment which will be used to carry out activities to meet such requirements; and

– The portion of the requirements payment which will be used to carry out other activities.

Section (7): How the State, in using the requirements payment, will maintain the expenditures of the State for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the State for the fiscal year ending prior to November 2000.

Section (8): How the State will adopt performance goals and measures that will be used by the State to determine its success and the success of units of local government in the State in carrying out the plan, including:

– Timetables for meeting each of the elements of the plan;

– Descriptions of the criteria the State will use to measure performance and the process used to develop such criteria; and

– A description of which official is to be held responsible for ensuring that each performance goal is met.

Section (9): A description of the uniform, nondiscriminatory state-based administrative complaint procedures in effect under Section 402.

Section (10): If the State received any payment under Title I, a description of how such payment will affect the activities proposed to be carried out under the plan, including the amount of funds available for such activities.

Section (11): How the State will conduct ongoing management of the plan, except that the State may not make any material change in the administration of the plan unless the change:

– Is developed and published in the Federal Register in accordance with Section 255 in the same manner as the State Plan;

– Is subject to public notice and comment in accordance with Section 256 in the same manner as the State Plan; and

– Takes effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register.

Section (12): In the case of a State with a State Plan in effect under this subtitle during the previous fiscal year, a description of how the plan reflects changes from the State Plan for the previous fiscal year and of how the State succeeded in carrying out the State Plan for such previous fiscal year.

Section (13): A description of the committee which participated in the development of the State Plan in accordance with Section 255 and the procedures followed by the committee under such Section and Section 256.

Section 1: How the State Will Use the Requirements Payment

OBJECTIVE:

Describe how the State will use the requirements payment to meet the requirements of Title III (Voting Systems Standards (§301); Provisional Voting and Information Requirements (§302); Computerized Statewide List and Voters who Register by Mail (§303)), and to carry out other activities to improve the administration of elections.

GOAL:

The Help America Vote Act of 2002 (HAVA), Public Law 107-252, establishes minimum election administration standards for states. It specifically requires the State of New York to:

- Replace all lever machines and punch card voting devices used by counties for elections;
- Certify new and existing voting systems according to national standards;
- Improve voting equipment accessibility, to include physical and language accessibility;
- Enhance existing provisional voting system requirements;
- Establish a statewide complaint system;
- Provide training for election officials and poll workers;
- Increase voter education for new voting systems; and,
- Create a new uniform statewide voter registration list.

PRESENT STATUS:

The State of New York continues to face significant challenges in upgrading its voting systems, but despite the difficulties encountered with the certification process, New York continues to pursue voting system certifications that are commensurate with the degree of testing New York feels is necessary to ensure the goals of HAVA The selection of a new voting system was directed by the State Legislature to rest with each County Board of Elections, to ensure that local needs which are best understood by local election administrators, are met. Uniformity across New York will be achieved through specific regulations which govern the use, deployment, storage and maintenance of our new voting systems. Other state statutes and rules and regulations continue to cover topics surrounding elections, including: voter identification; voting system certification; what constitutes a vote; election official and poll worker training;

alternative language requirements; uniform provisional ballot procedures; procedures for military and absentee ballots; and tabulating and reporting of votes cast. The State continues to be in compliance with the National Voter Registration Act of 1993, and therefore already has sound procedures for voter registration and maintenance of the voter registration rolls, though the performance of list maintenance tasks becomes easier with the creation and use of the state-wide voter registration list. The State will continue to provide outreach to enhance voter registration.

PROPOSED PLAN:

- **Voting Systems Standards (§301)**

In 2006, the State Board of Elections certified five ballot marking devices to serve as an interim solution to provide access for voters with disabilities. As mentioned elsewhere in this Plan, a copy of the Federal Court Order, which New York was subject to at that time, is attached. Compliance with the order required the placement of at least one such ballot marking device in each county, though counties could provide more access than just a single device for their entire county if they so chose. Rules for the use of these interim systems, and the manner in which ballots would be cast and canvassed, were adopted. As New York's efforts at obtaining full certification for lever replacement voting systems were abruptly halted in 2007 due to significant deficiencies in the certification testing effort, the interim certification of ballot marking devices was extended. Another significant change in the realm of voting systems was the transfer of the ownership of voting systems from each of New York's cities, towns, and villages, to each respective County Board of Elections. Prior to this change in statute, only the Boards of Elections of the City of New York and in the counties of Monroe, Nassau and Suffolk, owned their own the voting machines. In the federal election of November 2000, there were 15, 571 election districts in New York State. With the exception of voters in 30 election districts, the vast majority of voters in those districts voted on one of the 19,843 lever machines in use at that time. Absentee voting systems are owned by the local boards, and in 2005, in compliance with HAVA, the State Legislature banned punch card absentee systems, which reduced the number of certified absentee systems from three, to one – that one being an optical-scan absentee system. At present, ten counties and all five boroughs constituting the City of New York, use the op-scan absentee voting system.

New York successfully established a procurement effort which required that new, interim certified ballot marking devices be purchased by county boards, said ballot marking devices being an eventual component of a complete lever machine replacement program, The 2008 procurement effort, in compliance with a new Federal Court Order (attached) placed a ballot marking device in each polling place in the State of New York. This newest program of compliance will ensure that voting accessibility standards for persons with disabilities are better met.

The State Legislature has provided for the appointment of a Citizens' Advisory Committee, charged to assist the State Board in its voting system certification program, with a focus directly on the ability of systems seeking certification to meet the needs of voters with a variety of disabilities. This committee, known as CEMAC – Citizens' Election Modernization Advisory Committee- has participated in the review of interim ballot marking devices, and awaits further

progress in the certification of lever-replacement voting systems. In further enhancing accessibility, the State has engaged in statewide efforts to ensure that polling places and voting systems are fully accessible. The State has accomplished this task through interactive education and training programs. These efforts are discussed elsewhere in this plan.

To ensure that HAVA reform is sustained, the State Board will also extend current reporting requirements to gauge performance of county election officials. These reports will continue to be the foundation for determining the need for any modifications required in State law, the State Board's regulations or in recommended best practices.

To meet these efforts, the State Board has and will continue to incur administrative costs associated with the coordination, planning, operations and reporting on this voting system conversion program. In addition, the State Board has expanded its voting system certification efforts and will be engaged in election official training programs.

- **Provisional Voting and Information Requirements (§302)**

  - **Provisional Voting**

Provisional ballots, called affidavit ballots in New York, were already provided for in state statute, long before the passage of HAVA. These ballots are a fail-safe option for voters whose names do not appear in a poll book, or for those who have moved but not yet notified their respective board of elections. In Primary elections they are also available to voters whose stated enrollment does not match the enrollment specified in a poll book. Affidavit ballots which are researched and determined to be valid by the county Election Commissioners, will be canvassed, and the information provided on the envelope in which the voted affidavit ballot was placed, will be used to update respective voter records. Statute requires that county boards of elections send a notice, and a registration form to each person who casts an affidavit ballot which was deemed invalid and was thus, not canvassed.

New York has enhanced existing statutory requirements for provisional (affidavit) ballot voting, to encompass offering said ballot to those voters for whom identification must be provided at the time one votes, but who fail to present identification.

Additionally, New York's affidavit ballot envelope has been amended to allow a voter to reflect the additional, ID-related reason for casting an affidavit ballot. New York's NOTICE TO VOTERS has also been amended to reflect the availability of an affidavit ballot for resolution of an ID-related scenario.

  - **Information Requirements**

1–800-458-3453 is the State Board's toll free HAVA Administrative Complaint information line. It implements the initial call-in element of the statewide complaint procedure. The statewide complaint procedure allows for the comprehensive coordination of response by the State Board and county election officials, with the initial complaint inquiry handled by phone call, and with progression to a written process when needed.

The State Board has developed a "Voter's Bill of Rights", which is required to be prominently posted in each polling place. The poster describes: information regarding the hours during which polling places will be open; instructions on how to vote, including how to cast a vote and when and how to cast a provisional ballot; general information on voting rights under applicable Federal and State laws, including information on how to contact the appropriate election officials if these rights are alleged to have been violated; and general information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation.

- **Computerized Statewide List, Voters who Register by Mail and Voter Identification (§303)**

  - **New York Voter Registration List**

The State Board has implemented a statewide voter registration list. The State Board's goal has been to meet the requirements of HAVA while maintaining the current level of election services at the local level, and at the same time enhancing the administration of voter registration and the election process for the citizens of New York. Working with the county boards of election, the State Board has defined functional requirements, and the roles and responsibilities of carrying out the functions of voter registration to enhance the operations of these offices. In order to comply with the requirements of Title III of HAVA, the State Board implemented, in a uniform and non-discriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list.

Pursuant to the State Constitution, Article II, §6, a voter's registration is valid as long as the voter resides in the jurisdiction where he/she is registered. There are 62 county boards of elections which have responsibility for the registration of voters in their respective counties. One central board of elections serves the City of New York, with offices in each of the five boroughs (counties). Each board is responsible for, among other things: keeping the registration list accurate and current; removing individuals who are no longer eligible to vote in their jurisdiction; and notifying voters of the dates and times of all elections and the location of their polling place. The voter registration list maintained by the county boards is also used by school districts, villages, towns and other special districts for their particular elections.

In 2005, the New York State Legislature amended the State Election Law to implement the requirements of HAVA pertaining to the statewide voter registration list. The statute also required that the State Board of Elections create the statewide list by integrating with the current county voter registration systems, creating a "bottom-up" system.

In December of 2005, the Commissioners of the State Board of Elections decided to use the voter registration system developed in the State of Washington as a model. The State Board of Elections arranged for the transfer from the State of Washington to New York of the voter registration system code and documentation. In 2006, New York contracted with Saber Corporation to perform the system modifications to make the Washington model meet New York's needs.

Using the basic design model from the Washington solution, New York and Saber redesigned the system to meet New York's requirements, including the significantly larger number of voters to be supported by the system. Additional and more robust technology was incorporated to address the number of transactions anticipated in New York.

The statewide voter registration list, NYSVoter, was fully implemented in the summer of 2007. NYSVoter was developed on a Microsoft platform, using Microsoft SQL Server 2005 as the database engine, while employing MSBizTalk to handle messaging between systems using Extensible Markup Language (XML). All county-based voter registration systems are now able to communicate with the NYSVoter over a secure, encrypted virtual private network (VPN).

Local Voter Registration/Election Management Systems (VR/EMS) use the VPN to transmit XML packets containing new voter registrations, updates to voters, global updates and audit requests to NYSVoter, and receives messages for processing in near real time. In the event that there is a break in the communication line, both the local interface and the NYSVoter interface are designed to hold the messages in a queued state until communication is reestablished, thus allowing uninterrupted work flow on both ends.

For voter applicants, for whom identification is required, and who have provided a DMV client ID number, or the last four (4) digits of their Social Security Number (SSN), NYSVoter communicates with DMV in near real time and relays verification results back to the local VR/EMS system.

Where the voter identification information is able to be confirmed, the county board accordingly updates the record indicating whether or not the ID requirement has been met. The process to verify SSNs consists of DMV confirming that information through the American Association of Motor Vehicle Administrators (AAMVA) to the Social Security Administration, and receiving appropriate responses. Records that cannot be verified due to communication errors are re-sent nightly in a batch file, until they are positively or negatively verified.

NYSVoter performs a statewide matching of potential duplicate voters, and also matches voter information against felon and death records provided by New York State's Office of Court Administration and the Department of Health. In order to perform these list maintenance tasks, a secure web site is provided where local election officials can access the information and take appropriate steps to update voter records. Local election officials can also query the statewide list and create reports. Potential felon records shall be revised on at least a monthly basis, to ensure updated and accurate voter list maintenance is performed.

NYSVoter provides the public with an opportunity, through a web-based link, to review their voter registration information and locate their designated polling place. An added feature is the ability to print a map with directions to their polling place.

(ii) Voters who Register by Mail and Voter Identification

HAVA's identification requirements are accomplished, in the first instance, via the verification of an applicant's NY Department of Motor Vehicles client ID number (driver's

license or non-driver ID issued by DMV), or the verification of the last four digits of their social security number when no DMV client ID is provided. If an applicant's ID cannot be verified via the interactive and real-time process now enabled by the functionality of New York's statewide database, the voter may provide alternative forms of identification such as a current and valid photo id or a copy of a current utility bill, bank statement, government check, paycheck or government document that shows the name of the voter.

If a voter's verification status is initially not able to be confirmed, the County Board shall conduct a visual inspection of the voter's registration form to ensure no data entry or other errors were made before the verification process can continue. Only once this visual check has been made can a County Board determine a voter is unverified. If no errors were made follow-up mail to the applicant is provided for in New York's Election Law and State Board regulations to notify the voter as to the status of their id verification and to request id verification information when the county board is unable to complete verification activities. If a county board of elections receives no response to such mailings, ID must be presented prior to the voter casting their vote on a voting machine. New York remains committed to minimizing the number of persons required to provide ID when they vote. Towards that end, county boards are encouraged to contact those voters more than once, prior to election day, to remind voters to submit identification information, and advising them of election day resolution options.

New York's registration system vendors, in cooperation with the State Board and their respective county board customers, have developed a method of election day notification to election day workers and voters of ID issues. New York currently provides for a voter to sign in when they vote, in a designated box which appears next to a facsimile of their signature, in digitized poll books. These poll books can now display a message in the election day signature box, indicating to the inspector that the voter must provide ID prior to voting, on a voting machine and also provides space for a notation by the inspectors that the ID requirement has been met. Voters who were 'flagged' as having to provide such ID on election day, but did not do so, may cast an affidavit ballot. Inspectors are provided with a list of acceptable forms of identification, and a Voter's Bill of Rights, to assist them in serving these voters.

New York State is required to prepare a statewide election inspector training curriculum and training materials. The on-line training, materials, handbooks, and companion interactive training components of New York's training initiatives have all been updated with information relative to election day ID issues and possible solutions.

- **Voting Equipment Accessibility**

Improving voting equipment accessibility, as required by HAVA, includes accessibility for individuals with disabilities and alternative language accessibility as determined in HAVA and the Voting Rights Act of 1965. The measure of success for both elements is the successful acquisition and deployment of accessible voting machines following their certification.

The State Board continues to encourage and fund private-public partnerships and co-operative training program development and delivery wherever possible to enhance the voting

participation of all voters with disabilities in coordination with the Help America Vote Foundation established by HAVA. While beyond the scope of this State Plan, activities of such groups may be incorporated into performance reporting to complement physical accessibility goals.

County reports on poll site accessibility include data from on-site inspections of polling places, the number of polling places that are accessible, and continue to include data on measures which may be taken to bring inaccessible polling places into compliance. Beginning in 2005, the responsibility to designate and inspect poll sites for accessibility was transferred from cities and towns, to county boards of elections. This transition will help ensure monitoring and more uniform methods of addressing physical accessibility in the polling place. Success will be measured by compliance with the federal and state laws and regulations on physical accessibility.

- **Alternative Language Accessibility**

The State's goal is to provide language access that is in compliance with Section 203 of the Voting Rights Act of 1965. The State Board and the counties so designated will provide the requisite language throughout the entire election process, from voter registration to casting the ballot.

- **State Board Administrative Complaint Procedure**

The State Board has established and is maintaining a statewide HAVA Administration complaint procedure, addressing all areas from initial inquiry relative to a complaint through potential Alternative Dispute Resolution. The Board is working with an Alternative Dispute Resolution Agency (ADRA) relative to the HAVA complaint procedures at the Board, and the requirements that apply to the ADRA function. The Board has educated county election boards by way of providing written procedures and in person discussion of procedures for those boards to follow in addressing a HAVA complaint. Measurement of the success of the statewide procedure will be based on the experience of the voter as well as a number of points of information: total number of complaints received, the number of complaints resolved, the number of complaints resolved within the mandated time frame, and the reason the complaint is not resolved within the mandated time frame.

Section 2: How the State will Distribute and Monitor Requirements Payments

OBJECTIVE:

Describe how the State will distribute and monitor the distribution of the requirements payment to units of local government or other entities in the State for carrying out the activities described in Section (1), including a description of:

(A) the criteria to be used to determine the eligibility of such units or entities for receiving the payment; and

(B) the methods to be used by the State to monitor the performance of the units or entities to which the payment is distributed, consistent with the performance goals and measures adopted under Section (8).

GOAL:

To have the State Board centrally manage initiatives funded by requirements payments for the purpose of maintaining uniformity of voting equipment purchases and other expenditures.

PRESENT STATUS:

Prior to HAVA, the State of New York did not provide any funding to county boards of elections. Currently, NYSBOE administers several grant programs to the county boards of elections. These programs reimburse the county boards of elections for actual approved expenses for voter education and poll worker training services based on an allocation formula set by the State Legislature. New York successfully established a procurement effort which provided for the purchase by county boards of HAVA compliant voting systems.

PROPOSED PLAN:

The State Board administers the resulting contracts and disbursements consistent with state budget plan described in Section 6 of this plan. The commitments under Title III will be based on federal and state funds deposited in the state election fund.

Funds were allocated by the State Legislature based on availability and the priorities established in this State Plan, proportional to county voter registration statistics as of December 31, 2004. County boards of elections submitted their county budgets that contain the 2000 election cycle maintenance of effort, to establish baseline amounts for efforts already in practice. Allowable expenditures beyond the maintenance of effort will be coordinated with statewide efforts.

For purchases made pursuant to the statewide procurement explained elsewhere in this Plan, counties access their apportioned HAVA funds for this purpose by submitting requisitions to New York State's Office of General Services (OGS), which manages the State's voting system

contracts. Counties may purchase voting systems, election management systems, system peripherals, disability access devices and accessories, and other items such as support services, training, and privacy booths.

Purchase orders are subsequently processed and vendors are paid directly by OGS on each county's behalf. The State Board of Elections will develop a program to reimburse counties for allowable expenses incurred in the furtherance of federal elections, using any remaining HAVA funds after certification is provided which attests to the State's compliance with Title III of HAVA.

The performance measures detailed in Section 8 of this State Plan will be used to evaluate participation and effectiveness of disbursements. Monitoring performance measures will be completed during the filing of detailed reports required by the State Board. The reports will include specific data to disclose each county's performance as it relates to the implementation of HAVA.

Section 3: Voter Education, Election Official and Poll Worker Training

OBJECTIVE:

Describe how the State will provide programs for voter education, election official education and training, and poll worker training which will assist the State in meeting the requirements of Title III.

GOAL:

The goal of providing voter education has always been foremost with the State Board, as well as with county boards of elections. The State Board views education of the voter as a key component in the entire election process. Voter education is particularly important in the implementation of HAVA which includes the introduction of new voting systems. The State anticipates devoting significant resources available under HAVA to voter education efforts. The proposed Plan delineated below provides initial components of a voter education program necessary to successfully implement HAVA in New York. Additionally, New York recognizes the value of and intends to develop a uniform, statewide comprehensive training program for poll workers and election officials.

PRESENT STATUS:

The county boards of elections administer local, county, state and federal elections. They recruit, hire and train election inspectors and voting machine custodians. Local election officials administer their own training for staff and poll workers. The State Board provides each county with a "Guide to Operating a Board of Elections" for training of board staff. The State Board supplies county boards with Election Inspector Handbooks for use in their training and on

election day. The State Board supplies local boards of elections with educational brochures for the public on various aspects of the voting process. Voting system vendors are required to provide training for election officials, voting machine custodians and election day workers, as part of their contractual obligations.

The State Board takes pride in the working relationship it has with the county boards of elections. The Board has been successful in launching new forms and procedures, due to its policy of empanelling focus groups of election commissioners, who assist in evaluating all aspects of the concept or form being discussed. Additionally, the State Board includes other experts, such as postal officials, literacy and forms experts, and others who lend their skills and talents to the discussion and production phases of these efforts. The State Board intends to continue to utilize all the expertise available to it, to ensure a full analysis of any initiative and/or any forms which are a result of that initiative.

The State Board continues to be committed to effective election official and poll worker training which will result in positive voter experiences and fair and orderly elections. All poll workers must and will be trained in new procedures and will receive essential hands-on training in the operation of new voting equipment. Significant HAVA resources will be devoted to the training of poll workers which now must be provided annually, and election officials to ensure the successful introduction of new voting systems and procedures in New York. Poll worker training is essential to the successful implementation of HAVA in New York State. Each inspector should be provided with sufficient knowledge and information to become proficient at performing their duties in the election process.

The State Board of Elections includes in its mandatory core curriculum for poll worker training, the rights of voters at the polls and obligation of election workers to protect those rights while maintaining the integrity of the franchise. This mission includes assisting voters with disabilities (disability etiquette), operation and use of voting systems including Ballot Marking Devices and those with limited or no proficiency in the English language. This curriculum also addresses handling, processing and entitlement to ballots, including affidavit and emergency ballots, proper identification requirements, procedures to be followed with respect to voters whose names are not on the list of registered voters or whose identities have not been verified, electioneering and other violations of the elective franchise as defined in this chapter, solicitation by individuals and groups at the polling place and procedures to be followed after the polls close. Each prospective election day worker must complete a course of instruction and pass a written test before being appointed by the County Board to serve as a poll worker.

PROPOSED PLAN:

- State-level Voter Education and Poll Worker Training:

In 2007, the State Board selected a company to design and implement a web-based, accessible and interactive Voter Education program as well as a Poll Worker Training program that may be utilized in all counties. This program is provided at no additional expense to the counties. Our selected solution provider, SOE Software (SOE), has completed the development of each program.

The instructional material included in the training and education programs provide for a uniform and nondiscriminatory treatment of voters in determining: a) who is offered a provisional ballot, b) whose provisional ballots are counted, c) who may provide assistance to voters in the polling booth, d) the availability of language assistance, if required, including translated ballots and materials, and interpreters, e) which voter is asked for identification at the polls, f) what forms of identification are accepted at the polls to allow a voter to cast their ballots on the regular voting system, g) affidavit voting, and h) how voter education requirements are carried out. Further, the instruction materials address the use of the new voting machines, sensitivity in dealing with voters with disabilities, first time voters, the elderly, voters entitled to language assistance and those voters with accessibility issues.

The voter education program was completed in August 2008 and can be accessed at www.VOTE-NY.com. Information is available to the public on the use of voting systems available in their community as well as information on how to use such equipment in an election. All material and content is provided in written format that is able to be recognized by screen readers and the font size may be adjusted by the viewer. Audio instruction is also provided with closed captioning information.

The poll worker training program was completed in September 2008 and it provides a uniform statewide curriculum for use by county boards of elections to train poll workers in the use of their respective voting systems, and other election day requirements, as well as instruction on meeting alternative language and voter access needs. A county-level poll worker training manual was developed in both a student's edition as well as an instructor's edition. Also a county-level administrator manual was developed and county board of elections designated staff members were trained through a series of regional training sessions conducted in 2008.

In addition to the online voter education program and the poll worker training program, the State Board provided CD copies of the education and training material for use by county boards of elections in providing education and instruction programs when internet access is not available.

The State Board provides through this statewide training process, the same procedures that are used in all polling places.

The State Board is working with voting system vendors to enhance and deliver required training programs on the web and with companion training manuals to election officials, voting machine custodians, Election Day workers and voters.

The State Board has developed and begun to deliver a voter outreach/education campaign, via media to every registered voter, with information on the use of new voting machines and election day processes. Information material is provided in written and audio formats in all of the required languages and the font sizes may be adjusted. Further, online content may be translated to audio by use of a screen reader. Outreach efforts shall include ample opportunities for voters to become familiar with new voting machines. The provision of the education outreach material via the web facilitates access by a wide range of individuals and organizations

such as schools, community groups, libraries, government agencies, television, radio, and links with other websites.

The State Board continues exploring new and innovative poll worker recruitment programs, including the utilization of the "Help America Vote College Program."

Each county board of elections is urged to have a website that provides information and which links voters to comprehensive, useful and downloadable election information and forms. The State Board will develop a model website which would be available for utilization by county boards of elections.

- County-level Voter Education and Poll Worker Training:

In 2006, the State Board developed general and specific guidelines for use by county boards of elections to access a portion of the requirements money to develop and implement county-based voter education and poll worker training programs. These guidelines, copy attached, provide tips, reminders and practical recommendations, and are intended to bolster public confidence in the election process. They provide guidance to election administrators on methods for keeping the voting process secure while ensuring that every eligible voter can cast a vote and have that vote counted. Each county board of elections, and in the City of New York, the Board of Elections in the City of New York, may be reimbursed for actual expenses made based on approved vouchers for education and training services completed in accordance with a written plan.

Section 4: Voting System Guidelines and Processes

OBJECTIVE:

Describe how the State will adopt voting system guidelines and processes which are consistent with the requirements of Section 301.

GOAL:

New York intends to replace all lever voting machines used in the state, which numbered 19,843 at the 2000 Presidential Election, with voting systems which are HAVA-compliant. ,

New York is currently under a federal court order, which has two main focus points. In 2008, New York provided voters with disabilities the opportunity to vote and verify their ballot selections independently and privately. This was being accomplished via the certification, delivery and use of at least one ballot marking device in each polling place in the State of New York. The second focus of the order is to provide for complete lever replacements throughout the state, no later than the 2009 Primary election. Details of the Order of the court are found elsewhere in this document, and a copy of the order itself can be found in the Appendix.

New York has replaced its two remaining county-based punch-card, absentee voting systems.

PRESENT STATUS:

- The State Board worked with and through the State's Office of General Services, and with its consultant. New York State Technology Enterprises Corporation (NYSTEC) to develop procurement documents, review proposals and select an independent testing facility to conduct certification testing.

- The State Board, as directed in statute, worked with and through the State Office of General Services to develop procurement documents, develop a corresponding contract, and participated in negotiation sessions which brought voting system vendors into the certification process.

- The State Board of Elections has incorporated the 2005 Voluntary Voting System Guidelines into its own voting system requirements, as Part 6209 of NYCRR. These regulations and its companion sections of Election Law, address issues of accessibility, secrecy, prevention of over votes, notification of under votes, review of one's ballot prior to casting, and the accurate counting of every vote cast.

- New York's voting system certification program is accomplished within the State Board's Election Operations Unit, in consultation with its independent testing consultant, NYSTEC.

- New York statute defines what constitutes a vote. The statute now has companion regulations, known as NYCRR Part 6210, which further define what constitutes a vote.

- The State Board has developed in regulation, Part 6209, a method to review and decertify voting systems that no longer meet the requirements of New York's statute and regulations.

- The performance of logic and accuracy tests is required before each election, and is conducted at the county level, pursuant to formulas and procedures developed and distributed by the State Board, thus ensuring accurate ballot configuration and consistent correct vote counts for all offices, and uniformity throughout the state. Draft procedures have been developed to ensure tasks match the new voting technologies to be used in New York.

- Current statute and regulations require the conduct of an acceptance test on each piece of voting equipment purchased in the State, prior to its use. For the ballot marking devices required for compliance with the federal court order, acceptance testing was being conducted centrally, in Albany, New York. County Board personnel have been present at testing, when counties so choose to participate. At the conclusion of successful acceptance testing, voting systems were re-packed by vendor representatives and shipped

to respective county boards of elections, however, counties may opt to pick-up their own ballot marking devices.

PROPOSED PLAN:

- The State Board will continue to work with county election officials to ensure that ballot marking devices and all companion peripherals are purchased, acceptance tested and deployed.
- The State Board will continue to work with county election officials, to ensure that fully-compliant lever replacement voting systems are purchased, acceptance tested and deployed throughout the State, once such replacement voting systems have been certified.
- The State Board will develop procedures to facilitate the review and decertification of systems that no longer meet adopted Voting System Standards, as provided for in regulation.

PERFORMANCE GOALS AND MEASURES: (also repeated in Section 8)

- Replacement of lever voting machines and punch card voting devices.

New York has undertaken a statewide effort to facilitate replacement of voting systems in counties where lever machines are used. The procurement effort will also ensure that voting accessibility standards for persons with disabilities and language minority voters are met. This effort will comply with all state procurement rules and laws. The measure of success is the replacement of all lever machines and punch card voting devices.

New York State initially charged the purchase of new voting equipment to Title II, Section 251 funds pending passage of federal legislation which would extend the timeframe within which NYS could use Title I, Section 102 funds. With the recent passage of the Government Appropriation Act of 2009 (Public Law 111-8, specifically Section 625 42 USC 15302), and as Title II funds are available for all HAVA related expenses, it is now possible to appropriately charge the voting equipment previously purchased to replace lever voting machines to Title I, Section 102 funds which is for the specific purpose of replacement of lever voting equipment.

Section 5: How the Election Fund will be Established and Managed

OBJECTIVE:

Describe how the State will establish an Election Fund for purposes of administering the State's activities under this part, including information on fund management.

GOAL:

To establish a state fund for the purposes of administering the receipt and distribution of funds under HAVA.

PRESENT STATUS:

The Legislature established a separate appropriation, which is the basis for our certification under Section 253(b) of HAVA, with regards to the five (5%) percent matching funds.

An appropriation was included in the Fiscal Year 2005-2006 Executive Budget, and it was reauthorized in each consecutive Fiscal Year since then, ensuring that the appropriation continued to be available.

PROPOSED PLAN:

There were no funds appropriated in 2003/04. In **2005,** the Legislature appropriated the following funds:

$190,000,000 in Aid to Localities for services and expenses related to the purchase of new voting machines and voting systems for use by the local boards of elections.

$10,000,000 in Aid to Localities for Poll Worker Training and Voter Education

$20,000,000 in State Operations for implementation of HAVA throughout New York State.

In **2006,** the Legislature appropriated $12,000,000 in **earned interest** for services and expenses related to the implementation of HAVA, including the purchase of new voting machines and disability accessible ballot marking devices for use b the local boards of elections.

In **2007,** the Legislature appropriated $15,000,000 in **earned interest** for services and expenses related to the implementation of HAVA, including the purchase of new voting machines and disability accessible ballot marking devices for use by the local boards of elections. The Legislature also appropriated $5,000,000 in **earned interest** for services and expenses related to testing and certification contracts for voting machines.

In **2008**, the Legislature appropriated $10,000,000 in **earned interest** for services and expenses related to the implementation of HAVA including the purchase of new voting machines and disability accessible ballot marking devices for use by the local boards of elections. Of that, $700,000 may be transferred by the state operations account for the State Board of Elections for the development of curriculum for use by local boards of elections for poll worker training and voter education with respect to using each approved voting machine and voting system.

Once the State's Chief Election Official certifies that New York has complied with HAVA's Title III requirements, the State intends to use any remaining funds, and any additional funds which may be received, for improvements to the administration of Federal elections.

Section 6: Budget for Title III Requirements

OBJECTIVE:

Describe the State's proposed budget for activities under this part, based on the State's best estimates of the costs of such activities and the amount of funds to be made available, including specific information on -

(A) the costs of the activities required to be carried out to meet the requirements of Title III;
(B) the portion of the requirements payment which will be used to carry out activities to meet such requirements; and
(C) the portion of the requirements payment which will be used to carry out other activities.

GOAL:

Provide for effective and efficient use of available federal funds, to implement election reforms required by HAVA.

PRESENT STATUS:

Separate funds are established in New York by legislation which allows state agencies overseeing the program to establish guidelines for access to such funds by local governments. Since neither the State nor the Federal government has previously distributed funds to localities for election purposes, no such program had existed. The State Board established a statewide procurement effort for use by county boards of elections to purchase new voting systems and accessible ballot marking devices; and created programs to improve poll site accessibility, and to develop and implement voter education and poll worker training services.

PROPOSED PLAN:

New York's proposed budget outlined below, subject to federal funding of HAVA, includes funding for programs to conform the State to the requirements of Title III. In order to qualify for funding, the State must: meet the requirements of Title III; provide the same maintenance of effort for election operations as in the budget year prior to the 2000 general election; and provide matching funds of five percent of the federal dollars. Funding under HAVA also provides funding under Section 101 for the Administration of Elections and under Section 102 for Lever Machine and Punch Card Replacement. All of the funds provided under HAVA are "no year" money, meaning that they are not required to be expended by the close of the specific federal fiscal year.

Proposed Budget for State Plan for Fiscal Years 2003-2009						
A total of $63 million from Title I and $160.7 million from Title II is Projected.						
Program Area	**Total Proposed Budget**	**Title I Section 101**	**Title I Section 102**	**Title II Section 251**	**Title II Section 261**	**NY State Funds**
Voting Accessibility - Lever Machine Replacement Program	198,000,000		50,000,000	140,000,000		8,000,000
New York State Voter Registration List	13,705,000	7,000,000		6,705,000		
Physical Accessibility	8,410,000				3,700,000	4,710,000
Provisional Balloting	0					
Poll Worker Training and Voter Education	10,500,000			10,000,000		500,000
Complaint Dispute Resolution	25,000	25,000				
Election Administration Grant Program	0					
HAVA Administration	8,975,000	8,975,000				
Additional Full HAVA Funding	40,000,000			40,000,000		
Totals	279,615,000	16,000,000	50,000,000	196,705,000	3,700,000	13,210,000

Voting Accessibility

New York is facilitating a procurement program, to enable the replacement of lever voting machines. The State Board will work with county election officials to ensure that all needs are met, including but not limited to: device acquisition; device tracking for chain of custody and audit purposes, system maintenance; election preparation services; and election tabulation services.

The Plan proposes, and statute now requires that counties own and operate these new systems. The State will work with county boards of elections and vendors to develop procedures for the conduct of and methods to monitor required maintenance tasks and the various other aspects associated with the new voting systems and the consolidation of the control of all election services at the county level.

Polls sites shall be staffed with sufficient numbers of bi-partisan teams of workers adequately

trained and competent in all aspects of the election process and on all voting devices utilized in the polling place.

New York State Voter Registration List

The State Board has implemented a statewide voter registration list that complies with HAVA Title III. The State Board has established rules and regulations which define procedures and roles and responsibilities for enabling county boards to uniformly carry out the functions of voter registration.

The State Board developed, and implemented a "bottom-up" system which communicates with local voter registration systems in near real time. County Boards are responsible for the local hardware, software and communications infrastructures necessary for synchronizing the statewide list.

The State Board maintains and supports the statewide list as the official voter registration list. County boards remain responsible for all aspects of election administration, including but not limited to: a) voter registration, b) poll site management, c) registration list information, d) provisional balloting, e) voter education and training, f) ballot access filings, and g) improved access to the voting process.

The State Board will develop and maintain web based systems based on the state wide voter registration list that will assist voters in determining their registration status and locating their proper polling site.

Physical Accessibility

In June 2006, the State Board created a grant program to administer $5 million in state funds, to be used by localities to improve the physical accessibility of polling places. Also, federal grant awards provide an additional $3.7 million from Health and Human Services (HHS) to improve accessibility of poll sites, to train poll workers to meet voter access needs and to train voters in the use of new voting equipment to ensure that every voter that wants to vote can vote and that their vote is counted. In order to access these funds, counties are required to survey all poll sites and prepare a written plan to provide temporary or permanent improvements, if necessary.

Provisional Balloting

Provisional balloting is already a county board responsibility, and is included in the maintenance of effort of the county election officials as prescribed in law.

Voter Education, Poll Worker and Election Official Training

Voter education is already a county board responsibility, and included in the maintenance of effort of county election officials. Because all jurisdictions will be changing voting technology, there will be costs associated with voter education above the current maintenance of effort. The

State Legislature has appropriated $10 million from the HAVA election fund for use by county boards of elections to develop and implement education and essential hands-on training programs to train voters, poll workers and election officials in the use of new voting systems. The State Board established and administers a grant program whereby county boards of elections may access their portion of the grant fund, subject to a local five (5%) percent match. County boards are reimbursed for actual expenses based upon approved vouchers for education and training services completed in accordance with a written plan. Quarterly status reports are required during the duration of the grant program to monitor compliance with the grant fund goals.

County Boards are encouraged to include disability service providers in the development and delivery of training programs to ensure poll workers understand how to assist voters with disabilities (disability etiquette), operation and use of voting systems including Ballot Marking Devices, polling place accessibility, the poll site surveying process, and will support re-imbursement for those services whenever possible. In those jurisdictions required to provide language assistance to voters under the Voting Rights Act, county boards will be similarly encouraged to include organizations serving language minorities in the development and delivery of training programs to ensure poll workers understand how to assist voters requiring language assistance, operation and use of voting systems including Ballot Marking Devices, and will support re-imbursement for those services whenever possible.

Poll worker training is already a county board responsibility, and included in the maintenance of effort of county election officials. Because all jurisdictions will be changing voting technology and election day procedures, there will be costs associated with poll worker training above the current maintenance of effort.

Election official training is already a State Board responsibility, and included in the maintenance of effort of the State Board. Due to changes in voting technology and election day procedures, there will be costs associated with election official training above the current maintenance of effort.

Statewide Complaint System

The State Board has implemented a statewide complaint system to comply with HAVA Title IV, in order to qualify for Title III funding. Working with the county election officials, the State Board has defined functional requirements, roles and responsibilities of complaint procedures as defined in Section 9 of the State Plan.

Subject to federal funding of HAVA, the complaint procedure will be funded for development and additional efforts for maintaining the system.

Election Administration Grant Program

The State Legislature has determined how HAVA funds distributed to New York should be appropriated at both the State and County Board levels. The State Legislature has appropriated funds in order to facilitate the mandate of the Legislature in this regard. The Election

Administration Grant Program which was described in our initial Implementation Plan, has been abandoned.

Administration Costs

To fulfill the requirements of Title III, the State Board provides for the coordination, planning, operation and reporting on these programs. Subject to federal funding of HAVA, the State Board will use funds to administer the implementation of HAVA above the Fiscal Year 2000 maintenance effort.

Section 7: Maintenance of Effort

OBJECTIVE:

Describe how the State, in using the requirements payment, will maintain the expenditures of the State for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the State for the fiscal year ending prior to November 2000.

GOAL:

Meet statutory mandate for maintenance of effort.

PRESENT STATUS:

Prior to the implementation of HAVA, the State Board did not provide funds for any activities identified in Title III. Costs for voting systems, provisional balloting, voting information requirements, voter registration lists, and registration by mail were and still are borne by county boards of election.

PROPOSED PLAN:

County boards shall continue to provide maintenance of effort in providing election and voter education as required in HAVA.

Section 8: Performance Goals and Measures

This section represents a consolidation of performance goals and measures found in other parts of this plan.

OBJECTIVE:

Describe how the State will adopt performance goals and measures that will be used by the State to determine its success and the success of units of local government in carrying out the plan. This plan includes timetables for meeting each of the elements of the plan, descriptions of the criteria the State will use to measure performance and the process used to develop such criteria, and a description of which official is to be held responsible for ensuring that each performance goal is met.

The State Board has the responsibility to monitor how each county board conducts elections in New York State. The State Board collects significant amounts of data at various times throughout the year, and uses the data to discern trends, identify problems, modify training materials and take other steps to improve the election process. The State Board evaluates county board operations via on-site visits, the review of surveys, the presentation at statewide conferences of workshops which focus on scenarios from which all county board staff and Election Day workers can learn.

GOAL:

The Help America Vote Act of 2002 (HAVA), public law 107-252, establishes minimum election administration standards for states. It specifically requires the State of New York to:

- Replace all lever machines and punch card voting devices used by counties for elections;
- Certify new and existing voting systems according to national and state standards;
- Improve voting equipment accessibility, to include physical and language accessibility;
- Enhance existing provisional voting system requirements;
- Establish a statewide complaint system;
- Provide training for election officials and poll workers;
- Increase voter education for new voting systems; and,
- Create a new uniform statewide voter registration list.

- **Voting Systems Standards (§301)**

Process used to develop the criteria	Establish the number of counties using lever voting machines and punch card voting devices in the 2000 Federal election.

Description of the criteria used to measure performance	62 New York counties had qualifying precincts in the 2000 Federal election according to HAVA descriptions for replacing voting systems.
Performance measure	Number of counties using lever machines and punch card voting devices in the 2006 Federal election.
Timetable	Ongoing from January 1, 2003.
Description of official to be held responsible for ensuring each performance goal is met	Each county board of elections is responsible for implementing the replacement voting system in their county; however, the State Board is leading the statewide effort for replacement and is therefore ultimately responsible for meeting this performance measure. The State Board is responsible for the certification of all new voting equipment.

- **Provisional Voting and Information Requirements (§302)**

Process used to develop the criteria	The State Board will review the current statutes and county board procedures and make any changes needed for provisional (affidavit) balloting.
Description of the criteria used to measure performance	Modify the current notice to voters to: add an explanation of instances where failure to present ID can be overcome by the casting of an affidavit ballot; add the phone number of county board of elections to ensure toll-free access for voters to follow-up on their ballots; and create a voter's bill of rights for distribution and posting in all poll sites.
Performance measure	Each county board will report the following information: • The distribution of revised notices in election day supplies. • The addition of revised procedures to any state or local inspector and voter education initiatives. • A review of amended processes added to inspector training curriculum • The number of affidavit ballots cast; the number of affidavit ballots subsequently verified and canvassed; the number of affidavit ballots that were not verified and canvassed, and the reasons for their rejection.

Timetable	Notices to be modified and documents to be distributed by May 2004, to inaugurate the process and to ensure full implementation by the 2004 Federal election. The effort to update poll worker materials as necessary is ongoing.
Description of official to be held responsible for ensuring each performance goal is met	County election officials are responsible for provisional ballot distribution verification and compliance with procedures established by the State Board. The State Board is responsible for reviewing compliance reports submitted by counties, including data on affidavit ballots cast, canvassed, or rejected and the reasons for such rejections. The State Board will review possible compliance issues working with counties to resolve issues which are identified.

- **Computerized Statewide List, Voters who Register by Mail and Voter Identification (§303)**

Process used to develop the criteria	Evaluation of the legislation, Task Force sessions, in-house work sessions with appropriate staff, consultation with other state agencies having related expertise, and on-site visits to other states and county boards to review voter registration systems.
Description of the criteria used to measure performance	Implementation of a single, uniform, statewide voter registration list accessible to all counties, and routinely review county board compliance with voter registration regulations and procedures.
Performance measure	The State Board has identified three stages for the creation of the statewide list. Stage 1: Planning: - Completion of business analysis. - Establishment of database architecture. Stage 2: Development: - Development of the database model. - Determination of hardware and software components of the database architecture. - Acquisition of the requisite hardware and software components of the database. - Development of a single statewide uniform user interface. - Development of the necessary computer network with local boards of elections. - Testing with regards to all of the above. Stage 3: Implementation: - Migration of local voter registration data into statewide list. - Training of appropriate personnel.

	- Rollout of the system to local boards of elections. - Troubleshooting with regards to items outlined in Stage 2. - Establishment of fully operational system. - Testing with regard to all of the above. - Routinely review county board compliance with voter registration regulations and procedures
Timetable	January 1, 2003 to the 2007 Primary election
Description of official to be held responsible for ensuring each performance goal is met	The State Board is responsible for implementing and operating the statewide voter registration list.

- **Voting Equipment Accessibility**

Process used to develop the criteria	Establish number of counties using accessible devices in the 2000 Federal election.
Description of the criteria used to measure performance	All 62 New York counties will require alternative voting accessibility devices in the 2006 Federal election.
Performance measure	Number of counties using voter-accessible compliant devices in the 2006 Federal election.
Timetable	Ongoing from January 1, 2003.
Description of official to be held responsible for ensuring each performance goal is met	The State Board is responsible for the certification of HAVA compliant voting equipment in the state.

- **Alternative Language Accessibility**

Process used to develop the criteria	The state and counties already provide language accessibility as required by the Voting Rights Act of 1965. In 2006, the State Board created general and specific guidelines for use by county boards of elections to access a portion of the requirements payments to develop, publish and distribute voter education and poll worker training materials in alternative languages, where applicable.

Description of the criteria used to measure performance	Counties will provide the state with quarterly reports of alternative language capabilities with reference to ballots, publicity pamphlets, voter registration forms, voter education materials, and language assistance at polling places on election day until such time as the existing grant program is completed.
Performance measure	With respect to each county, information will be collected to measure the steps taken to meet alternative language accessibility via inter alia, publicity pamphlets, ballots, voter registration forms, voter education materials, and language assistance at polling places on election day.
Timetable	Ongoing from 2007 until the funds are depleted.
Description of official to be held responsible for ensuring each performance goal is met	The county boards are responsible for ensuring each performance goal is met, with the assistance and cooperation of the State Board.

- **State Board Administrative Complaint Procedure**

Process used to develop the criteria	Evaluation of the legislation, Task Force sessions, in-house work sessions, with appropriate staff.
Description of the criteria used to measure performance	Measurement of successes of the statewide complaint procedure will be the performance of the system, as well as the experience for the voter.
Performance measure	The State Board will review the total number of complaints received, processed and resolved. The following information will be collected to objectively measure performance: • Number of complaints received • Number complaints resolved • Number of complaints resolved within the mandated timeframe • Reason complaint is not resolved within the mandated timeframe
Timetable	November 1, 2006.
Description of official to	State Board of Elections.

be held responsible for ensuring each performance goal is met	

- **Voter Education, Election Official and Poll Worker Training**

  - **Election Official and Poll Worker Training**

Process used to develop the criteria	Evaluate existing training programs and corresponding instructional materials in conjunction with new HAVA requirements.
Description of the criteria used to measure performance	Analyzing the number of election officials/poll workers trained in each county will allow the State Board and county boards to determine whether the uniform training as implemented, was successful. Encourage county boards to survey poll workers to solicit feedback on the effectiveness of the training.
Performance measure	With respect to each county, the following information will be collected to measure election official/poll worker training performance: • The number of election officials to be trained in each county. • The total number of poll workers to be trained in each county. • The number of election officials that are trained in each county. • The total number of poll workers that are trained in each county. • The total number of individuals who are tested on training curricula and pass or fail such tests.
Timetable	Spring 2008 training on new election day processes; training on new equipment when acquired by locality.
Description of official to be held responsible for ensuring each performance goal is met	County election officials are responsible for poll worker training and reporting, however, the State Board is responsible for establishing the guidelines, reporting requirements and ultimately the success of this performance measure.

- **Voter Education**

Process used to develop the criteria	The counties and certain community/political groups already provide voter education opportunities. By the 2006 Federal election, additional steps will be taken to ensure voter knowledge of changes in voting systems and election day procedures required by this Act. The State Board will continue to work with the counties to maintain records of and review voter comments concerning sufficiency of voter education programs. The counties will include details of their efforts in the annual reports they file with the State Board.
Description of the criteria used to measure performance	The assimilation by the voter of new election day processes will be determined by the number of problems occurring on election day.
Performance measure	With respect to each county, the following information will be collected to measure performance: • Number of public service announcements, • Number of locations where voting equipment is on public display, • Number of other voter education and voter outreach initiatives, including: • Description • Estimated costs • Participation • Number and nature of problems on election day.
Timetable	September 2006 Primary Election and annually thereafter, until grant funds depleted.
Description of official to be held responsible for ensuring each performance goal is met	The State Board and the county boards are all responsible for ensuring the success of voter education; however, the State Board is responsible for the success of all statewide coordinated efforts for voter education.

Section 9: Administrative Complaint Procedure

OBJECTIVE:

Provide a description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under Title IV.

GOAL:

New York has developed a procedure for the processing of any complaints for alleged violations of Title III of HAVA.

PRESENT STATUS:

The State Board currently provides the opportunity for any person to file a complaint about provisions of the Election Law, election day procedures, election administration and voter registration. This includes complaints relating to the National Voter Registration Act. In addition, complaints may be also made to any county board of elections.

PROPOSED PLAN:

Initially, any complaints made at the local level may be resolved there in an informal manner. Thus, the officials closest to the problem may correct it in the most efficient and timely way possible.

1 - 800 -458-3453 (option 4) is the State Board's current toll-free HAVA Administrative Complaint information line. It implements the initial call-in element of a Statewide Complaint procedure. The statewide procedure allows for the comprehensive coordination of response by the State Board and county election officials, with the initial complaint inquiry handled in person or by phone call, and progression to a written process when needed.

The State Board has set up a method for processing written complaints received in compliance with HAVA requirements. The State Board and county boards will assist any person with disabilities to make a complaint.

As required by HAVA, the process provides for an opportunity for any complainant to request a hearing on the record. The procedure also provides that the State Board will make a final determination of a complaint within the mandated timeframe, unless the time limit is waived by the complainant. If the State Board fails to meet this deadline, an alternative dispute resolution procedure will be used to resolve the complaint within 60 additional days, unless the time limit is waived by the complainant. All determinations shall be published by posting to the State Board's website.

Section 10: Title I Payments

OBJECTIVE:

Describe how any payment under Title I will affect the activities proposed to be carried out under the plan, including the amount of funds available for such activities.

GOAL:

Provide for effective and efficient use of available federal funds.

PRESENT STATUS:

The Federal Funds received under Title I, Section 101 have been partially expended to support State Operations associated with the Implementation of HAVA including the development of a statewide voter registration database and the procurement of accessible Ballot Marking Systems and supplies and programming to support such systems.

PROPOSED PLAN:

Pursuant to HAVA and in anticipation of receiving full funding for Title I, money will be distributed to provide for lever machine replacement for each county where a lever machine system is in use. Section 6 details how the federal funds will be spent to meet the requirements of Section 301 of HAVA. Title 1, Section 102 funds will be used to replace lever voting systems. The following requirements must be met before these funds can be used:

- The State will use the payment to pay vendors directly for the costs of replacing a lever voting system by the required deadline of the first federal election after March 31, 2008.

New York will initiate a program to facilitate voting system replacement. Every county in the State will require new voting systems. The State Board will explore a procurement effort to acquire these systems. The scope of the program will be the replacement of voting systems. The State Board will work with county election officials to ensure that all needs are met, including but not limited to: system acquisition; system maintenance; election preparation services; and election tabulation services.

This Plan proposes that counties own and operate the systems and work with vendors to maintain the new voting systems and retain control of election services at the county level.

The State Board will implement a statewide voter registration list to comply with the HAVA Title III. Working with the county election officials, the State Board will define functional requirements and roles and responsibilities of carrying out the functions of voter registration. The State Board will define, maintain and administer at the state level "the single, uniform, official, centralized, interactive computerized statewide voter registration list."

The remainder of Title I, Section 101 funds will be used to support the implementation of Voting Systems throughout New York State.

Any remaining funds will be used for the other programs described in Title I, Section 101 (b) (1). Section 6 of the State Plan details how such funds will be allocated.

Section 11: Management of the State Plan

OBJECTIVE:

Describe how the State will conduct ongoing management of the plan except that the State may not make any material change in the administration of the plan unless such change is developed and published in the Federal Register in accordance with Section 255 in the same manner as the State Plan; is subject to public notice and comment in accordance with Section 256 in the same manner as the State Plan; and takes effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register.

GOAL:

The State Board will ensure proper management of obligations set forth in HAVA.

PRESENT STATUS:

Presently the State Board has oversight responsibilities for all 62 county boards of elections. The various mechanisms used at the present time, for conducting related monitoring and educational activities, include the following:

- on-site board visits, followed by written reports (to the State Board, County Board, and local legislative leaders, as appropriate)
- annual report statistical review, encompassing a quantitative summary of board activities
- extensive subject-specific surveys regarding procedures, processes or events
- certifications by county boards on the performance and outcome of certain statutory tasks (such as required mailings to voters, polling place evaluations, etc.)
- presentation of an annual conference, for all election officials in the state (usual attendance exceeds over 200 participants), including a Professional Practices component
- participation in two statewide conferences sponsored by the New York State Election Commissioners Association, at which the State Board presents workshops on specific topics
- creation and distribution of a "Guide to Operating a Board of Elections", to assist election officials in standardizing and professionalizing day-to-day and election-specific operations
- numerous memos on procedure and performance suggestions, to assist county boards in the development of operational procedures
- creation and distribution of model procedures which are task-specific, and serve as an easy reference and guide for the conduct and anticipated outcome of certain procedures (such as the NVRA-related List Maintenance Directory)

PROPOSED PLAN:

All of these existing components will be enhanced to include reviews, assessments, reporting and certification of HAVA requirements, to ensure the uniform, professional and consistent

implementation of all aspects of this federal legislation

If the State Board determines the State Plan requires material change, the State Board shall: a) propose the recommended changes to the Chief State Election Official; b) allow for public comment for not less than 30 days; and c) publish in the Federal Register upon submitting the revised plan to the Election Assistance Commission.

Section 12: Changes to State Plan from Previous Fiscal Year

OBJECTIVE:

Describe how the Plan reflects changes from the State Plan for the previous fiscal year and how the State succeeded in carrying out the State Plan for such previous fiscal year.

GOAL:

To establish a mechanism to address changes in subsequent years of the state planning process pursuant to HAVA.

PRESENT STATUS:

As the State was out of compliance with HAVA at a very early point in this process, and that failure to comply resulted in federal litigation *(United States of America vs. New York State Board of Elections, et al,*, 06-cv-0263in the United States District Court for the Northern District of New York, the State has been operating pursuant to two separate Remedial Orders outlining and directing the State's compliance with HAVA court orders, thus no previous amendments have been filed.

PROPOSED PLAN:

This State Plan will be updated annually, demonstrating progress in implementing the order of the federal court, ensuring New York's ultimate HAVA compliance.

Section 13: The Planning Committee and its Procedures

OBJECTIVE:

Provide a description of the committee which participated in the development of the State Plan in accordance with Section 255 and the procedures followed by the committee under such Section and Section 256, including the membership of the committee and its activities, such as hearings or other forms of public input, publications, notices, comments, and actions taken as a result of comments.

DESCRIPTION OF THE DEVELOPMENT OF THE STATE PLAN:

2003 TASK FORCE

Pursuant to Section 255, on February 7, 2003, the Chief State Election Official, Peter S. Kosinski, Deputy Executive Director of the New York State Board of Elections, appointed a task force to advise in the development of the State Plan, designated the Help America Vote Act State Implementation Plan Task Force (Task Force). The group included persons who provided expertise and meaningful input to the formation of the Plan, as well as representatives of groups mandated by HAVA.

Representatives of various government groups were appointed, including the Governor's Office; the New York State Senate and Assembly; the New York State Department of Motor Vehicles; New York State Office for Technology; the Secretary of State's Office and the Division of the Budget. The Secretary of State's Office and the Division of the Budget assisted with local government interaction issues and budgetary concerns, respectively.

Also mandated by HAVA and included on the Task Force, were representatives from the boards of elections of the two largest jurisdictions in the state, New York City and Suffolk County. Representatives from two upstate county boards of elections and an official representing county government also served as Task Force members.

In light of the provisions of HAVA concerning persons with disabilities, a representative of disability groups, as well as New York's Advocate for Persons with Disabilities, were appointed. A representative of each of the major state political parties and the New York State League of Women Voters also served on the panel.

The Chief State Election Official designated a portion of the State Board of Election's website at www.elections.state.ny.us as a place for the public to view the Task Force's composition, meeting schedule, minutes of meetings, and back-up resource for the State Plan.

The Task Force held open, public meetings on February 26, March 5, 12, 19, and 26, 2003 and advised and provided feedback to the Chief Election Official on elements for the State Plan.

2009 TASK FORCE

Pursuant to Section 253 and 255, on March 13, 2009, the Chief State Election Official, Stanley L. Zalen, Co-Executive Director of the New York State Board of Elections, appointed a new task force to advise in the development of the amended State Plan, designated the Help America Vote Act Task Force (Task Force). The group included persons who provided expertise and meaningful input to the formation of the Plan, as well as representatives of groups mandated by HAVA.

Representatives of the New York State Senate and Assembly were appointed, along with the Executive Director and a Commissioner from the boards of elections of the two largest

jurisdictions in the state, New York City and Suffolk County, as mandated by HAVA. Also mandated by HAVA were commissioners appointed to the Task Force from two upstate county boards of elections, as well as a third upstate county board of elections commissioner who was appointed as a representative of the New York State Senate Minority.

In light of the provisions of HAVA concerning persons with disabilities, three representatives of disability groups were appointed. A representative of each of the two major state political parties also served on the panel.

In addition, six members were appointed from public interest organizations, which added important and necessary insights from members of minority groups and other diverse entities.

The Chief State Election Official designated a portion of the State Board of Election's website at www.elections.state.ny.us as a place for the public to view the Task Force's composition, meeting schedule, minutes of meetings, and back-up resource for the State Plan.

The Task Force held open, public meetings on April 3, 14 and May 13, 2009 and advised and provided feedback to the Chief Election Official on elements for the State Plan.

Composition of Task Force

Member	Organization
Aimee Allaud	League of Women Voters of New York State
Steven Carbó	Demõs
Thomas Ferrarese	Commissioner of Monroe County Board of Elections
Margaret Fung	Asian American Legal Defense and Education Fund
Ronald Hayduk	Associate Professor of Political Science, Borough of Manhattan Community College, CUNY
Christopher Hilderbrant	Center for Disability Rights
Anita S. Katz	Commissioner of the Suffolk County Board of Elections
Helen M. Kiggins	Commissioner of the Onondaga County Board of Elections
June O'Neill	New York State Democratic Party
David Previte	New York State Republican Party
Neal Rosenstein	New York Public Interest Research Group
Sharon Shapiro	Jewish Disability Empowerment Center, Inc.

Esmeralda Simmons	Center for Law & Social Justice – Medgar Evers College
Brad Williams	New York State Independent Living Council
Kathleen O'Keefe	New York State Assembly
Senator Joseph Addabbo, Jr.	New York State Senate
Joan Silvestri	New York State Senate

The Drafting Committee did extensive research and utilized a variety of resources from inside and outside the agency to create the plan.

The Drafting Committee was composed of:

Stanley L. Zalen, Chief Election Officer and Co-Executive Director
Todd D. Valentine, Co- Executive Director, NYSBOE
Robert A.Brehm, Deputy Public Information Officer
Paul M. Collins, First Deputy Counsel
George Stanton, Director of Information Technology
Anna E. Svizzero, Director of Election Operations
Elizabeth C. Hogan, Enforcement Counsel
Patrick P. Campion – Special Projects Coordinator
Gregory Fiozzo, Special Projects Coordinator
Donna S. Mullahey – Secretary to Co-Executive Director

Section 14(a): Task Force Comments

The individuals who served on the newly-constituted HAVA Task Force are to be commended and thanked for their contribution to the amendment of this Plan. A number of their comments and suggestions have been incorporated into this Plan, and certain other of their proposals were not. In instances where they were not adopted, it was determined that the proposals concerned themselves with amending the New York State Constitution, amending the New York State Election Law, and/or the creation of new policies, none of which fall under the purview of this Plan or this committee.

Issues raised by Task Force members which were not included in this amended Plan are summarized herein:

- Change a voter's jurisdiction from 'county' to 'entire state'
  (requires constitutional and statutory changes)

- Reconsider existing ID verification requirements for first-time registrants
  (requires statutory change)
- Mandate boards of elections to utilize for voter registration purposes, information provided on affidavit ballots
  (requires statutory change)
- Incorporate NVRA statistical tracking and reporting in the NYSVoter registration list
  (SBOE already has a system in place to track this data and certain aspects of the tracking discussed by the Task Force is contrary to the source-related confidentiality requirements of the NVRA)
- Expand list of acceptable forms of identification
  (SBOE has already adopted a policy and includes in its statewide curriculum, examples of acceptable forms of identification)

Section 14(b): Comments from the General Public

To comply with Section 256 of the Help America Vote Act, New York State made a preliminary version of the proposed amended State Implementation Plan available for public inspection and comment on March 16, 2009. The Plan was made available through the State Board of Elections' web site. In addition, any written comments that were received were posted on the website along with copies of the minutes from Task Force meetings.

Task Force members participated in three meetings during April and May to review and update the proposed amended State Plan. Public comments were received at the beginning of each Task Force meeting to afford interested persons and groups an opportunity to present comments to the State's Chief Election Official, State HAVA Task Force members and staff of the State Board of Elections. Comments were also received by e-mail and regular mail. The public comment period extended to May 26, 2009. Each of the comments was thoroughly reviewed by the State and considered in the proposed amended State Plan.

The following is a list of the most common comments that were presented, followed by a response to each comment.

Public Comment:

The proposed amended Plan should provide for enhanced language accessibility, specifically towards the creation and use of alternative communications formats (Braille, large print, and closed captioning, etc.) for voter registration and voter information materials.

Response:

The State Legislature has appropriated $10 million from the HAVA Title II, Section 251 funds under Aid to Localities Budget for use by county boards of elections to develop and

implement poll worker training and voter education programs. Further, the State Legislature has appropriated over $3.5 million from the HAVA Title II, Section 261 HHS grant program under the Aid to Localities Budget for use by county boards of elections to expand and improve access to and participation by individuals will a full range of disabilities in the election process.

The proposed amended State Plan has been updated to more clearly indicate the State's goal to provide language access that is in compliance with Section 203 of the Voting Rights Act of 1965.

Public Comment:

The Plan should include implementation of a training program for poll workers and election officials relative to persons with disabilities that includes direct hands-on training for each inspector in the set-up and operation of new voting systems, including ballot marking devices; enhancement of the poll inspector training material; and organizations and groups familiar with new voting systems and disability should be directly involved in the development and implementation of poll worker training and voter education programs and be able to directly receive HAVA funds for such service assistance.

Response:

The proposed amended State Plan has been updated to more clearly indicate the State's goal that the $10 million Aid to Localities Budget appropriation by the State Legislature from HAVA Title II, Section 251 funds be utilized by county boards of elections to develop and implement education and essential hands-on training programs to train voters, poll workers and election officials in the use of new voting systems.

County Boards of Elections continue to be encouraged to include disability service providers and/or organizations serving language minorities in the development and delivery of training programs to ensure poll workers understand how to assist voters with disabilities, operation and use of voting systems including Ballot Marking Devices, polling place accessibility, the poll site surveying process, how to assist voters requiring language assistance and to support reimbursement for those services wherever possible.

COMMONWEALTH OF MASSACHUSETTS

Presented by William Francis Galvin
Secretary of the Commonwealth

AMENDED STATE PLAN

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INTRODUCTION

The Help America Vote Act of 2002

The Help America Vote Act (HAVA) was signed by President Bush in October 2002 in an effort to improve voting across the country and in response to the problems that arose in the 2000 presidential elections. (42 U.S.C. § 15301 *et seq.*). This federal legislation made changes in the election process and applies to all federal elections in the United States. The most significant areas impacted by the legislation include voting equipment standards, including accessibility, provisional voting, voter registration, and voting, including voter education.

HAVA originally provided federal funding to meet the new requirements but the availability of the money was, however, dependent upon federal appropriations and certain additional federal funding is dependent upon the appropriation of matching state funds. There are two types of funding that Massachusetts was eligible to receive during FY 2003—Title I and Title II funding.

The first type of funding, under Title I, has two components—Section 101 and Section 102 funding. The first component under Section 101 provided $325 million in funding for complying with the requirements of Title III.[1] The requirements under Title III include improving election administration, educating voters, training election officials and poll workers, developing the state plan for implementing HAVA, improving voting systems, and improving polling place accessibility. Massachusetts' share of the Section 101 funding was $6,590,381.

The funding available under Section 102 was used to replace lever machines and data-vote voting equipment as well as for acquiring accessible voting equipment.[2] The amount that Massachusetts was eligible to receive was based on the number of precincts that used lever and data-vote machines at the 2000 elections. Although HAVA authorized an appropriation of $4,000 per precinct to replace lever and data-vote equipment, given the amount actually appropriated, this amount was reduced to $3,192.22 per precinct. Massachusetts' share of the Section 102 funding was $1,519,497.

The second type of funding--Title II funding--is to be used for continued implementation of the requirements of the act including poll worker training, providing voter education and improving the administration of federal elections.[3] This type of funding requires each state to provide matching funds, in the amount of 5 %, to those funds supplied by the federal government.

In order to receive funds under this provision in 2003, Massachusetts was required to submit a plan setting forth how it intended to comply with the act and needed to contribute $3.45 million in matching state funds.[4] In 2003, Massachusetts submitted a state plan (hereinafter referred to as the "Plan")

pursuant to this requirement (Title II). The Plan was developed in an open manner and subject to public notice and comment by the State Steering Committee, which was comprised of state and local election officials as well as other special interest groups.[5] As result, Massachusetts received federal funding.

As we are seeking additional funding which is now available (appropriated in FY 2008 and FY 2009), we must amend the state plan to include how the new funds will be spent and indicate the matching funds.

As with the original state plan, the amended state plan must be submitted to the Election Assistance Commission (EAC).[6] As with the original plan, the amended plan must include the following provisions:

- How the requirements payment will be used;
- How the state will distribute and monitor the distribution of the payment to municipalities or "other entities" within the state (including the criteria for their eligibility for the funding);
- How the state will provide voter education and poll worker training;
- How the state will adopt voting system guidelines which are consistent with federal requirements;
- How the state will establish the funds to accept the federal dollars;
- What the state's budget is for activities;
- How the state will maintain their expenditure level so that it is not less than the expenditure level of the fiscal year ending prior to November 2000;
- How the state will measure performance to determine success for the state and for the local government in carrying out the plan such as timetables and outlining responsibilities;
- A description of the uniform, non-discriminatory state-based administrative procedure;
- If the state received the "early out money" to replace voting equipment, information on how it was used and the impact on the plan;
- How the state will conduct ongoing management of the plan;
- If applicable, any changes from the previous fiscal year's plan and a report on the success of the previous year's plan;
- A description of the committee who helped develop the state plan.

After public inspection, the Amended Plan must be published in the Federal Register.

AN OVERVIEW OF ELECTIONS IN MASSACHUSETTS

In Massachusetts, the Secretary of the Commonwealth is the Chief Election Officer. As such, the Secretary's duties include the administration of federal and state elections, receiving nomination papers, printing ballots and tabulating election returns for federal and state elections as well as certification of voting equipment.

Federal and state elections are conducted at the municipal level. There are 351 municipalities within Massachusetts that each conducts elections. For towns, the local official responsible for conducting elections is the town clerk, and for cities, the city clerk or an election commissioner, as the responsible official, generally conducts elections.[7]

Each municipality is responsible for designating polling places, appointing and training poll workers, conducting voter registration sessions, and maintaining voter lists as well as management of elections themselves.[8]

Elections in Massachusetts are conducted in accordance with applicable federal law, the Massachusetts Constitution, the Massachusetts General Laws and the Code of Massachusetts Regulations. There is also a significant volume of case law relative to the election process in Massachusetts.

The Help America Vote Act has provided Massachusetts with an opportunity to make significant improvements in the electoral process.

PREPARATION OF ORIGINAL STATE PLAN AND AMENDED STATE PLAN

The Secretary appointed a State Steering Committee to develop the original Plan. The State Steering Committee was comprised of local election officials, representatives from the disability community, elected officials, and public interest groups. A listing of the Steering Committee members can be found at Attachment A. The Steering Committee held five (5) meetings.

The Steering Committee determined certain priorities to be addressed in the plan:

1. Purchase and implementation of new voting equipment in those municipalities that are currently using lever machines or datavote and reimbursements to those municipalities that have replaced lever machines and datavote systems since November of 2000.

2. Provide increased access to the elections process for people with disabilities through the use of specially designed Direct Recording Electronic (DRE) voting systems, improvements to facilities, training of elections staff, and enhanced public outreach.[9]

3. Modify the Central Voter Registry, the statewide database of registered voters, to comply with new requirements of HAVA.

4. Implement a comprehensive voter education program that informs voters about how to correct their ballots and how to request replacement ballots.

5. Implement a toll-free line that allows voters to check the status of their provisional ballots and determine whether or not their ballot was counted.

6. Train elections officials in Title III requirements of the Act.

The Steering Committee formed three sub-committees: Voter Identification and Provisional Voting, Voting Equipment and Accessibility, and Training and Education. Each of the sub-committees held public hearings at various locations around the state seeking public comment.

While HAVA provides increased responsibility for elections administration at the state level to achieve greater uniformity and consistency, municipal election officials are charged with the conduct of elections and are crucial to all aspects of the elections process. As Massachusetts continues to conform to HAVA requirements and standards, the Secretary will continue to work with the members of the Steering Committee, especially those local election officials, in the development of new procedures and technology to ensure compliance with HAVA.

This Amended Plan was developed in consultation with members of the Steering Committee.

The original Plan represented the Commonwealth's initial response to the requirements of HAVA. This Amended Plan addresses the progress made under HAVA since its original implementation as well as continued efforts and future goals.

Each Element in the following pages contains the language of the original Plan with a new section under each identifying successes within the Plan and, where applicable, how new funding affects the Element.

ELEMENTS OF THE STATE PLAN

For each element required of the state plan, there is a summary of the HAVA requirements and then the Massachusetts response to those requirements.

ELEMENT 1:

How the Commonwealth will use the requirements payment to meet the requirements of Title III and if applicable, under Section 251(a)(2) to carry out other activities to improve the administration of elections (Sec. 254, (a)(1).[10]

Within Title III, there are three sections: Section 301—Voting system standards; Section 302—Provisional balloting; and Section 303—Statewide list of registered voters and requirements when registering by mail. Within each of those sections are various subsections. The information being provided for Element One will follow the structure of Title III.

Voting System Standards—Section 301

HAVA requires that each voting system used in a federal election on or after January 1, 2006, meet each of the following requirements:

(1) Balloting errors:

(a) Voter verification of ballot selections (and correction)

The voting system must:

(i) permit the voter to verify privately and independently the votes selected before casting a ballot;

(ii) permit the voter privately and independently to change or correct a ballot before it is cast (including receiving a replacement ballot).

(Note that the requirement that a voting system permit the voter to verify the votes selected before casting a ballot may not be defined in a manner that makes it impossible for a paper ballot voting system to meet the new requirements of HAVA.)

(b) Voter notice on overvoting (and correction)

The voting system must:

(i) notify the voter of an overvote (casting votes for more candidates than allowed);

(ii) notify the voter of the effect of overvoting (i.e. the vote for that office will not be counted);

(iii) provide the voter with the opportunity to correct the ballot, if he or she has overvoted.

(c) Paper-based voting systems compliance

Paper-based voting systems (including absentee balloting systems) may meet the above requirements with:

(i) voting-system specific voter education programs notifying the voter of the effect of overvoting;

(ii) instructions on how to correct a ballot before it is cast (including instructions on obtaining a replacement ballot);

(iii) system designs that preserve voter confidentiality.

(2) Voting system audit requirements:

The voting system must:

(a) produce a record with an audit capacity (The paper record produced shall be available as an official record for purposes of a recount.);

(b) produce a permanent paper record with a manual audit capacity;

(c) allow the voter to correct any error before the permanent paper record is produced.

(3) Accessibility for individuals with disabilities:

The voting system must:

(a) be accessible to voters with disabilities, including voters with visual impairment, in a manner that provides the same opportunity for access and participation, including privacy and independence, as for other voters.

(The above requirement is met by providing at least one DRE voting unit, or other voting system equipped for individuals with disabilities at each polling place.)

(All voting systems purchased with Title II funding after January 1, 2007, shall comply with these requirements.)

(4) Alternative language accessibility:

The voting system must:

(a) meet all requirements of alternative language access of Section 203 of the Voting Rights Act of 1965 (42 USC 1973aa-1a).

(5) Error Rates:

The voting system must:

(a) meet FEC guidelines (Section 3.2.1) for voting system error rates (errors attributable only to system errors, and not an act of the voter) in effect at the time of HAVA's enactment (October 29, 2002).

(6) Definition of Vote:

Each state shall adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State.

PROPOSED ACTION FOR HAVA COMPLIANCE WITH VOTING SYSTEMS STANDARDS:

To comply with HAVA, the Secretary intends, through the regulatory, legislative, voting system certification and decertification processes, or otherwise, to replace voting systems that do not comply with the new standards. As of November 2000, 434 precincts used lever voting machines and 42 precincts used data-vote voting systems. No precincts used punchcard voting systems.[11] As of November 2002, 392 precincts used lever machines and 11 precincts used data-vote voting systems. Pursuant to HAVA, the Secretary will seek replacement of these systems.

As of November 2002, 1665 precincts used optical scanning systems—1042 precincts used Accu-Vote, 176 precincts used Optech, and 447 precincts used Optech Eagle. Additionally, in November 2002, 90 precincts used paper ballots. HAVA does not mandate the discontinuation of such systems, but instead, certain additional steps will be required, including voter education.

However, those municipalities that continue to use either paper ballots or optical scanning voting systems will still be required to provide at least one accessible unit per polling location by 2006.[12]

In an effort to retain the integrity of the voting process, increase the opportunity for all eligible citizens to participate in that process, and to comply with HAVA, the Commonwealth, under the direction of the Secretary of the Commonwealth, as Chief Elections Officer, will, in part:

(a) support, promote and encourage the use of direct recording electronic (DRE/touchscreen) voting systems, at polling places in Massachusetts;
(b) expeditiously certify new DRE voting systems that are compliant with state and federal laws;
(c) through existing state law, which authorizes the Secretary to certify and decertify voting systems, develop voting system standards and system audit requirements as required in HAVA and institute an ongoing process to manage changes to these standards and ensure uniform application of the standards for each voting system including those requirements for "second chance voting";[13]
(d) develop voting system standards requiring, as part of certification process, that the system demonstrate the ability to support a representative set of possible future ballot procedure changes, including instant runoff voting, as feasible, with an upgrade cost that is substantially less than the cost of complete system replacement;
(e) develop and distribute voter education materials as appropriate to meet the requirements of Section 301(a)(1)(B) of HAVA;
(f) with the assistance of the disability community, ensure compliance with the accessibility requirements for individuals with disabilities, including ensuring that at least one DRE/touchscreen voting system is used in each Massachusetts polling place pursuant to Section 301(a)(3)(B) and, with respect to in-person voting, that the voting system itself be located in a polling place that is accessible to voters with disabilities. Compliance efforts shall include monitoring polling places to determine accessibility and education of elections officials, poll workers, and voters with respect to the rights of all voters, including voters with disabilities;
(g) continue to ensure that all voting systems provide alternative language accessibility pursuant to the requirements of the Voting Rights Act of 1965;[14]
(h) regularly evaluate voting systems to assess error rates, reliability and accuracy factors, accessibility to voters with disabilities, language assistance needs and literacy needs, and ability to accommodate alternative voting systems; work with local elections officials to share information and make improvements;
(i) develop, by regulation and/or by statute, a uniform and nondiscriminatory definition of what constitutes a vote and what will be counted for each voting system.

The Secretary intends to leave decisions regarding specific replacement of voting equipment to each municipality, so long as such decisions are consistent with the requirements of HAVA and applicable state laws and regulations. The Secretary will work with municipalities to provide reimbursement for procuring upgraded voting equipment as well as the purchase or lease of accessible equipment prior to the 2006 HAVA deadline.

UPDATE:

Before the 2004 State Primary, all lever machines and data-vote voting systems were replaced with paper-based optical scan voting systems. The Secretary will continue to work with vendors of voting equipment to certify equipment meeting the federal standards.

The FY 2008 and FY 2009 funding that is available to Massachusetts ($2,558,325 and $2,224,631) will be used to assist municipalities in procuring new voting equipment by offering some reimbursement for purchases of new equipment. The amount of reimbursement is still being determined. Some municipalities are using optical scan voting equipment that will no longer be serviced by the manufacturer and/or vendor. Additionally, the remainder of those municipalities using optical scan voting equipment will likely be in a similar position in the near future and have recently received notice that the memory cards used by the system are no longer being manufactured. As new equipment is certified by the EAC, we have been informed that any equipment currently offered by the same vendor will stop being manufactured and therefore need replacement.

We will be surveying each local election official currently using optical scan voting equipment in order to better assess their needs. Accordingly, the FY 2008 and FY 2009 funding will be dedicated to assisting municipalities in procuring new voting equipment, voting technologies, including development of a statewide contract to provide guaranteed pricing for equipment and related services.

Secretary Galvin chose the AutoMark Voter Assist Terminal as the accessible equipment in Massachusetts and purchased, using HAVA funds, at least one unit for each polling place. Before making this purchase, the Secretary conducted voting equipment vendor fairs to provide the public and local election officials with an opportunity to view and use accessible voting equipment. Specifically, during the week of March 14, 2005, the Secretary conducted a series of voting equipment vendor fairs. Seven fairs were held across Massachusetts. At the first four (4) events, five (5) vendors were in attendance with seven (7) pieces of equipment. For the remainder of the events, at least two (2) vendors wee in attendance. The Secretary invited Disability Commissioners from each city and town as well as other members of the disability community, including persons from independent living centers and other organizations

representing persons with disabilities as well as local election officials. The vendor fairs enabled individuals with disabilities to observe and use voting equipment that has been designed to enable private and independent participation in the voting process.

The comments received from the fairs were used to develop a statewide Request for Response for Accessible Voting Equipment, which was issued on July 18, 2005 and responses due on August 15, 2005. As part of the RFR process, the vendors gave an office demonstration for their equipment. Thereafter, three finalists were selected and their equipment leased for the 2006 State Election as a field-test.

Based on a survey conducted after the 2006 State Election and the Responses, the Secretary contracted with Election Systems and Software to purchase accessible voting equipment. The equipment was deployed in 2007, including providing training to election officials and outreach to voters. The equipment was used at local municipal elections and special state primaries and elections, including the special election in the 5th congressional district, throughout Massachusetts in 2007. Training and outreach continued during 2008 for the Presidential Primary, State Primary and State Election. We are happy to report successful implementation of accessible voting equipment.

The accessible voting equipment has also been beneficial to the language minority community. Six (6) jurisdictions in Massachusetts are covered for Spanish under Section 203 of the Voting Rights Act.[15] In addition to having ballots and election materials printed in Spanish, the AutoMark Voter Assist Terminals allowed voters in those jurisdictions to have an audio version of their ballot in Spanish.[16]

Provisional Voting and Voting Information Requirements

Section 302(a) of HAVA requires that "provisional voting" be permitted in federal elections on or after January 1, 2004. Under HAVA, if a voter's name does not appear on the official list, or the elections official asserts the voter is ineligible, the voter is entitled to cast a provisional ballot as follows:

(a) Elections officials at polling place notify voters of the provisional ballot option;

(b) Voter executes written affirmation stating:

He or she is a registered voter in the jurisdiction; and
He or she is eligible to vote;

(c) The voted ballot or written affirmation information is promptly transmitted to appropriate state or local elections official for verification;

(d) If the information is verified, the ballot shall be counted;

(e) At the time the voter casts the ballot, the voter shall be provided with information about the existence of a free access system (e.g. secure, confidential telephonic or Internet-based system) that restricts access to information on individual ballots, so that only the voter who casts the ballot may determine her or his individual ballot status;

(f) State or local officials shall establish the free access system.

HAVA also requires (Section 302(c)) that voters who cast ballots after the normal poll closing as a result of a Federal or state order, vote by provisional ballot that is segregated from regular provisional ballots.

Further, Section 302(b) requires that, with respect to federal elections held on or after January 1, 2004, elections officials post specified voting information at each polling place on Election Day, including:

(a) a sample ballot for that election;

(b) the election date and polling place hours;

(c) voting instructions, including provisional voting instructions;

(d) mail-in registrant and first-time voter instructions;

(e) general voting rights information, including the right to cast a provisional ballot and instructions on how to contact appropriate officials regarding allegations of violations;

(f) general information on legal prohibitions on fraud and misrepresentation.

PROPOSED ACTION FOR HAVA COMPLIANCE WITH PROVISIONAL BALLOT AND VOTING INFORMATION REQUIREMENTS

Provisional Voting

Prior to the passage of HAVA, Massachusetts offered a type of provisional balloting known as escrow ballots.[17] Escrow ballots were offered to persons whose names did not appear on the list of registered voters, or in a primary, to those persons who claimed a listing error (wrong party). Escrow ballots were reviewed only if they could possibly make a difference in the outcome of an election. If there were a sufficient number of escrow ballots to make a difference in the outcome of an election, a hearing was held to determine whether the ballot should or should not be counted.

The escrow balloting procedure did not meet the requirements of provisional voting under Section 302 of HAVA. The Secretary, in consultation with local election officials and other interested persons, intends to:

(a) develop uniform information and procedures on provisional voting, and voting generally, as required by HAVA, and take steps to ensure that elections officials, poll workers and voters thoroughly understand provisional ballot rights and procedures;
(b) to the extent permitted by law, develop procedures allowing voters to cast a provisional ballot at the polling place upon signing a statement affirming the required information, without providing additional identifying documents;
(c) to the extent permitted by law, develop procedures whereby the information obtained to acquire a provisional ballot is sufficient to register the applicant to vote, if otherwise eligible, in future elections should it be determined that the person is not eligible to vote in the precinct for which the provisional ballot is sought or cast;
(d) develop procedures whereby a provisional ballot is counted provided that there is compliance with the verification procedures set forth in Massachusetts General Laws and regulations;
(e) consider sponsoring legislation amending the Massachusetts General Laws whereby a person's provisional ballot is counted with respect to those candidates and measures for which the person is entitled to vote even if the provisional ballot is cast in the incorrect precinct;
(f) create, or oversee the creation of, in conjunction with local elections officials, a secure and confidential free access system for a provisional voter to determine if his or her vote was counted, and, if it was not counted, the reason it was not counted **or** develop procedures whereby every person who casts a provisional ballot is notified as to the status of that ballot in terms of whether it was counted or not counted, and if not counted, why it was not counted;
(g) develop procedures for complying with the requirements that ballots cast after the close of the polls pursuant to a court order be provisional and be segregated;
(h) ensure compliance with Section 203 of the Voting Rights Act (42 U.S.C. § 1973aa-1a).

UPDATE

In 2004, state law was amended to remove references to escrow ballots and create a process for provisional ballots. Chapter 334 of the Acts of 2004 created Massachusetts General Laws chapter 54, section 76C, which meets the requirements of HAVA relative to provisional voting. At every election in Massachusetts since 2004, provisional ballots have been made available to persons claiming the right to vote whose names do not appear on the voting list. Additionally, the Secretary's Office has provided forms for local election officials to use in the provisional voting process, developed training materials and

provided training to local election officials and poll workers. The Secretary's office also provides the toll-free number (1-800-462-8683), which appears on the forms provided to provisional voters, that voters can call to determine whether their provisional ballot was counted.

Voting Information

The Secretary has always provided local election officials with posters containing instructions on voting and penalties for voting offenses, which are required to be posted in each polling location. Also, "specimen ballots" are produced and required to be posted at each polling location.[18]

Additionally, the Secretary publishes and sends certain voting information to each household containing a registered voter.[19] This information is published in the "Information for Voters" booklet and is distributed before every state election. The booklet is also available on our website.[20] The booklet is published in English and Spanish and a large print and audio version are available.

To comply with HAVA, the Secretary will work with local election officials to make any necessary revisions to voting materials to ensure voters have proper instructions on:

- the date of the election
- the deadline for registering to vote
- due date/time of absentee ballots
- the hours and locations of polling places
- the location and address of local elections offices
- instructions on how to vote a ballot including how to use the voting equipment
- instructions on how to request a replacement ballot or provisional ballot and how to check the status of a provisional ballot
- instructions for first-time voters and identification requirements
- information on voting rights and what to do if these rights are alleged to have been violated
- general information on federal and state election laws regarding fraud and misrepresentation.

The Secretary intends to work with the disability community to develop alternative methods and standards for conveying this information at the polls to disabled individuals.

UPDATE

To ensure that the HAVA requirements are met, the Secretary has added information to the penalty and instruction cards already provided. Specifically, the information within the penalty cards has been updated to include federal law violations

in accordance with HAVA. The instruction cards have been updated to include information for first-time voters who may be required to show identification as well as on provisional voting in addition to the information already contained therein regarding how to mark your ballot and use voting equipment and to request a new ballot. Additionally, a Voter Bill of Rights was added to the information provided to local election officials for posting within the polling place.

As part of our ongoing voter education efforts, the Secretary has included HAVA related information in the Information for Voters Booklet, which is sent to each household in Massachusetts. This information includes, but is not limited to, the date of the election, polling hours, how to register to vote, how to apply for an absentee ballot, how to determine your polling place, the availability of accessible voting equipment and also contained a mail-in voter registration form to register to vote.

Computerized Statewide Voter Registration List Requirements and Requirements for Voters Who Register by Mail

Section 303 of HAVA requires that the Secretary of State, as Chief Elections Officer, implement, in a uniform and nondiscriminatory manner, by January 1, 2004, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each such voter.

(1) The computerized list shall:
- (a) be the official voter registration list for federal elections;
- (b) serve as the single system for storing and managing the official list;
- (c) contain the name and registration information of every registered voter;
- (d) contain a unique identifier (DL#, partial SS#, or assigned number) for each voter;
- (e) be coordinated with other state databases (Corrections, Health Services, DMV, other state social service agencies and Social Security);
- (f) provide immediate, electronic access to any election officials in the state;
- (g) allow for electronically entering data by any local election officials on an expedited basis;
- (h) be supported by the State.

(2) Maintenance of the official list shall be performed on a regular basis as follows:
- (a) voters names shall be removed in accordance with NVRA (42 U.S.C. § 1973gg, Section 8, (a)(4), (c)(2), (d) and (e);

(b) ineligible voters shall be removed in accordance with NVRA for felony status (42 U.S.C. § 1973gg, 6(a)(3)(B)); for death (6(a)(4)(A)); or in accordance with state law;
(c) each registered voter's name shall appear on the list;
(d) only ineligible voters or voters not registered shall be removed from the list;
(e) duplicate names shall be removed from the list;
(f) other reasonable efforts to remove ineligible voters, consistent with the NVRA (42 U.S.C. § 1973gg, et. seq.) that ensure eligible voters are not removed in error, including removing registrants who have not responded to a notice and who have not voted in two consecutive general elections for federal office shall be removed from the official list of eligible voters, except that no registrant shall be removed solely by reason of failure to vote.

Section 303(a)(5)(A)(i), requires applicants to provide certain information which must be verified for their voter registration to be processed. Specifically, an application for voter registration for a federal election may not be accepted or processed unless it includes:

(i) the driver's license number of an applicant who has been issued a current, valid driver's license; or, if a valid driver's license has not been issued;
(ii) the last four digits of an applicant's social security number.

However, if an applicant has not been issued a current, valid driver's license or a social security number, then:

(i) The State shall issue a unique identifying number.

To the extent the State has a computerized list, this unique identifying number shall be the number assigned to the applicant for purposes of the computerized list.

The State shall determine whether the information provided by the applicant (driver's license number or partial social security number (the last four digits)) is sufficient to meet the requirements of HAVA. [21]

The Secretary shall enter into a cooperative agreement with the Department of Motor Vehicles, and the Department of Motor Vehicles shall enter into an agreement with the Commissioner of Social Security, to verify the accuracy of the information provided by the voter registration applicant, specifically:

(a) the applicant's name (first name and forename or surname);
(b) the applicant's date of birth;
(c) the applicant's social security number;
(d) whether such records show the applicant is deceased.

(Nothing shall be construed to require provision of applicable information under exceptional circumstances (e.g. personal safety or interference with an investigation).)

Beginning January 1, 2004, each State must, in a uniform and nondiscriminatory manner, require proof of residence from a registered voter for purposes of casting a ballot in a federal election, if the voter: (a) registered to vote in a jurisdiction by mail on or after January 1, 2003, **and** (b) has not previously voted in an election for federal office in the State, or voted in a jurisdiction and the jurisdiction is located in a State that does not have a HAVA-compliant statewide voter registration computerized list.

If the voter meets these conditions, and he or she **votes in person** (at a polling location), the voter shall, in order to vote, present to the appropriate elections official:

i. a current and valid photo identification, **or**
ii. a copy of one of the following that shows the name and address of the voter:
    (i) a current utility bill;
    (ii) a bank statement;
    (iii) a government check;
    (iv) a government paycheck;
    (v) a government document.

If the voter meets these conditions, and he or she **votes by mail** (absentee ballot), the voter shall, in order to vote, submit with his or her ballot to the appropriate elections official a copy of one of the following that shows the name and address of the voter:

(a) a current and valid photo identification, **or**
(b) a copy of one of the following that shows the name and address of the voter:
    (i) a current utility bill;
    (ii) a bank statement;
    (iii) a government check;
    (iv) a government paycheck;
    (v) a government document.

Any voter subject to these requirements who votes in person and who does not provide proof of residence as required shall be provided a provisional ballot.

Any voter subject to these requirements who votes by mail (absentee ballot) and who does not provide proof of residence as required shall have their ballot treated as a provisional ballot.

There are certain exceptions to this provision. Specifically, the identification requirements for first-time voters do not apply when:

(1) The voter registers under Section 6 of the NVRA (42 U.S.C. § 1973gg—4) and submits as part of the voter registration a copy of:

(a) a current and valid photo identification, **or**;

(b) a copy of one of the following showing the name and address of the voter:

(i) a current utility bill;
(ii) a bank statement;
(iii) a government check;
(iv) a government paycheck;
(v) a government document.

(2) The voter registers under Section 6 of the NVRA (42 U.S.C. § 1973gg—4) and submits as part of the registration (subject to state verification of the information, including the applicant's name and birth date):

(a) a driver's license number, **or**

(b) at least the last four digits of their social security number.

(3) The voter is entitled to vote by absentee ballot under the Uniform and Overseas Citizens Absentee Voting Act (42 U.S.C. § 1973ff—1 et seq.).

(4) The voter is entitled to vote other than in person by Section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. § 1973ee—1).

(5) The voter is entitled under federal law to vote other than in person.

HAVA also requires changes to mail-in voter registration forms. Mail-in voter registration forms developed under Section 6 of the NVRA (42 U.S.C. § 1973gg—4) must include the questions:

(1) Are you a citizen of the United States of America? (and)
(2) Will you be 18 years of age on or before election day?

The forms must also contain the statement: "If you checked "no" in response to either of these questions, do not complete this form."

New voter registration forms must request the applicant's drivers license number or last four digits of their social security number and must contain a statement informing the applicant that if the form is submitted by mail and the voter is registering for the first time, that additional information (a copy of documents for proof of residence; or a driver's license number or partial social security number) must be provided to avoid additional proof of residence requirements at the time of voting.

If an applicant fails to answer the question: "Are you a citizen of the United States of America?" the registrar shall notify the applicant of the failure to complete the form and provide an opportunity to the applicant to complete the form in a timely manner.

PROPOSED ACTION FOR HAVA COMPLIANCE WITH STATEWIDE DATABASE REQUIREMENT AND REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL:

Central Voter Registry of Massachusetts

As part of the implementation of the National Voter Registration Act of 1993 (Motor Voter), Massachusetts developed the Voter Registration Information System (VRIS).[22] The VRIS is a statewide database that contains the name and address of every registered voter in Massachusetts. The system connects 350[23] municipalities and the Registry of Motor Vehicles. The VRIS is a closed system that does not provide for Internet or outside access. Each municipality is responsible for updating and maintaining information relative to registered voters in their municipality. [24]

The processing of voter registrations using the VRIS system allows for the detection of duplicates and allows for municipalities to communicate information electronically such as deletion of a voter in one municipality when they register in another.

The Secretary maintains a Help Desk to provide support for the system. The Help Desk runs periodic reviews of the system for possible duplicates not detected at the time of registration. The Help Desk also works with the Department of Public Health to obtain reported death information that is communicated to the local election officials.

The Voter Registration Information System:

- ✓ Is a secure statewide voter registration database that is a single, uniform, centralized, interactive system that is defined, maintained, and administered at the state level;
- ✓ Provides local elections officials with immediate access to the voter registration information;
- ✓ Serves as the official voter registration list for federal elections;
- ✓ Assigns every voter a unique identifier (voter identification number);
- ✓ Coordinates with the Department of Public Health to obtain death information;
- ✓ Provides for the removal of individuals who are clearly ineligible to vote, in accordance with all state and federal laws, while ensuring that eligible voters are not erroneously removed from the registration list;

- ✓ Provides a mechanism to notify an individual with respect to changes in status or failure in registration, or proposed purging of the individual from the database as an eligible voter and affording the individual a reasonable opportunity to present clarifying or correcting information.

The Secretary currently provides ongoing technical assistance to local elections officials regarding the VRIS and ensures that the database and the information contained therein are not subject to improper use.

To comply with HAVA, certain changes to the VRIS will be necessary. Those changes include modifications to allow the system to interface with other state agencies to coordinate records and to communicate with the Registry of Motor Vehicles to verify driver's license and social security number information.

The Secretary has already begun discussions with the Registry of Motor Vehicles to determine what modifications are necessary to both computer networks so that information can be verified in a timely manner. The discussions have included what information will be verified.

In complying with the requirements of HAVA, the Secretary will, in part:

(a) Consider whether an applicant's state identification card number issued by the Massachusetts Registry of Motor Vehicles is sufficient to meet the requirements of a driver's license number;[25]

(b) To the extent permitted by law, establish a procedure for and rules requiring local elections officials to provide any person whose voter registration application is not accepted with written notice and an opportunity to correct errors or provide missing information;

(c) Clarify, in legislation or otherwise, to local elections officials, poll workers, and voters, which documents are valid for identification purposes under this section.[26]

UPDATE

The VRIS database has been modified to meet all HAVA requirements. VRIS has a real-time interface with the Registry of Motor Vehicles to verify voter information (driver's license or last four digits of social security number). If the identification number cannot be verified or is not provided (meaning the applicant stated they had none), VRIS prints an acknowledgement notice with clear instructions that such voters will need to present identification with a listing of valid identification.

Requirements for Voters Who Register by Mail

The Secretary will comply with HAVA's requirements with respect to special requirements for certain voters who register by mail. In implementing these provisions, the Secretary will, in part:

(a) Ensure that elections officials, poll workers and voters understand clearly which voters are subject to the identification requirements; understand the procedures for soliciting, reviewing and processing identification; and advise individuals of their right to cast a provisional ballot when appropriate;

(b) Determine whether to apply the identification requirements only to those who meet the specific criteria set forth in Section 303(b)(1), namely those who register by mail on or after January 1, 2003, **and** who have not previously voted in an election for federal office in the jurisdiction or to seek legislation to require all voters to present identification;

(c) Clarify for voters, local election officials, and poll workers, in a uniform and nondiscriminatory way, which forms of identification are acceptable to be used as valid identification as permitted under Section 303(b)(2)(A), construing such provisions of law broadly in permitting the use of the identification to satisfy the requirements of HAVA;

(d) Monitor the application of the identification provisions, including providing instruction on how to report alleged illegal application of identification requirements;

(e) Ensure compliance with Section 203 of the Voting Rights Act (42 U.S.C. § 1973aa-1a).

The Secretary will work with local election officials to determine the most practical application of the HAVA requirements.

UPDATE

The Secretary has provided significant training on the application of the identification provisions including written memorandum and instruction at meetings of local election officials. As previously mentioned, the requirements are also contained in the instruction cards provided to local election officials and in voter education materials sent to each household. Also, before the 2004 State Election, the Secretary sent postcards to each first-time voter who was required to show identification at that election and advertised the requirements in newspapers across the Commonwealth as well as on the radio and television. Similar advertising on the radio and television was also done before the 2008 State Election.

Mail-In Registration Form Requirements

The Secretary is working with local election officials to re-design the voter registration forms used in Massachusetts. Any new form will include the questions: "Are you a citizen of the United States of America?" and "Will you be 18 years of age or older on or before election day?". The new forms will also instruct the voter not to complete the form if they answered "no" in response to either of the questions. The new forms will be designed to instruct the voter to provide their driver's license number or, if they do not have a driver's license, to provide the last four digits of their social security number, and inform the voter that if they have neither, that they will be assigned a unique identifier.

The forms will also include information relative to identification requirements. For voters who do not submit identification with their registration, local election officials will take the following steps:

- Register the voter, inform the voter that their voter registration has been processed and request identification from the voter using a form letter which indicates that if they do not provide the identification before the next federal election, they will be required to present it at the polls on election day.
- If identification is not received prior to the next federal election, request identification at the polls on election day when the voter appears to vote.

UPDATE

After the enactment of HAVA, new voter registration forms were printed and provided to local election officials and agencies containing the two new questions required by HAVA as well as identification requirements of HAVA. The forms were re-designed to more accurately collect the information and provide the clearest instructions to applicants.

Use of Requirements Payment for Other Than Complying with Title III

Section 251(b) permits the use of requirements payments only for complying with Title III, EXCEPT that a State may use a requirements payment to carry out other activities to improve the administration of elections, if the state certifies that it has implemented the requirements of Title III **or** the amount expended with respect to such other activities does not exceed an amount equal to the minimum payment amount applicable to the State under Section 252(c) (1/2 of 1 percent of the total amount appropriated for requirements payments for the year).

PROPOSED ACTION FOR HAVA COMPLIANCE WITH USE OF REQUIREMENTS PAYMENT FOR OTHER THAN COMPLYING WITH TITLE III

The Secretary intends to, in consultation with local election officials and other interested persons, determine how any funds available pursuant to Section 251(b) should be spent in order to improve the administration of elections for federal office in the Commonwealth of Massachusetts.

UPDATE

At this point, the Secretary is continuing to use HAVA funding for complying with the requirements of Title III.

ELEMENT 2:

How the State will distribute and monitor the distribution of the requirements payments to units of local government or other entities in the state for carrying out the activities described in paragraph (1) including a description of:

(a) The criteria to be used to determine the eligibility of such units or entities for receiving the payments; and

(b) The methods to be used by the State to monitor the performance of the units or entities to whom the payment is distributed, consistent with the performance goals and measures adopted under paragraph (8) (Sec. 254, (a)(2)).

HAVA requires that payments available be used for the purposed described in Element One, or as otherwise authorized by HAVA. The Secretary of the Commonwealth, as Chief Elections Officer, is required to establish a procedure for distributing and monitoring payments to local governments and other entities. This procedure must be developed in consultation with local elections officials and other interested parties, and after considering any voluntary guidelines adopted by the Commission pursuant to Subtitle B of Title III.

To assist in this regard, the Secretary will work with the Steering Committee who will advise and make recommendations regarding the distribution of funds. After considering the advice and recommendations of the Steering Committee, the Secretary intends to:

(a) establish the procedure, including an application forms and process, for receiving funds;
(b) establish criteria for the distribution of funds, including identification of the types of individuals and entities eligible to receive funds;
(c) establish specific performance goals and measures to monitor the use of those funds, requiring periodic reports and accounting to the Secretary to ensure the funds are being spent in accordance with Title III and the application for funds, and to ensure that programs are meeting the performance goals and measures adopted by the Secretary;
(d) by general press release, by posting on the Internet, by communication to interested parties, and other appropriate methods, make the application for funds, the performance goals and measures, and other information regarding the procedure for the distribution of funds, publicly available.

As HAVA requirements result in significant changes on a municipal level, the Secretary will ensure that municipalities have an opportunity to seek funding to improve the election process. For funding to replace or obtain additional voting equipment, the Secretary intends to provide a reimbursement program. The municipality will be required to provide detailed information to the Secretary regarding the equipment as well as planned education for the new equipment.

The Secretary will also consider providing grant programs to other organizations for purposes of voter registration and voter education.

UPDATE

The Secretary provided municipalities that used lever voting machines or data-vote voting machines in the 2000 election with reimbursement for replacement. The reimbursement included a specific application process.

As we anticipate the need to replace additional equipment, the Secretary will again be providing assistance to municipalities. The formulation of amount of assistance and forms to be used to apply for assistance are being developed and will be done in coordination with the Steering Committee and local election officials.

ELEMENT 3:

How the state will provide for programs for voter education, election official education and training, and poll worker training which will assist the state in meeting the requirements of Title III.

All participants in the elections process, including poll workers and voters, can benefit from instruction in elections law and procedure. The Secretary intends to provide programs for voter education, election official education and training and poll worker training. The Secretary intends to develop such programs in consultation with local election officials and other interested persons.

Election Official Education and Training and Poll Worker Training

As the chief elections officer of the state, it is the Secretary's responsibility to obtain and maintain uniformity in the application, operation, and interpretation of State election laws. However, as previously indicated, elections in Massachusetts are administered by local election officials, who are responsible for appointing and training poll workers.

The Secretary currently works with the local election official's organization to coordinate training. Both the City and Town Clerks' Associations hold meetings three times a year. During those meetings, the Secretary often teaches classes on various topics relating to elections. Additionally, the Secretary's office is available to assist with poll worker training upon request.

The Massachusetts Town Clerks' Association has also developed an educational and certification program to establish minimum standards of knowledge of the Massachusetts General Laws and regulations relating to elections, and to enhance the professionalism of the position. To be awarded the designation of "Certified Massachusetts Municipal Clerk," participants are required to pass a written examination based on the contents of the education programs. The Town Clerks' Association also offers scholarships and encourages clerks to further their education by participating in the educational program sponsored by the New England Municipal Clerks Institute (NEMCI) that is held at Salve Regina University.

To ensure compliance with Title III of HAVA and improve the overall administration of elections the Secretary will work with local election officials to:

(1) Sponsor annual election administration workshops, and require local election officials to participate, using federal funds, if available;
(2) Continue to attend and participate in City and Town Clerk Association meetings to communicate concerns, practices, and information;
(3) Produce separate training presentations for election officials, staff, and board workers on specific election practices and procedures;
(4) Consider developing statewide training videos or PowerPoint presentations for poll workers, including special instructions for various positions such as warden and clerk;

(5) Conduct and videotape a statewide training session on the needs of voters with disabilities for all local elections officials;
(6) Consider establishing, in conjunction with local elections officials, an on-line, interactive training seminar to train, educate and certify elections officials and poll workers while ensuring that such seminar is accessible to the widest possible audience, including bilingual poll workers and poll workers with disabilities;
(7) Ensure that any training provided to poll workers cover at least the following topics:
    (a) the proper operation and maintenance of voting systems and technology;
    (b) the rights of voters to cast provisional ballots and the proper processing and counting of those ballots;
    (c) the non-discriminatory application of HAVA's identification requirements for certain voters who register by mail;
    (d) the rights of minority language voters in jurisdictions covered under Section 203 of the Voting Rights Act of 1965 to receive language assistance at the polling place.

UPDATE:

The Secretary has continued to work with local election officials to provide training including poll worker training. After the implementation of HAVA, the Secretary's Office conducted a series of regional trainings on the use and requirements of provisional voting and identification requirements for first time voters. The Secretary's Office continues to participate in meetings of the City and Town Clerks' Associations by teaching classes at each meeting. We also provide information via a broadcast e-mail system to all local election officials and are creating new training materials for them.

Voter Education and Outreach

The Secretary intends to embark on new voter education and outreach initiatives. Such programs will be designed after consultation with local election officials and other interested parties.

In the past, the Secretary has sponsored a grant program for voter registration organizations to conduct voter registration and promote voter education. The program was recently discontinued due to lack of funding. Using the monies from HAVA, the Secretary intends to reinstate the program.

Also, to meet the requirements of HAVA and to enhance the administration of elections, the Secretary intends to:

(1) establish an outreach and education program in the Office of the Secretary of State to educate local elections officials and voters, and to do the following:

(a) to assist in meeting the goals and requirements of Title III;
(b) to serve as a "clearinghouse" for the coordination of voter education;
(c) to produce and place public service announcements relative to poll worker recruitment and voter education;
(d) to design and post additional information on the website regarding the voting process;
(e) to target younger voters and those not yet old enough to vote regarding the importance of and the mechanics of participating in the voting process;
(f) to educate all eligible citizens as to the procedures relative to voting;
(g) to work with federal, state and local governmental agencies, including the Registry of Motor Vehicles, to streamline the procedures to facilitate voter registration and voter participation;
(h) to develop procedures for informing individuals whose attempted efforts to register to vote or to vote are defective, and to provide for the correction of such deficiencies;
(i) to explore proposals that may facilitate the opportunity to participate in the voting process, including Election Day registration, on demand absentee voting, and Election Day Holiday voting;
(j) to take all other appropriate action to educate elections officials and voters regarding the voting process.

(2) through the process for distribution of funds, provide funds to local election officials and other entities, including community-based, employee-based, campus-based, and similar organizations, to assist in voter education, election official education and training, and poll worker training;

(3) consider enhancing the existing toll-free telephone number and Secretary of the Commonwealth website to provide additional information to citizens on how to participate in the elections process and ensure that there are sufficient staff and resources to make the toll-free number and the website easily accessible to persons with disabilities and persons with language assistance needs;

(4) consider the development of public service announcements and other videos that would be available for local cable networks;

(5) develop for posting in polling places, on the Internet, and elsewhere, materials in appropriate languages and in alternate formats (Braille, large print, audio tape, or electronic computer disk) containing useful information regarding the election process and how to participate in it. The Secretary shall ensure that such materials are accessible to the

widest possible audience, including persons with disabilities and language assistance needs;

(6) encourage voter education efforts conducted in connection with the foregoing activities to cover at least the following topics:

(a) information on how to register to vote;
(b) information on how voters can determine the location of their polling places and hours of voting;
(c) information on absentee balloting;
(d) the proper use of voting systems and technology;
(e) the rights of voters to cast provisional ballots;
(f) the rights of minority language voters in jurisdictions covered under Section 203 of the Voting Rights Act of 1965 to receive language assistance at the polling place;
(g) the availability of the complaint procedure and toll-free numbers described in this State Plan;
(h) the rights of voters with disabilities in jurisdictions covered under the Voting Accessibility for the Elderly and Handicapped Act to receive assistance at the polling place.

(7) re-assess the information currently provided by the Secretary's office, including but not limited to, the Information for Voters guide. The informational material will be re-evaluated to determine what information needs to be modified and what additional information should be provided. The Secretary will direct sufficient resources towards strengthening existing publications and programs and establishing ones that will be the most effective in addressing voting issues in Massachusetts.

UPDATE:

The Secretary has produced public service announcements on both radio and television before the elections providing information relative to registering to vote and identification requirements. The Secretary has been working to constantly update his website to include information relative to the voting process. As mentioned earlier, the Secretary has included information relative to voting including registration, how, when and where to vote, absentee voting, and HAVA requirements in the Information for Voters booklet which is distributed to every household in Massachusetts and is available in Spanish, large print, audio and on the website. The Secretary will continue to work to ensure voters are educated and informed regarding the process.

ELEMENT 4:

How the State will adopt voting system guidelines and processes that are consistent with the requirements of Section 301.

Section 254(a)(4) of HAVA requires the Commonwealth to describe how it plans to adopt voting system guidelines and processes that are consistent with the requirements of Section 301 of HAVA. The Secretary, under existing state law and regulation, certifies voting systems and equipment.[27] The procedures for the use of voting equipment is set forth in the general laws and in the Code of Massachusetts Regulations. The Secretary also has the authority to decertify voting systems and equipment, and the procedures for their use. No voting system may be used for any election without being certified.

The Secretary, through existing processes, after considering any voluntary guidelines adopted by the Commission pursuant to Subtitle B of Title III, will certify and decertify voting systems, and the procedures for their use, to ensure that all voting systems and the procedures for their use comply with the requirements of Section 301 and other provisions of HAVA.

UPDATE:

The Secretary continues to monitor certification of voting equipment by the EAC and will actively pursue state certification of any federally certified voting system.

ELEMENT 5:

How the State will establish a fund described in Section (b) for purposes of administering the State's activities under this part, including information on fund management.

Section 254(b) of HAVA requires the Secretary to establish a fund to be used to administer the state's activities relating to its requirements payments. The election fund is to include:

(1) amounts appropriated or otherwise made available by the State for carrying out the activities for which the requirements payment [has been] made to the State. . .;
(2) the requirements payments made to the State;
(3) such other amounts as may be appropriated under law; and
(4) interest earned on deposits of the fund.

The Secretary of the Commonwealth has administratively established an Election Fund. The Secretary's fiscal, accounting, and budgeting offices will have overall responsibility, under the direction of the Secretary of the Commonwealth, for the administration of this fund. The administration of the fund will meet all requirements of federal and state law for fiscal management.

ELEMENT 6:

The State's proposed budget for activities under Part II of HAVA, based on the State's best estimates of the costs of such activities and the amount of funds to be made available, including specific information on:

(A) the costs of the activities required to be carried out to meet the requirements of Title III;

(B) the portion of the requirements payment which will be used to carry out activities to meet such requirements; and

(C) the portion of the requirements payment which will be used to carry out such other activities.

Section 254(a)(6) of HAVA requires the Secretary to describe in the state plan a budget for its proposed activities and anticipated expenditures for those activities.

HAVA creates additional requirements on states. The success of this reform effort is dependent upon adequate funding. It is important to realize that budgetary issues cannot be completely resolved until the amount of funds available is finally determined, the voluntary guidelines (Subtitle B of Title III) promulgated by the Commission can be considered, and the costs of actual implementation are ascertained. However, as the Election Assistance Commission has not yet been established to develop and announce specific funding and guidelines, no further funding has been determined. Accordingly, it is difficult to formulate a proposed budget. When the amount of funds are finally determined, the guidelines are promulgated, and the implementation costs can be ascertained, a detailed budget will be presented by the Secretary.

Section 253(b)(5) of HAVA requires that each state provide 5 % matching funds for the Title II funding. Massachusetts is working to appropriate such matching funds.

The general principles that are being followed in the budgeting process are set forth below:

(a) The Secretary of the Commonwealth will adopt policies and procedures to ensure that all funds received, including interest earned on those funds, with the exception of funds identified in Sections 251(b)(2)(A) and (B) from Title II allocations, will be used to accomplish the requirements of Title III.

(b) The Secretary will identify its "maintenance of effort" level for each of the requirements in Title III and will not use HAVA funds to supplant activities already funded.

(c) The State will use some of the monies received under Section 101 to supplement the monies received under Section 102 for reimbursing those municipalities that used either lever machines or punch card voting machines at the 2000 election.

(d) No funds received pursuant to Title II will be used for purposes of litigation or payment of judgment.

(e) The Secretary will administer the Election Fund described in Section 254(b) of the Act.

SECTION 101 FUNDS BUDGET:

PURPOSE	AMOUNT
Statewide Voter Registration Database	$3,000,000
Voting Equipment	$1,246,944
Voter Education	$1,000,000
Poll Worker Training	$750,000
Alternative Language Assistance	$100,000
Provisional Balloting Information	$200,000
Administrative Expenses/Complaint Process	$200,000
Disability Access/Accessibility	$100,000
Miscellaneous/State Plan Expenses	$50,000
TOTAL	$6,646,944

SECTION 102 FUNDS:

All monies received under Section 102 will be directed to the municipalities. Additionally, certain amounts received under Section 101, as noted above, will be used to supplement any amounts provided to municipalities that are required to replace voting equipment.

TITLE II FUNDS:

The Secretary of the Commonwealth, in administering the Election Fund, will provide funding for the following specific requirements of Title III:

VOTING SYSTEMS STANDARDS

The Secretary will allocate funds to meet the requirements of Section 301. This may include allocation of funds to local election officials, according to allocation criteria developed by the Secretary.

If federal standards or state standards are adopted that require retrofitting of existing equipment, funds may also be necessary for this purpose.

The Secretary shall establish a procedure to determine which local election jurisdictions require or request funds to meet the requirement of

Section 301(a)(3) for at least one accessible voting system in each polling place. There are approximately 2,158 precincts in the Commonwealth of Massachusetts.

The Secretary shall ensure that all voting equipment meets the provisions of Section 301, including, but not necessarily limited to: (1) permitting voters to verify and correct their ballots prior to casting the ballot; (2) providing notice of the fact and effect of overvotes and permitting voters an opportunity to correct an overvote before the ballot is cast; (3) producing a permanent paper record with a manual audit capacity; (4) providing a uniform definition of a vote cast on any voting systems; (5) ensuring accessibility to persons with disabilities; (6) ensuring accessibility for language minorities as required by the Voting Rights Act of 1965, as amended; and (7) meeting the "error rate" guidelines adopted by the Federal Election Commission.

100% of the Section 102 monies will be dedicated to this purpose. Additional funding from Section 101 monies will be used to supplement monies distributed to municipalities for purposes of acquiring new voting equipment. It is estimated that an additional 15% of Title II monies will be used to acquire accessible voting equipment for each polling location as well as for other municipal activities.

PROVISIONAL VOTING

Massachusetts law does not currently provide for provisional voting that complies with the requirements of Section 302. Legislation will be introduced and regulations promulgated which provide for provisional voting in compliance with the requirements of Section 302. The Secretary intends to disburse funds to ensure that the provisional voting requirements are implemented and that all notices required by HAVA are developed and included at each polling place. In addition, the Secretary will, in cooperation with local elections officials, define a "free access" system (or systems) to permit voters to determine if their provisional ballot was counted and if it was not, why not. The funds necessary for this "free access" system will depend on the design of the system (Internet, telephone, etc.), who operates and manages the system (one state system, or local systems), and the volume of inquiries made by voters for the required information or the volume of notices provided to provisional voters.

It is estimated that 5% of the Title II funding will be dedicated to this purpose.

VOTER INFORMATION

HAVA requires that certain information be provided to voters at the polling place. This information shall include a sample ballot, the date and hours of voting, how to vote, how to vote a provisional ballot, procedures for first time

registrants required to present identification, a listing of the rights of voters and other general information on other laws and protections for voters.

The Secretary will ensure that the necessary materials are developed, distributed and provided at all polling locations.

Preliminarily, it is estimated that 7% of the funds will be dedicated for this purpose.

STATEWIDE DATABASE

The Secretary is required to develop a single, uniform, official, centralized, and interactive database of registered voters that is defined, maintained, and administered at the state level. The database shall be the official list of voters for federal elections.

Massachusetts currently has a centralized database called the Voter Registration Information System. The system was developed in response to the National Voter Registration Act of 1993 and meets all requirements of that act. The system will, however, need to be modified to meet the new requirements of HAVA.

The costs associated with modifications of the system will include establishing further connections with the Registry of Motor Vehicles to facilitate the verification of driver's license number and social security number.

Preliminarily, it is estimated that 10% of the available funds be used for this purpose.

REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL

The Secretary will develop procedures for the uniform implementation of the requirements of Section 303(b).

It is estimated that 5% of the funds will be dedicated for this purpose.

VOTER EDUCATION

Section 254(a) requires that the State Plan include a description of how Title II funds will be used to educate voters to assist in meeting the requirements of Title III. Educating voters on the use of new voting equipment as well as new procedures will be critical to the success of the reforms in the election process.

The Secretary will allocate substantial funds to the education of voters concerning voter registration, voting, new voting equipment, voter rights, and other appropriate subjects.

These funds will provide for educational efforts in the minority language and disability communities, and will make a special effort to inform and educate young voters as they begin their careers as voters.

In addition to funds expended by the Secretary, funds may be allocated to local elections officials, individuals, organizations, and others for educational purposes. Funding allocation will be in accordance with criteria established by the Secretary.

Outreach methods may include: printed materials, radio and television announcements, mailings, newsletters, organizing community groups and utilizing their networks to extend into the community, or other means to effectively reach the target audience.

Preliminarily, it is estimated that 10% of the funding available be used for this purpose.

ELECTIONS OFFICIAL EDUCATION

Section 254(a) requires that the State Plan include a description of how Title II funds will be used to educate election officials. Local election officials are a key component of a successful election as they actually administer elections and interact with the voters.

The Secretary will work with local election officials to develop a plan for specific training of election officials. The funding required for this training program will depend on the curriculum and program design.

Preliminarily, it is estimated that 20% of the available funds be dedicated for this purpose.

POLL WORKER EDUCATION

Section 254(a) requires that the State Plan include a description of how Title II funds will be used to educate poll workers.

The Secretary will expend and allocate funds to assist local elections officials in programs to train poll workers. These programs will include, among other topics, instruction on the proper operation of voting equipment, applicable federal and state laws, the specific needs of minority language and disabled voters, voting provisionally in accordance with the HAVA, procedures for voters who register for the first time by mail, and the rights of voters.

Preliminarily, it is estimated that 15% of the funding be dedicated for this purpose.

THE PORTION OF THE REQUIREMENTS PAYMENT THAT WILL BE USED TO CARRY OUT OTHER ACTIVITIES

Complaint Procedure

The Secretary will establish a complaint procedure that meets the requirements of Section 402. The funds necessary for administering this procedure will depend on the type and the number of complaints received and processed. Funding for administering the procedure is likely to come from the requirements payment. The Secretary would also use such funds for other administrative costs for implementation of HAVA.

It is estimated that 1.5% of the Title II funding would be dedicated to this purpose.

Other Costs:

Providing Grants to Organizations and Municipalities, including voter registration grants: 10%

Administrative Costs: 1.5%

SUMMARY OF COSTS AND PORTIONS USED TO CARRY OUT ACTIVITIES

The chart below lists activities and costs of HAVA to be implemented in Massachusetts as provided in the original plan.

ACTIVITY	PERCENTAGE	PURPOSE
Voting Systems	100% of Section 102 Monies and 15% of Title II Monies	For the purchase of new voting equipment, including accessible equipment
Provisional Voting Information	5%	To establish a provisional ballot system and the required free access system
Voter Information	7%	To provide the required information to voters
Voter Registration Database	10%	Modifications to VRIS
Requirements for Voters Who Register by Mail	5%	To implement procedures uniformly
Voter Education	10%	Administered by state in coordination with municipalities
Election Officer Training	20%	Administered by State to municipalities
Poll Worker Training	15%	Administered by State in coordination with municipalities
Complaint Procedure	1.5%	To ensure that HAVA is implemented fairly
Administrative Expenses/ Implementation Costs	1.5%	For state personnel to administer HAVA and other costs for implementation
Grants	10%	Includes activities such as voter registration
TOTAL	100%	

UPDATED SUMMARY OF COSTS AND PORTIONS USED TO CARRY OUT ACTIVITIES

The chart below lists activities and costs of HAVA to be implemented in Massachusetts as amended from the original plan.

ACTIVITY	PERCENTAGE	PURPOSE
Voting Systems	100% of Section 102 Monies and 25% of Title II Monies 100% of FY 2008 and FY 2009 Requirements Payments	For the purchase of new voting equipment, including accessible equipment
Provisional Voting Information	5%	To establish a provisional ballot system and the required free access system
Voter Information	7%	To provide the required information to voters
Voter Registration Database	10%	Modifications to VRIS
Requirements for Voters Who Register by Mail	5%	To implement procedures uniformly
Voter Education	10%	Administered by state in coordination with municipalities
Election Officer Training	10%	Administered by State to municipalities
Poll Worker Training	15%	Administered by State in coordination with municipalities
Complaint Procedure	1.5%	To ensure that HAVA is implemented fairly
Administrative Expenses/ Implementation Costs	1.5%	For state personnel to administer HAVA and other costs for implementation
Grants	10%	Includes activities such as voter registration
TOTAL	100%	

ELEMENT 7:

How the state, in using the requirements payment, will maintain the expenditures of the state for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the state for the fiscal year ending prior to November 2000.

The Secretary of the Commonwealth, through the state's budgetary processes and the distributions of the requirements payment, intends to ensure that the expenditures of the state for activities funded by the payment will be maintained at a level that is not less than the level of such expenditures maintained by the state for the 1999-2000 Fiscal Year.

ELEMENT 8:

How the state will adopt performance goals and measures that will be used by the state to determine its success and the success of units of local government in the state carrying out the plan, including the timetable for meeting each of the elements of the plan, descriptions of the criteria the state will use to measure performance and the process used to develop such criteria, and a description of which official is to be held responsible for ensuring that each performance goal is met.

Section 254(a)(8) of HAVA requires the Secretary to describe how the state will adopt performance goals and measures to be used by the Commonwealth to measure Massachusetts' success in implementing this state plan.

To ensure continued implementation and monitor performance, the Secretary intends to assign at least one employee of the Elections Division to oversee the HAVA project. This employee would be responsible for coordination of efforts between the state and municipalities as well as reporting progress to the Secretary.

The Secretary intends to:

(a) develop performance goals and measures, with timetables, descriptions of criteria, the process used to develop the criteria, and identification of accountable officials, to determine the effectiveness of all programs and efforts receiving HAVA funds;

(b) monitor, through consultations with local elections officials and interested individuals and organizations, the performance of the state, units of local government and other entities with respect to reaching goals and each and every provision of HAVA.

Some planned performance goals include:

- ✓ Elimination of lever voting machines and punch card voting systems: November 2004
- ✓ Implementation of Updates to Central Voter Registry System: January 2004
- ✓ Implementation of Free Access System for Provisional Voting: February 2004

UPDATE:

The elimination of lever voting machines and punch card voting systems was fully implemented before the 2004 State Election. Updates to the Voter Registration Information System to meet HAVA requirements were implemented

in early 2004. The free access system for provisional voting was operational for the March 2004 Presidential Primary.

ELEMENT 9:

A description of the uniform, nondiscriminatory state-based administrative complaint procedures in effect under section 402 of HAVA.

Section 402 of HAVA requires each state to establish and maintain a state-based administrative complaint procedure that:

(a) is uniform and nondiscriminatory;

(b) allows any person who believes that there is a violation of any provision of Title III to file a complaint;

(c) requires that the complaint be in writing and be notarized;

(d) permits consolidation of complaints;

(e) requires that there be a hearing on the record if the complainant requests such;

(f) an appropriate remedy be provided if the State determines that there is a violation of Title III;

(g) the complaint be dismissed and that the results be published if it is determined that there is no violation;

(h) a final determination be made within 90 days from the date the complaint is filed unless the complainant consents to a longer period for making such a determination;

(i) alternative dispute resolution procedures be established for resolving the complaint within 60 days if the State fails to meet the 90 day deadline set forth above.

Under the current provisions of Massachusetts General Laws, any person may complain to the Secretary of the Commonwealth, as Chief Elections Officer, that a pattern of conduct, or a standard, practice or procedure of a local election official is contrary to the elections laws.[28]

The Secretary will establish a uniform, nondiscriminatory state-based administrative complaint procedure in compliance with Section 402 of HAVA by amending the Code of Massachusetts Regulations.[29] The procedure will provide individuals with a meaningful, expedited means of voicing a complaint concerning the implementation of Title III of HAVA and an appropriate remedy if a violation has occurred. The procedure will address the accessibility needs of minority language voters and individuals with disabilities.

The complaint procedure will authorize any individual residing in the Commonwealth of Massachusetts to file a written complaint with the Secretary alleging that Title III has been violated, is being violated or is about to be violated. Pursuant to HAVA, the complaint must be notarized. (The Complainant must sign the complaint after being sworn by a notary public.) The Secretary intends to develop forms for filing such complaints, but any other form that meets the specified requirements will be accepted. Forms prescribed by the Secretary will be translated into appropriate languages.

The complaint may be filed in person at any office of the Secretary of the Commonwealth or mailed to Secretary of the Commonwealth, Elections Division, HAVA Complaint, 1 Ashburton Place, Room 1705, Boston, MA 02108. The Secretary may consolidate complaints when appropriate. When a complaint is filed, the Secretary shall assign an investigator, who shall be an employee of the Elections Division. The process will allow for the complainant to request a hearing on the record. A final determination, in writing, must be made within 90 days of filing the complaint. An appropriate remedy must be provided if a violation is found.

The process will include provisions if a determination is not made within 90 days, that an alternative dispute resolution will be provided.

UPDATE:

The Secretary amended existing regulations (950 CMR 56.00) to include a HAVA complaint procedure. Those regulations provide that any person may complain to the Secretary, in accordance with the provisions of Section 402 of HAVA, that Title III has been violated, is being violated or is about to be violated. Complaints filed in accordance with Section 402 of HAVA, must be in writing and notarized and must be made to:

Elections Division
Office of the Secretary of the Commonwealth
One Ashburton Place, Room 1705
Boston, MA 02108

Additionally, for complaints filed in accordance with Section 402 of HAVA, the complainant may request a hearing on the record. Decisions on complaints filed in accordance with Section 402 of HAVA shall be made within 90 days from the date the complaint is filed, unless the complainant consents to a longer period for making such decision. If a decision is not made within 90 days as set forth above, the matter shall be referred to the Massachusetts Office on Dispute Resolution for further proceedings.

ELEMENT 10:

If the state received any payment under Title I, a description of how such payment will affect the activities proposed to be carried out under such plan, including the amount of funds available for such activities.

Section 254(a)(10) of HAVA requires the Commonwealth to describe in its State Plan how funds that it has received under sections 101 or 102 of HAVA will affect the activities that the state plans to carry out under the State Plan. Section 254(a)(10) also requires the Secretary to state the amount of funds available for its proposed activities.

The Secretary intends to use the funding received by the Commonwealth under Title I of HAVA to assist the state and municipalities to implement the provisions of HAVA. The funding will be allocated as follows:

PURPOSE	AMOUNT
Statewide Voter Registration Database	$3,000,000
Voting Equipment	$1,246,944
Voter Education	$1,000,000
Poll Worker Training	$750,000
Alternative Language Assistance	$100,000
Provisional Balloting Information	$200,000
Administrative Expenses/Complaint Process	$200,000
Disability Access/Accessibility	$100,000
Miscellaneous/State Plan Expenses	$50,000
TOTAL	$6,646,944

All monies received under Section 102, will be dedicated to the replacement of lever voting machines and data-vote voting systems. The amount received for this purpose is $1,519,497.

ELEMENT 11:

How the state will conduct ongoing management of the plan, except that a state may not make any material change in the administration of the plan unless the change—

(a) is developed and published in the Federal Register in accordance with section 255 as required in the same manner as the State plan;

(b) is subject to public notice and comment in accordance with section 256 as required in the same manner as the State plan;

(c) takes effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register in accordance with section 255 of HAVA.

Section 254(a)(1) of HAVA requires the state to describe in its plan how it will conduct ongoing management of the plan.

The Secretary will provide ongoing monitoring and oversight of compliance with the requirements of HAVA. To facilitate such, the Secretary will require that:

(a) any official or other entity receiving any funds under HAVA will be required to make ongoing reports on progress of implementation;

(b) funds be awarded on a schedule or other basis that requires proof of satisfactory completion of one phase of a project before funds for the next phase are distributed;

(c) local election officials and members of the State Steering Committee be consulted on a continuing basis with respect to management of the State Plan and any perceived problems with its implementation and/or the need for material change;

(d) no material change be made in the administration of the State Plan prior to appropriate notice and publication in the *Federal Register*.

UPDATE:

The Secretary has followed the original State Plan. However, at this time, as additional funding is available, this amended State Plan is being submitted for such purpose. The amended State Plan was developed in consultation with the State Steering Committee and has been subject to the appropriate public notice and comment period and will be published in the Federal Register.

ELEMENT 12:

In the case of a State with a State Plan in effect under this subtitle during the previous fiscal year, a description of how the plan reflects changes from the State Plan for the previous fiscal year and of how the state succeeded in carrying out the State Plan for such previous fiscal year.

As this is the first year Massachusetts is submitting a plan, there is no response to this element. Any changes to the State Plan for future fiscal years will be forwarded as required, including documentation as to the success under the plan for the previous fiscal year.

The Secretary will also provide copies of the same to the Senate and House Ways and Means Committees as well as the Office of Administration and Finance.

UPDATE:

As indicated in the beginning of this amended State Plan, updates from the original State Plan on each aspect and element of HAVA have been included.

ELEMENT 13:

A description of the committee which participated in the development of the State Plan in accordance with section 255 of HAVA and the procedures followed by the committee under sections 255 and 256.

As discussed above in the Introduction, this Preliminary Plan was developed through a State Steering Committee of twenty-eight individuals representing a cross-section of Massachusetts. As required by Section 255(a), the individuals included the chief elections officials of the two most populous jurisdictions conducting federal elections in Massachusetts (the cities of Boston and Worcester), other local elections officials, stakeholders (including representatives of groups of individuals with disabilities) and other persons. The list of the members and biographical information is included below as Attachment "A."

The Committee, as discussed in the Overview, held five (5) public meetings. The Committee formed three sub-committees: Voter Identification and Provisional Voting, Voting Equipment and Accessibility, and Training and Education. Each of the sub-committees held public hearings at various locations around the state, inviting and receiving comment from the public. The Committee thereafter met in Boston and the Chairs of each of the sub-committees provided their findings to the Secretary. Those findings were considered by the Secretary in drafting the Preliminary State Plan which was first provided to the Steering Committee for comment before being released for public comment.

UPDATE:

As vacancies occurred on the original State Steering Committee, new members were invited to participate. This is particularly true for the local election officials. Most notably, the members of the original State Steering Committee representing the two most populous jurisdictions have changed. Geraldine Cuddyer has replaced Nancy Lo as the Chair of the Boston Election Commission. Additionally, David Rushford is the City Clerk of Worcester and serves as the chief election official for the City as a result of special legislation enacted since the original State Steering Committee.

Attachment A

William Francis Galvin was elected to the Commonwealth's third-ranking constitutional office in 1994 and was sworn-in as the 28th Secretary of the Commonwealth of Massachusetts on January 18, 1995. He is currently serving his third 4-year term having been re-elected in 1998 and 2002. Sensitive to the Commonwealth's rich and storied history, Secretary Galvin, Chairman of the Massachusetts Historical Commission, has overseen the award of more than $26 million in preservation grants to sites in over 150 communities, and a grant program that helps cities and towns preserve their historical records. Besides serving as the Commonwealth's chief elections officer, Galvin is one of the state's premier election law specialists, an experience that helped prompt him to decertify the Votomatic punch card system in Massachusetts three years before its notoriety in Florida. Overseeing the "Motor Voter Law" which made it more convenient for people to register to vote, Secretary Galvin implemented the Central Voter Registry, the first statewide network of election records and increased voter registration to a record number. Designated the state liaison with the U.S. Census Bureau, Secretary Galvin targeted traditionally undercounted populations in a campaign that saw the Massachusetts census count become larger than predicted. As the state's chief securities regulator, Secretary Galvin has aggressively protected investors against fraud and has recovered millions of dollars for victims of scam artists and rogue dealers. Secretary Galvin has been an active participant in the National Association of Secretaries of State, serving first as Chairman of the Standing Committee on Securities and currently as Chairman of the Committee on Presidential Primaries. Secretary Galvin was born in Boston where he lives today with his wife Eileen and daughter Bridget. He graduated from Boston College in 1972 and Suffolk University School of Law in 1975. He is a member of the Massachusetts and Federal Bars.

Myra Berloff is the Acting Director of the Massachusetts Office on Disability, the state agency that works to eliminate discrimination against people with disabilities. Under her leadership the agency handles over 15,000 requests annually for individual or systemic advocacy, technical assistance or information and referral. During her years at MOD she has held the positions of Deputy Director and Assistant Director for Community Services. She is well known for her expertise in providing training and technical assistance to state agencies, municipal officials, Community Access Monitors, persons with disabilities, social service providers, and businesses on the Americans with Disabilities Act and other disability related laws and regulations. She spends much time promoting disability awareness throughout the state in order to advance the civil rights of people with disabilities. She helped design and continues to promote the nationally acclaimed Cultural Access Initiative that has trained representatives from over 30 states to make systemic changes that influence the quality and accessibility of cultural resources. Her work in the disability community was recognized with the Manuel Carballo Governor's Award for Excellence in Public

Service. She has been involved in promoting disability awareness for over 17 years.

Nancy Carapezza is the immediate past President of the League of Women Voters of Massachusetts. The League of Women Voters (LWV) is a nonpartisan organization that encourages informed and active citizen participation in government through citizen education and voters service projects. The League serves the public with individuals and organizations by providing advice and training on how to make government responsive and accessible. Nancy has also served as LWVM Vice-President for Citizen Education/ Voters Service and Vice-President for Local League Services. A resident of Wayland, she has served the local League in numerous offices. She is involved throughout the Commonwealth moderating debates and forums, and speaking at events on topics such as voter registration and participation in the political process, ballot questions, current public policy issues and Making Democracy Work. In 1995, she worked on the implementation of the National Voter Registration Act (NVRA/Motor Voter) here in the Commonwealth, and was then appointed to the Voter Registration Reform Advisory Committee. She is also a director of the Boston Network for Women in Politics and Government, a division of the McCormack Institute of Public Affairs at UMASS Boston. Nancy has worked as a probation officer and social worker. She is currently the coordinator of her Church's Confirmation Program and Wayland Public Schools Program: "Just Like Me: Understanding People with Disabilities".

Kathleen A. Casavant is representing the Massachusetts AFL-CIO.

Kim Charlson is the director of the Braille and Talking Book Library at the Perkins School for the Blind in Watertown, Massachusetts. She is a recognized national and international expert on library services for people with disabilities, Braille literacy, adaptive technology and information access. She serves on a number of committees for the National Library Service for the Blind and Physically Handicapped of the Library of Congress, and serves as a national member of the Braille Authority of North America, which is the standard-setting body for Braille. She is an active consumer advocate in many other arenas including guide dog issues, arts access, voting access, information and adaptive technologies, and disability policy development. In the area of education, she serves as the chair of the Department of Education's Braille Literacy Advisory Council. In advocacy and civil rights efforts, she served as the lead consumer advocate in the Fleet and Sovereign Bank Talking ATM initiative, and is an appointed member of the Governor's Advisory Council on Disability Policy. She has served as president of the Bay State Council of the Blind, the Massachusetts affiliate of the American Council of the Blind (ACB), and she has served as president of two national organizations -- Guide Dog Users Inc. and the Braille Revival League.

John Cloonan served as the Director the Elections Division in the Office of the Secretary of the Commonwealth from 1983 to 1999. Prior to that, Mr. Cloonan was the Supervisor of Election Material and the Assistant Supervisor of Elections. Mr. Cloonan had a total of 31 years of service in the Elections Division prior to his retirement in 1999. During that time, he worked on the implementation of the "Motor Voter Law" in the Commonwealth of Massachusetts. Mr. Cloonan has 4 children and 4 grandchildren and is enjoying his retirement spending time with them.

Diane Foley is the West Springfield City Clerk**.** Ms. Foley was first appointed as Assistant Town Clerk in 1986 and then appointed as Acting Town in 1987 before being elected as Town Clerk in 1987. She has served as Census Director and Clerk to the Board of Registrars since 1987 and was an elected Town Meeting Member from 1987 to 1993. In 2000, the form of government changed from Representative Town Meeting to a city form of government at which time Ms. Foley became City Clerk. Ms. Foley served as Clerk to City Council from 2000 to 2001. Recently, Ms. Foley was re-appointed for another three-year term as City Clerk. Ms. Foley is a Certified Massachusetts Municipal Clerk and has an Associates Degree in Legal Secretarial Sciences.

John Hanlon has been the City Clerk in the City of Everett since January of 1989. John has been a contributing member of the International Institute of Municipal Clerks, the Massachusetts City Clerks' Association, the New England Association of City and Town Clerks, Middlesex Town and City Clerks' Association, the North Shore Municipal Clerks' Association and a recent Affiliate Member of the Massachusetts Town Clerks' Association. He is a member of the MCCA Legislative Committee and was the most recent President of the MCCA for a two-year period. Prior to becoming City Clerk, John was a member of the Everett Board of Alderman for twenty-two years. Mr. Hanlon, always a community and charitable citizen has, in his career, been a three time loaned executive to the United Way, the United Way community chairman for two years and many years as a United Way volunteer, a special events chairman for the American Red Cross, the chairman of the Italian Earthquake Victim fundraising event. A longtime member of the Everett Chapter of the GBARC, a Senior Advisor of the Immaculate Conception CYO, Quarter Master for the Immaculate Conception marching band and the Chairman of the Everett Kennedy Statute fundraising events. At present, Mr. Hanlon is also a member of the Board of Directors for the Everett Credit Union.

Randall L. Hanson, CMC, MCMC, has been Town Clerk in Andover, Massachusetts for the past 14 years. She has a B.S. in Education and has worked providing constituent services for a U.S. Senator and has also worked in the Public Relations department of a regional bank. A life long resident of Massachusetts, Mrs. Hanson is a member of the Massachusetts Town Clerks Associations where she has chaired and is still a member of their Legislative Committee. She was an active member of the Secretary of State's task force

that help draft legislation to implement the federal legislation in 1993 to allow residents to register to vote by mail and at the registry of motor vehicles. Mrs. Hanson is also a member of the New England Association of City and Town Clerks, the International Institute of Municipal Clerks, Vice President of the North Shore City and Town Clerk's Association and is an active member of the Greater Lawrence Kiwanis Club that provides services to disadvantaged children.

Dominick Ianno is a seasoned veteran of the Massachusetts Republican political scene. He has worked as a research and media operative for several statewide Republican campaigns in Massachusetts, most recently for the successful Romney-Healey ticket in 2002. In addition to his extensive campaign experience, he spent two years serving as the Communications Director for the Massachusetts Republican Party (1999-2000) and one year as Press Secretary in the Executive Office for Administration and Finance (2001), where he was the chief fiscal spokesman for Governors Cellucci and Swift. In February 2002, Chairman Darrell Crate nominated Mr. Ianno to become the Executive Director of the Massachusetts Republican Party, where he is responsible for overseeing the party's day-to-day operations, including candidate recruitment, media relations and financial management. Dominick Ianno is a native of New Hartford, NY and currently resides in Watertown, MA. He has earned a Bachelor of Arts degree in political science from SUNY Oswego in 1995 and a Juris Doctorate degree from the New England School of Law in 1998.

Kamal Jain has worked in various technical staff and management positions in the high-tech industry for over 13 years. He currently is the Manager of Hosting Services at BrassRing in Waltham, Massachusetts. Prior to high-tech, he spent a number of years involved in volunteer and professional emergency services, including working for 2 years as an Emergency Medical Technician. Kamal has studied finance and accounting at Bentley College. He is 33-year resident of Massachusetts, and currently serves as Chairman of the Massachusetts Libertarian Party. He ran for State Senator from the Middlesex and Worcester district in 2000 and for State Auditor in 2002.

Philip W. Johnston is Chairman of the Massachusetts Democratic State Committee.

Peter Karg is the Executive Secretary of the Newton Election Commission. Mr. Karg was appointed to his present position in February 2002. He previously served in several senior level positions in the executive branch of state government. He holds a Bachelor and Master's degree from Northeastern University. In his present position he is responsible for the city census, voter registrations, campaign and political finance reports and elections.

Paul Lachelier is the Massachusetts Green-Rainbow Party representative to the Massachusetts HAVA Committee. He is a PhD student in political sociology specializing in electoral and non-electoral political participation. Mr. Lachelier

was the 2002 Green Party candidate for State Representative in Massachusetts' 26th Middlesex District (East Cambridge and East Somerville), garnering 37 percent of the vote. He has been a political activist for 11 years in student, labor and third party politics. He lives in Somerville, MA.

Nancy Lo is Chairperson of the Boston Election Commission and has been since December of 1999. Prior to her appointment as Chairperson, Ms. Lo served as the Director of the Mayor's office of Consumer Affairs and Licensing for approximately three years. Ms. Lo was Senior Policy Advisor to the Mayor for four years and previously worked in the Massachusetts office of United States Senator John Kerry for three years. Ms. Lo has a B.A. from Regis College and a Masters degree in Public Administration from Northeastern University. Ms. Lo currently resides in Jamaica Plain with her husband and three children.

Denise L. MacAloney, CMMC/MMC, has served as the Elected Town Clerk of Westminster, MA for the past 19 years. She has a BS Degree in History from Fitchburg State College and a MA Degree in Public Administration from Framingham State College. Her professional accreditations and certifications include Massachusetts Certified Municipal Clerk (CMMC), Master Municipal Clerk (MMC through the International Institute of Municipal Clerks) and she serves as a Justice of the Peace and Notary Public for the Commonwealth of Massachusetts. She is a past president of the Massachusetts Town Clerks' Association and the Worcester County City and Town Clerks' Association and is currently on the Board of Directors for the International Institute of Municipal Clerks (IIMC). She has served on the Central Voter Registry User Advisory Board, the Central Voter Registry Software Development Committee, and the Municipal Permit Streamlining Committee under the direction of the Secretary of the Commonwealth and was appointed to the Special Commission on Clean Elections by Director of the Office of Campaign & Political Finance.

Craig Manseau is Executive Director for the Worcester Election Commission.

John McGarry is a life long resident of Brockton and a graduate of Brockton Hospital School of Nursing. He has been employed in the medical industries as a nurse, orthopedic specialist and certified renal lithotripsy specialist. Mr. McGarry served as Assistant Registrar of voters for several years before being elected Ward Three councilor, a position that he held from 1990 until 1999. Mr. McGarry served as City Council President in 1993 and 1999 and was then appointed as Executive Director of Registrar of Voters by the City Clerk in 2000, which later became the Election Commission, by vote of the City Council. Mr. McGarry has been married for twenty five years to his wife Jan, who is a school nurse working with three and four year old multiple handicapped children in an early intervention program. Mr. and Mrs. McGarry have a daughter, Katie who recently graduated from Marymount Manhattan College with

a degree in Technical Theater and has already stage-managed two off Broadway shows.

Harry J. Petrucci is currently the Director of Local Administrative Assistance for the Secretary of the Commonwealth. As an employee of the Secretary, Mr. Petrucci worked in the Elections Division for 32 years. During that time, he served as the Secretary's designee to Local Election Districts Review Commission. This Commission reviews and approves the redrawing of precinct lines following the federal census. On the local level, Mr. Petrucci served on the Wakefield Planning Board for 5 years and on the Finance Committee for 19 years and was Chair of the Finance Committee for 3 years. He is a graduate of Boston College and the University of New Hampshire. He currently resides in Northampton.

Laurence R. Pizer has served as appointed Town Clerk of Plymouth since 1992. He was elected President of the Massachusetts Town Clerks' Association from 2001 to 2003, and he was appointed to the Legislative Committee of that organization. He earned the position of Certified Massachusetts Municipal Clerk from the Massachusetts Town Clerks' Association and the position of Certified Municipal Clerk from the International Institute of Municipal Clerks. He received a Bachelor's degree from Brown University and a Master's degree from the University of Iowa, both with a concentration in American history.

Senator Stanley Rosenberg (D-Amherst) was named President Pro Tem of the Massachusetts Senate on January 8th, 2003, thus becoming the first senator in the state's history to hold this leadership position. This appointment came after he served seven years in other leadership posts: four as Assistant Majority Leader and three years as the first western Massachusetts legislator to chair the Senate Committee on Ways and Means. Prior to his most recent appointments, Stan served as chairman of the state's Redistricting Committee, which was responsible for redrawing the Commonwealth's state and federal districts, based on the 2000 census, and as chairman of the Banks and Banking Committee. Prior to that he served as co-chairman of the Legislature's Joint Committee on Election Laws, where he was a catalyst behind some fundamental changes in the Massachusetts political system. In 1993, the Committee's "motor voter" bill was signed into law, making Massachusetts one of the most convenient states in the nation for voter registration. Then in 1994, the Committee's campaign finance reform bill became law. This law reduces the influence of private money on public policymaking by placing tough restrictions on the amount of money lobbyists, political action committees and individuals may contribute to political candidates. Stan was elected to the state House of Representatives in 1986 and served as the representative for Amherst and Pelham until 1991 when he won a special election for the state Senate seat being vacated by Congressman John Olver.

Judith L. St. Croix is a life long resident of the Town of Wayland and a graduate of Wayland High School and Michigan State University. She has served as

elected Town Clerk since June 1986 having attained the following: CMC – Certified Municipal Clerk; CMMC – Certified Massachusetts Municipal Clerk; Notary Public; Justice of the Peace; and Commissioner to Qualify. Currently, Ms. St. Croix serves as First Vice President of the Massachusetts Town Clerk's Association and member of the Legislative Committee. Previously, she served on the Executive Board for three years; Treasurer for four years; and Second Vice President for two years. Ms. St. Croix is also a member of Middlesex County Town and City Clerk Association; New England Town Clerk Association; and the International Institute of Municipal Clerk's Association.

Joseph Shea is the City Clerk in the City of Quincy. Mr. Shea has been City Clerk since 1992 and prior to that served as Assistant Clerk beginning in 1990. Mr. Shea also served as Executive Secretary to the Mayor of Quincy in the 1970's. Mr. Shea graduated from Suffolk University with a B.A. in Government and is a recent graduate of the New England Municipal Clerk Institute. He has three children and one grandchild and lives in Quincy with his wife and daughter.

Elisabeth C. Smith served as the Deputy Field Director of the 2002 Romney-Healey campaign, where she coordinated the campaign's absentee ballot initiative and supervised the efforts of thousands of volunteers to get out the vote. Ms. Smith also worked with a team of attorneys and election officials to develop ballot security procedures and to ensure voters were informed of their rights to cast their votes on Election Day. Following the election of Governor Romney, Elisabeth Smith has held positions on the transition team and in the Administration, and is currently serving as Deputy Chief of Staff in the newly created Executive Office of Economic Development. Elisabeth Smith earned Bachelor's and Master's degrees in Economics from Utah State University, and a Juris Doctorate degree from Boston University School of Law. Before joining the campaign, Ms. Smith practiced corporate and securities law at a large Boston law firm.

Representative Bill Straus has been a member of the Massachusetts Legislature since 1992. He represents the Towns of Fairhaven, Marion, Mattapoisett, Rochester and Middleboro. Prior to his election, Representative Straus was a member of the Mattapoisett Conservation Commission and an appointee to the Massachusetts Hazardous Waste Facilities Site Safety Council on which he served for four years. Throughout his term he has served on a number of committees including the Joint Health Care Committee and as the Vice Chairman of the Joint Committee on Transportation. He currently is the House Chairman of the Joint Committee on Election Laws. Representative Straus was a member of the Rules Committee to the 2000 Democratic National Convention in Los Angeles, CA.

Joseph Tringale has been working in the field of independent living for nearly 20 years. He has recently assumed the role of Chair of the Statewide Independent Living Council. This statewide council represents Independent Living Centers,

consumer, and state agencies representing people with disabilities. He has completed extensive training by the Department of Justice in order to review the requirements of the Americans with Disabilities Act. Due to numerous trainings and years of hands-on experience, he has acquired a high level of expertise in the fields of physical and programmatic accessibility. Joseph has worked with the private and public sectors to disseminate this information and has participated in a number of projects, which require evaluating physical environments and consumer access. He has also provided workshops to municipal representatives and business owners explaining the state and federal requirements for accessibility. Currently Joseph is the Director of community services at the Stavros Center for Independent Living, which is the third oldest Center in the country.

Patrick Joseph Ward is currently serving his fourth elected three-year term as Town Clerk for the Town of Brookline. He is also a practicing attorney. Mr. Ward has over twenty-five years of legislative and election administration experience. Prior to his election as Town Clerk, he served as the Town of Brookline's Assistant Town Clerk and Chairman of the Board of Registrars of Voters. Mr. Ward also served as Legislative Director for the Office of the Secretary of the Commonwealth and is currently the Vice-Chair of the Massachusetts Town Clerks' Association's Legislative Committee. Mr. Ward is a graduate of Boston College and New England School of Law. He resides in Brookline with his wife Jennifer.

ENDNOTES

[1] HAVA § 101, 42 U.S.C § 15301
[2] HAVA § 102, 42 U.S.C. § 15302
[3] HAVA § 251, 42 U.S.C. § 15401
[4] HAVA § 254, 42 U.S.C. § 15404.
[5] See Attachment A for a description of the State Steering Committee Members.
[6] HAVA § 201, 42 U.S.C. § 15321. The Election Assistance Commission (EAC) was established in the legislation. EAC will consist of four members appointed by the President with the advice and confirmation of the Senate and is empowered to hold hearings, take testimony, receive evidence, enter contracts, obtain information from other federal agencies, receive support and use the U.S. mail system.
[7] M. G. L. c. 54, § 71A (2000 ed.).
[9] See e.g., M. G. L. c. 54, § 24; M. G. L. C. 54, §§ 11, 12; M.G. L. c. 51, § 42H (2000 ed.).
[9] In 1999, the Office of the Secretary of the Commonwealth and the Massachusetts Office on Disability worked together to conduct a survey of all polling places in Massachusetts. Since that time, certain polling places have changed and/or the Secretary has received access complaints regarding other polling locations. Therefore, it has been deemed necessary to re-survey certain polling places to determine accessibility.
[12] It is important to note that the methods of complying with the requirements of Title III are left to the discretion of the states. HAVA § 305, 42 U.S.C § 15485
[13] In 1998, the Secretary decertified the use of punch-card voting systems.
[14] HAVA defines an accessible unit as a DRE-Direct Recording Electronic unit or touchscreen.
[13] See M. G. L. c. 54, § 32 (2000 ed) (examination and approval of voting equipment); 950 CMR § 50.00.
[14] As of the 2000 federal census, six (6) communities in Massachusetts are required to provide election information in both English and Spanish. Those communities are Boston, Chelsea, Holyoke, Lawrence, Southbridge and Springfield.
[15] Those communities are Boston, Chelsea, Holyoke, Lawrence, Southbridge and Springfield.
[16] In the City of Boston, pursuant to Chapter 111 of the Acts of 2006, certain precincts also had bilingual ballots in Chinese and Vietnamese and in those locations, the AutoMark Voter Assist Terminals were programmed with the applicable languages as well.
[17] M. G. L. c. 51, §§ 59, 59A (2000 ed.).
[18] M. G. L. c. 54, § 48 (2000 ed.).
[19] Mass. Const. Amend. Art. 48, Sec. 4; M. G. L. c. 54, § § 53, 54 (2000 ed.).
[20] The 2002 edition is available at http://www.state.ma.us/sec/ele/elepdf/ifv02.pdf (English) and http://www.state.ma.us/sec/ele/elepdf/ifv02span.pdf (Spanish).
[21] HAVA § 303(a)(5)(A)(iii); 42 U.S.C. § 15483(a)(5)(A)(iii).
[22] M. G. L. c. 51, § 47C (2000ed).
[23] The town of Gosnold is not connected to the CVR system, as it is a small island off the coast of Cape Cod that does not have phone lines. However, the information of registered voters from Gosnold is entered into CVR using copies of registrations sent from the town clerk.
[24] 950 C.M.R. § 58.00
[25] The Registry of Motor Vehicles has indicated that a person must undergo the same application process when applying for a state issued identification card as they would when applying for a driver's license, except the applicant does not need to pass the examination. However, when applying for a state issued identification card, an applicant must provide their full social security number, which is verified against the Social Security Administration database.
[26] Currently, identification is define in regulation as "a driver's license, recent utility bill, rent receipt on a landlord's printed letterhead, lease, duplicate copy of a voter registration affidavit, or any other printed identification which contains the voter's name and address." 950 C.M.R. § 54.04(6B).
[27] See M. G. L. c. 54, § 32 (2000 ed) (examination and approval of voting equipment); 950 CMR § 50.00.

[28] M. G. L. c. 56, § 60 (2000 ed.).
[29] 950 CMR § 56.00 Administrative Proceedings Concerning Practices of Local Election Officials

SOUTH CAROLINA
HELP AMERICA VOTE ACT OF 2002
STATE PLAN

June 10, 2009

SOUTH CAROLINA
HELP AMERICA VOTE ACT OF 2002
STATE PLAN

May 30, 2009

S.C. State Election Commission
P.O. Box 5987
Columbia, SC 29250

Marci Andino, Executive Director

State of South Carolina

Office of the Governor

MARK SANFORD
GOVERNOR

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June 8, 2009

The Honorable Gineen Bresso Beach
Chair
U.S. Election Assistance Commission
1225 New York Avenue NW, Suite 1100
Washington, D.C. 20005

Dear Ms. Beach,

Please accept this letter as certification that the State of South Carolina is in compliance with the applicable laws of the Help America Vote Act of 2002 (HAVA) and respectfully requests distribution of $2,975,688 in 2008 and 2009 requirements payments earmarked for South Carolina. The required 5% state match of $156,615 was approved by the legislature and has been deposited in the appropriate election fund as required by HAVA.

The State of South Carolina hereby certifies that it complies with the requirements referred to in Section 253(b) of the Help America Vote Act of 2002.

Sincerely,

Mark Sanford

MS/ll

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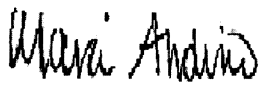
Executive Summary by the Executive Director

I am pleased to offer the South Carolina 2009 State Plan for compliance with the Help America Vote Act of 2002 (HAVA). This State Plan, developed with the valuable help of the HAVA State Plan Task Force and updated by the HAVA State Plan Advisory Team, establishes a framework for achieving compliance with HAVA and continuing the improvement of election administration

The federal law requires each state to develop a long-range State Plan for HAVA implementation and provides funding to assist the state in implementation. The South Carolina State Plan provides a description of current election procedures, outlines how South Carolina has met the requirements mandated by HAVA, will use HAVA funds for election administration enhancements, and outlines changes South Carolina has made since release of the initial State Plan to bring the State into compliance with HAVA. The State Plan will be updated and refined as necessary over time, to reflect election law changes and future plans.

The State Plan reflects strategic objectives of great importance to every voter in South Carolina: implementation of a statewide uniform electronic voting system, support for disabled voters in every precinct in the State, enhancements to election administration, and training for voters, poll workers, and election officials. Building on current capabilities, the goal is to offer a higher level of service with increased ease of use, convenience, and consistency in every precinct across the State.

The State Election Commission (SEC) recognizes the value of HAVA to South Carolina and is committed to successful implementation of all elements of the State Plan. With this State Plan, the SEC has taken an important step toward ensuring every citizen that every vote matters and every vote counts.



Marci Andino
Executive Director
South Carolina State Election Commission

Introduction

The South Carolina State Election Commission is tasked with the responsibility of overseeing the voter registration and election processes in the State. The SEC has multiple responsibilities:

- Maintaining the State's computerized statewide voter registration system, which is used to validate registered voters during elections and which also serves as a source for selection of jurors in the state
- Providing voter registration and election m aterials
- Printing the lists of registered voters for all elections held in the state
- Printing or providing funding for ballots for all federal offices, statewide offices and constitutional amendments voted on in South Carolina
- Producing databases and machine ballots for elections in the State conducted using electronic voting systems supported by the State Election Commission
- Providing oversight, including assistance and advisory services to county and municipal election officials for elections in South Carolina
- Training voter registration and election of ficials
- Serving as the State Board of Canvassers after elections to certify election returns, to declare candidates elected, and to hear protests/appeals that may arise

The South Carolina State Election Commission continually looks for ways to improve the election process and to maintain its integrity. Highlighting the ongoing process are recent major SEC initiatives, including 1) the 1999 Statewide Election Summit, and 2) the 2001 Governor's Task Force on Elections. Important priorities identified through these statewide initiatives include:

- The need for an improved statewide voter registration system.
- Establish a statewide uniform voting system

A re-write of the statewide voter registration system was abandoned due to insufficient resources. The need for a new system is critical as the State prepares for the 2010 census and subsequent reapportionment. The statewide uniform voting system and related improvements are the top priority to be met through the HAVA State Plan. As a result of these combined efforts, South Carolina's vision of a high-capability, comprehensive statewide voting program will be realized.

State Plan

The South Carolina State Plan is organized as specified by HAVA and includes the following components, each of which is addressed within this document.

HAVA Component	HAVA Description	Cross-Reference to HAVA HR3295
Meeting Title III Requirements and Other Activities	How the State will use the requirements payment to meet the requirements of title III, and if applicable under Section 251 (a)(2), to carry out other activities to improve the administration of elections.	Section 254 (a) (1)
Payment Distribution and Monitoring	How the State will distribute and monitor the distribution of the requirements payment to units of local government or other entities in the State for carrying out the activities described in paragraph (1), including a description of (A) the criteria to be used to determine the eligibility of such units or entities for receiving the payment; and (B) the methods to be used by the State to monitor the performance of the units or entities to whom the payment is distributed, consistent with the performance goals and measures adopted under paragraph(8).	Section 254 (a) (2)
Provision for Education and Training	How the State will provide for programs for voter education, election official education and training, and poll worker training which will assist the State in meeting the requirements of title III.	Section 254 (a) (3)
Voting System Guidelines and Processes	How the State will adopt voting system guidelines and processes which are consistent with the requirements of section 301.	Section 254 (a) (4)
Fund for Administering State Activities	How the State will establish a fund described in subsection (b) for purposes of administering the State's activities under this part, including information on fund management.	Section 254 (a) (5)
Proposed State Budget	The State's proposed budget for activities under this part, based on the State's best estimates of the costs of such activities and the amount of funds to be made available, including specific information on (A) the costs of the activities required to be carried out to meet the requirements of title III; (B) the portion of the requirements payment which will be used to carry out activities to meet such requirements; and (C) the portion of the requirements payment which will be used to carry out other activities.	Section 254 (a) (6)
Maintenance of Prior Year Expenditures	How the State, in using the requirements payment, will maintain the expenditures of the State for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the State for the fiscal year ending prior to November 2000.	Section 254 (a) (7)
Performance Goals and Measures	How the State will adopt performance goals and measures that will be used by the State to determine its success and the success of units of local government in the State in carrying out the plan, including timetables for meeting each of the elements of the plan, descriptions of the criteria the State will use to measure performance and the process used to develop such criteria, and a description of which official is to be held responsible for ensuring that each performance goal is met.	Section 254 (a) (8)
Administrative Complaint Procedures	A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under section 402.	Section 254 (a) (9)
Use of Title I Payment	If the State received any payment under title I, a description of how such payment will affect the activities proposed to be carried out under the plan, including the amount of funds available for such activities.	Section 254 (a) (10)

HAVA Component	HAVA Description	Cross-Reference to HAVA HR3295
Ongoing Management of Plan	How the State will conduct ongoing management of the plan, except that the State may not make any material change in the administration of the law unless the change (A) is developed and published in the Federal Register in accordance with section 255 in the same manner as the State plan; (B) is subject to public notice and comment in accordance with section 256 in the same manner as the State plan; and (C) takes effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register in accordance with subparagraph (A).	Section 254 (a) (11)
Previous Year Plan	In the case of a State with a State plan in effect under this subtitle during the previous fiscal year, a description of how the plan reflects changes from the State plan for the previous fiscal year and of how the State succeeded in carrying out the State plan for such previous fiscal year.	Section 254 (a) (12)
Committee	A description of the committee which participated in the development of the State plan in accordance with section 255 and the procedures followed by the committee under such section and section 256.	Section 254 (a) (13)

1. Meeting Title III Requirements and Other Activities

How the State of South Carolina will use the requirements payment to meet the requirements of Title III, and, if applicable under section 251(a)(2), to carry out other activities to improve the administration of elections.

1.1 Current Status

Voter Registration System

South Carolina has had a statewide voter registration system in place since 1968. The capability of this system was expanded in 1992 to connect all counties via interactive access to the voter registration system. A project to re-write the system using web based technology was abandoned due to lack of resources. The need for a new system becomes more and more critical as we near the 2010 census and subsequent reapportionment.

Training

Two types of certification for County Voter Registration Boards and Election Commissions are offered: 1) Voter Registration or Election Commission Members and Directors, and 2) Voter Regis tration or Election Commission Staff.

By law, South Carolina counties provide training for Poll Managers. The State Election Commission supports this training with a comprehensive manual, updated every year based on changes in the law.

The State Training Coordinator trains municipalities on how to conduct municipal elections.

South Carolina Election Systems in Use Prior to November 2004 Prior to the enactment of HAVA, South Carolina used seven different types of voting equipment in its 46 counties. There were 24 counties with five different direct recording electronic (DRE) machines; 10 counties utilizing punch cards and 12 counties on a mark sense optical scan system. Additionally, there were a number of dissimilar absentee voting systems in use. Punch card voting systems were scheduled to be replaced with electronic voting equipment by November 2004.

Election System	County
Danaher Controls 1242 DRE	Allendale, Bamberg, Barnwell, Berkeley, Charleston, Dorchester, Edgefield, Fairfield, Hampton, Horry, Marion, Spartanburg
MicroVote MV-464 DRE	Darlington, Dillon, Marlboro, Richland
MicroVote Infinity DRE	Chester, Colleton, Jasper, Pickens
Unilect Patriot DRE	Georgetown, Lancaster, Newberry
ES&S Votronic DRE	Greenwood
ES&S Optical Scan System	Abbeville, Calhoun, Chesterfield, Clarendon, Laurens, Lee, McCormick, Orangeburg, Saluda, Union, Williamsburg
Diebold Optical Scan	Beaufort
Punch Card	Aiken, Anderson, Cherokee, Florence, Greenville, Kershaw, Lexington, Oconee, Sumter, York

South Carolina Election Systems by County Prior to 2004

County	Voting System	Absentee System	# Machines	# Precincts	# Reg. Voters as of April 2003
Abbeville	Optical Scan	Optical Scan	2	15	15,725
Aiken	Punch Card	Optical Scan	462	73	84,777
Allendale	DRE	Optical Scan	15	9	6,586
Anderson	Punch Card	Punch Card	650	76	95,844
Bamberg	DRE	Optical Scan	32	14	10,127
Barnwell	DRE	Paper Ballot	44	16	12,300
Beaufort	Optical Scan	Optical Scan	92	78	75,486
Berkeley	DRE	Optical Scan	181	51	77,529
Calhoun	Optical Scan	Optical Scan	2	13	10,189
Charleston	DRE	Optical Scan	541	174	196,370
Cherokee	Punch Card	Punch Card	200	34	30,963
Chester	DRE	MicroVote	80	23	20,576
Chesterfield	Optical Scan	Optical Scan	1	30	23,326
Clarendon	Optical Scan	Optical Scan	60	26	20,847
Colleton	DRE	Optical Scan	52	33	21,067
Darlington	DRE	Optical Scan	121	34	39,386
Dillon	DRE	Optical Scan	42	21	19,170
Dorchester	DRE	Optical Scan	152	37	61,267
Edgefield	DRE	MicroVote	32	12	15,211
Fairfield	DRE	Optical Scan	30	23	14,385
Florence	Punch Card	Punch Card	410	64	75,569
Georgetown	DRE	Unilect	156	35	35,724
Greenville	Punch Card	Punch Card	1323	136	233,723
Greenwood	DRE	Optical Scan	160	34	37,006

County	Voting System	Absentee System	# Machines	# Precincts	# Reg. Voters as of April 2003
Hampton	DRE	Optical Scan	36	19	14,027
Horry	DRE	Optical Scan	242	109	130,803
Jasper	DRE	Optical Scan	46	15	12,303
Kershaw	Punch Card	Punch Card	230	31	35,603
Lancaster	DRE	Unilect	130	28	34,486
Laurens	Optical Scan	Optical Scan	34	35	36,847
Lee	Optical Scan	Optical Scan	2	25	13,405
Lexington	Punch Card	Punch Card	800	69	137,923
Marion	DRE	Optical Scan	60	18	22,904
Marlboro	DRE	Optical Scan	41	16	18,971
McCormick	Optical Scan	Optical Scan	1	11	6,812
Newberry	DRE	Unilect	95	31	20,835
Oconee	Punch Card	Punch Card	200	30	39,240
Orangeburg	Optical Scan	Optical Scan	60	54	60,296
Pickens	DRE	Optical Scan	250	53	60,455
Richland	DRE	Optical Scan	765	111	200,855
Saluda	Optical Scan	Optical Scan	1	19	11,393
Spartanburg	DRE	Punch Card	245	88	147,860
Sumter	Punch Card	Punch Card	450	53	62,011
Union	Optical Scan	Optical Scan	1	28	10,272
Williamsburg	Optical Scan	Optical Scan	1	34	23,351
York	Punch Card	Punch Card	689	57	98,897

1.2 Voting System Options Considered

The Help America Vote Act of 2002 defines a voting system as follows:

1. "the total combination of mechanical, electromechanical, or electronic equipment (including the software, firmware, and documentation required to program, control, and support the equipment) that is used (A) to define ballots; (B) to cast and count votes; (C) to report or display election results; and (D) to maintain and produce any audit trail information; and"

2. "the practices and associated documentation used – (A) to identify system components and versions of such components; (B) to test the system during its development and maintenance; (C) to maintain records of system errors and defects; (D) to determine specific system changes to be made to a system after the initial qualification of the system; and (E) to make available any materials to the voter (such as notices, instructions, forms, or paper ballots)."

In addressing the requirements of HAVA, the voting system standards team considered three options in order to meet the mandates. The three options were presented to the entire HAVA State Plan task force for consideration:

- Option 1: Upgrade existing systems to meet or exceed HAVA requirements

  As indicated above, the myriad systems previously used in South Carolina created problems in the area of voter education, programming, candidate uniformity on ballots, election night reporting of results to the state, etc. This option would not have solved these shortcomings..

- Option 2: Electronic voting systems in all counties

  This option would have required each county to purchase a federal and state approved DRE system of their choosing. Although this option would have achieved the goals under HAVA, the state would have continued to have a variety in the types of equipment it used.

- Option 3: Statewide uniform electronic voting system

  This option would have provided a uniform system of voting for every county in the state. This option would standardize the election process including voter education in the state, poll worker training, uniformity of Federal and State offices in ballot and machine programming, etc.

Having considered the various options to comply with HAVA Title III requirements relating to voting system equipment and based on facts and the pros and cons of the three options, the entire task force decided on a statewide uniform electronic voting system to best meet the needs of HAVA and the State of South Carolina (Option 3).

The following approach was taken to select a statewide system:

- A consultant experienced in conducting needs assessments and writing Requests for Proposal (RFP) was contracted.

- A committee consisting of the State Election Commission, county election commissions and boards of registration, and other stakeholders such as organizations for the disabled, was assembled to work with consultant to determine the specifications for a statewide system.

- State procurement codes and bidding process was followed for the issuance of the RFP.

- An evaluation committee was assembled for meetings to evaluate vendor responses to the RFP. The membership of the committee will be made up of state and county election officials.

- After a protest and re-bid period, Election Systems & Software, iVotronic Voting system was chosen as the statewide uniform voting system for South Carolina.

1.3 Voting System Standards

Title III requirements for uniform and non-discriminatory election technology and administration are specified in HAVA section 301. The chart below takes each of the Voting Systems Standards and describes how South Carolina's met the requirement.

Section 301: Voting System Standards	S.C. Status			Implementation
	Meets Requirement	Meets Requirement Partially	New Capability to be Implemented	
(a) REQUIREMENTS – Each voting system used in an election for Federal office shall meet the following requirements.				
(1) IN GENERAL –				
(A) Except as provided in subparagraph (B), the voting system (including any lever voting system, optical scanning voting system, or direct recording electronic system) shall –				
(i) permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted;	Yes			The statewide voting system chosen for the State has a review screen for each voter to verify their selections before casting their ballot.
(ii) provide the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error), and	Yes			The statewide voting system chosen for the State allows each voter to make changes based on the information presented on a review screen.
(iii) if the voter selects votes for more than 1 candidate for a single office – (I) notify the voter that the voter has selected more than 1 candidate for a single office on the ballot, (II) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and, (III) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted.	Yes			The statewide voting system chosen for the State will not allow a voter to choose more than one candidate for a single office.

Section 301: Voting System Standards	S.C. Status			Implementation
	Meets Requirement	Meets Requirement Partially	New Capability to be Implemented	
(B) A State or jurisdiction that uses a paper ballot voting system, a punch card voting system, or a central count voting system (including mail-in absentee ballots and mail-in ballots), may meet the requirements of subparagraph (A)(iii) by –				
(i) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and	Yes			Specific instructions were produced for the statewide voting system currently used in the State. These instructions will be given to each voter in written form. In addition, absentee ballots will be accompanied by written instructions that address this requirement.
(ii) providing the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error).	Yes			Specific instructions were produced for the statewide voting system currently used in the State. These instructions will be given to each voter in written form. In addition, absentee ballots will be accompanied by written instructions that address this requirement.
(C) The voting system shall ensure that any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot.	Yes			Instructions mentioned in B(ii) are posted inside the polling place and inside the voting booth.
(2) AUDIT CAPACITY –				
(A) IN GENERAL – The voting system shall produce a record with an audit capacity for such system.	Yes			The statewide voting system currently used in the State has the necessary audit capacity.
(B) MANUAL AUDIT CAPACITY –				
(i) The voting system shall produce a permanent paper record with a manual audit capacity for such system.	Yes			The statewide voting system currently used in the State produces an image of each vote cast; however, these votes cannot be associated with any particular voter.

Section 301: Voting System Standards	S.C. Status			Implementation
	Meets Requirement	Meets Requirement Partially	New Capability to be Implemented	
(ii) The voting system shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced.	Yes			The statewide voting system currently used in the State provides the voter with a review screen and an opportunity to change the ballot or correct any error before the permanent paper record is produced.
(iii) The paper record produced under subparagraph (A) shall be available as an official record for any recount conducted with respect to any election in which the system is used.	Yes			County election officials are instructed to retain and secure the paper record in the event that a recount is ordered.
(3) ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES – The voting system shall –				
(A) be accessible for individuals with disabilities, including non-visual accessibility for the blind and visually impaired, in manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters;	Yes			The statewide voting system currently used in the State is accessible to individuals with disabilities, including the blind and visually impaired. Each county has one such unit in each precinct.
(B) satisfy the requirement of subparagraph (A) through the use of at least 1 direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place; and	Yes			Each polling place in the State has at least one voting unit for the disabled.
(C) if purchased with funds made available under Title II on or after January 1, 2007, meet the voting system standards for disability access				Does not apply at this time
(4) ALTERNATIVE LANGUAGE ACCESSIBILITY – The voting system shall provide alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a).	Yes			South Carolina currently meets this requirement. While South Carolina is not required, based on the 2000 census and the Voting Rights Act of 1965, to provide alternative language to any jurisdiction in the State, the statewide voting system currently used in the State contains this feature.

Section 301: Voting System Standards	S.C. Status			Implementation
	Meets Requirement	Meets Requirement Partially	New Capability to be Implemented	
(5) Error Rates – The error rate of the voting system in counting ballots (determined by taking into account only those errors which are attributable to the voting system and not attributable to an act of the voter) shall comply with the error rate standards established under section 3.2.1 of the voting systems standards issued by the Federal Election Commission which are in effect on the date of the enactment of this Act.	Yes			The statewide voting system currently used in the State hass been State Certified which includes certification by an Independent Testing Authority (ITA) as having met or exceeded federal voting system standards as required by the S.C. 1976 Code of Laws.
(6) UNIFORM DEFINITION OF WHAT CONSTITUTES A VOTE – Each State shall adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be counted as a vote for each category of voting system used in the State.	Yes			A procedure for determining what constitutes a vote on the statewide voting system has been developed.

1.4 Provisional Voting & Voting Information Requirements

The chart below takes each of the Provisional Voting and Voting Information requirements and describes South Carolina's plan metthe requirement.

Section 302: Provisional Voting and Voting Information Requirements	S.C. Status			Implementation
	Meets Requirement	Meets Requirement Partially	New Capability to be Implemented	
(a) PROVISIONAL VOTING REQUIREMENTS – If an individual declares that such individual is a registered voter in the jurisdiction in which the individual desires to vote and that the individual is eligible to vote in an election for Federal office, but the name of the individual does not appear on the official list of eligible voters for the polling place or an election official asserts that the individual shall be permitted to cast a provisional ballot as follows:				
(1) An election official at the polling place shall notify the individual that the individual may cast a provisional ballot in that election.	Yes			South Carolina currently meets this requirement. South Carolina legislation requires that voters who have moved and neglected to change their address will have the opportunity to vote using the Failsafe procedure. Also, legislation is in place to accommodate voters who are challenged.
(2) The individual shall be permitted to cast a provisional ballot at that polling place upon the execution of a written affirmation by the individual before an election official at the polling place stating that the individual is (a) registered voter in the jurisdiction in which the individual desires to vote; and (b) eligible to vote in that election.	Yes			South Carolina currently meets this requirement. Each voter signs an oath with this language before receiving a ballot.
(3) An election official at the polling place shall transmit the ballot cast by the individual or the voter information contained in the written affirmation executed by the individual under paragraph (2) to an appropriate State or local election official for prompt verification under paragraph (4).	Yes			South Carolina currently meets this requirement. The voter's ballot is placed in a provisional ballot envelope which contains various information about the voter.

Section 302: Provisional Voting and Voting Information Requirements	S.C. Status			Implementation
	Meets Requirement	Meets Requirement Partially	New Capability to be Implemented	
(4) If the appropriate State or local election official to whom the ballot or voter information is transmitted under paragraph (3) determines that the individual is eligible under State law to vote, the individual's provisional ballot shall be counted as a vote in that election in accordance with State law.	Yes			South Carolina currently meets this requirement. Information contained on the provisional ballot envelope used by local election officials to determine the validity of the voter is reported at a certification hearing within three days after the election. If the vote is determined to be valid it is counted at the certification hearing.
(5) (A) At the time that an individual casts a provisional ballot, the appropriate State or local election official shall give the individual written information that states that any individual who casts a provisional ballot will be able to ascertain under the system established under subparagraph (B) whether the vote was counted, and, if the vote was not counted, the reason that the vote was not counted.	Yes			When a voter casts a provisional ballot, that ballot will be placed in a provisional ballot envelope. Written instructions will be given to the voter on determining whether their vote was counted in the election.
(B) The appropriate State or local election official shall establish a free access system (such as a toll-free telephone number or an Internet website) that any individual who casts a provisional ballot may access to discover whether the vote of that individual was counted, and, if the vote was not counted, the reason that the vote was not counted.	Yes			A website application allows the voter to determine whether their vote was counted or, if their vote was not counted, the reason it was not counted. A toll-free telephone number was installed at the State Election Commission for voters to call and determine if their vote was counted and, if their vote was not counted, the reason it was not counted. This number is 1-877-728-6846
(b) VOTING INFORMATION REQUIREMENTS –				
(1) PUBLIC POSTING ON ELECTION DAY – The appropriate State or local election official shall cause voting information to be publicly posted at each polling place on the day of each election for Federal office.				See (2) below for public posting of specific voting information.
(2) VOTING INFORMATION DEFINED – In this section, the term "voting information" means –				
(A) a sample version of the ballot that will be used for that election;	Yes			South Carolina currently meets this requirement. Poll managers at each polling place are required to display a sample ballot.
(B) information regarding the date of the election and the hours during which polling places will be open;	Yes			South Carolina currently meets this requirement. This information is currently listed on a Voter's Rights and Responsibilities poster which is displayed at each polling

Section 302: Provisional Voting and Voting Information Requirements	S.C. Status			Implementation
	Meets Requirement	Meets Requirement Partially	New Capability to be Implemented	
				location.
(C) instructions for how to vote, including how to cast a vote and how to cast a provisional ballot,	Yes			South Carolina meets this requirement. Instructions for all voting systems currently in use are provided at the polling locations. A poster of the *voter's bill of rights* is displayed. Provisional ballot instructions are included in this *bill of rights.*
(D) instructions for mail-in registrants and first-time voters under section 303(b);	Yes			South Carolina currently meets this requirement by providing written instructions to these voters.
(E) general information on voting rights under applicable Federal and State laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated; and	Yes			South Carolina currently meets this requirement by posting a Voter Rights and Responsibilities poster at every polling location.
(F) general information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation.	Yes			This information has been added to our current Voter Rights and Responsibilities poster.
(c) VOTERS WHO VOTE AFTER THE POLLS CLOSE – Any individual who votes in an election for Federal office as a result of a Federal or State court order or any other order extending the time established for closing the polls by a State law in effect 10 days before the date of that election may only vote in that election by casting as provisional ballot under subsection (a). Any such ballot cast under the preceding sentence shall be separated and held apart from other provisional ballots cast by those not affected by the order.	Yes			South Carolina has established a procedure for provisional ballots cast by voters in accordance with a court order extending the time established for closing the polls.

1.5 Computerized Statewide Voter Registration List & Voters Who Register by Mail

The chart below takes each of the requirements for the Computerized Statewide Voter Registration List and for Voters Who Register by Mail and describes South Carolina's plan met the requirement.

Section 303: Computerized Statewide Voter Registration List and Voters Who Register by Mail	S.C. Status			Implementation
	Meets Requirement	Meets Requirement Partially	New Capability to be Implemented	
(a) COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS				
(1) IMPLEMENTATION –				
(A) IN GENERAL – Each State, acting through the chief State election official, shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each legally registered voter in the State (in this subsection referred to as the "computerized list"), and includes the following:	Yes			South Carolina currently meets this requirement. A statewide voter registration system has been used in the State since 1968. SC currently maintains a single, uniform, official, centralized, interactive computerized statewide voter registration system at the state level. All 46 counties are connected to the statewide voter registration system. Additions and changes made by the county offices and State office to the voter registration file are interactive.
(i) The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the State.	Yes			South Carolina currently meets this requirement. The statewide voter registration system is housed at the State data center in Columbia and maintained by the State Election Commission. The State Election Commission provides an official list of registered voters for each election held in South Carolina.
(ii) The computerized list contains the name and registration information of every legally registered voter in the State.	Yes			South Carolina currently meets this requirement. Computerized list contains name, address, SS#, date of birth, precinct, and election districts for every legally registered voter in South Carolina.
(iii) Under the computerized list, a unique identifier is assigned to each legally registered voter in the State.	Yes			South Carolina currently meets this requirement. The system assigns each voter a unique registration number at the time they

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				register to vote.
(iv) The computerized list shall be coordinated with other agency databases within the State.	Yes			South Carolina currently meets this requirement. DMV, DSS, and other state agency databases are coordinated through Motor Voter processes. The counties access a file received on a weekly basis from these agencies to approve applications made through NVRA.
(v) Any election official in the State, including any local election official, may obtain immediate electronic access to the information contained in the computerized list.	Yes			South Carolina currently meets this requirement. All local and state election officials have access to this file. Each local election official is assigned a USERID and password that must be used to access the official file of registered voters. Voters can also inquire via the SEC website to look at their own record to check status, address, election districts, and polling place by keying in their name and date of birth.
(vi) All voter registration information obtained by any local election official in the State shall be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local official.	Yes			South Carolina currently meets this requirement. Local election officials have access to database constantly to enter new voter registrations or updates to voter's record on a real time basis.
(vii) The chief State election official shall provide such support as may be required so that local election officials are able to enter information as described in clause (vi).	Yes			South Carolina currently meets this requirement. Local voter registration officials have access to the official file on a continuous basis. Technical support is provided through staff at the State Election Commission and a Help Desk.
(viii) The computerized list shall serve as the official voter registration list for the conduct of all elections for Federal office in the State.	Yes			South Carolina currently meets this requirement. The State Election Commission currently prints and sends the official list of registered voters to the county for use in all elections that are held in the State.
(B) EXCEPTION – The requirement under subparagraph (A) shall not apply to a State in which, under a State law in effect continuously on and after the date of the enactment of this Act, there is no voter registration requirement for individuals in the State with respect to elections for Federal office.				Does not apply. South Carolina requires potential voters to register to vote.

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	Meets Requirement	Meets Requirement Partially	New Capability to be Implemented	
(2) COMPUTERIZED LIST MAINTENANCE –				
(A) IN GENERAL – The appropriate State or local election official shall perform list maintenance with respect to the computerized list on a regular basis as follows:				
(i) If an individual is to be removed from the computerized list, such individual shall be removed in accordance with the provisions of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), including subsections (a)(4), (c)(2), (d), and (e) of section 8 of such Act (42 U.S.C. 1973gg-6).	Yes			South Carolina currently meets this requirement. The State Election Commission is the only one authorized to remove names from the official list of registered voters.
(ii) For purposes of removing names of ineligible voters from the official list of eligible voters –				
(I) under section 8(a)(3)(B) of such Act (42 U.S.C. 1973gg-6(a)(3)(B)), the State shall coordinate the computerized list with State agency records on felony status; and	Yes			South Carolina currently meets this requirement. Felony records are removed by the State upon notification from courts of felony convictions on a monthly basis.
(II) by reason of the death of the registrant under section 8(a)(4)(A) of such Act (42 U.S.C. 1973gg-6(a)(4)(A)), the State shall coordinate the computerized list with State agency records on death	Yes			South Carolina currently meets this requirement. Deaths are removed by the State upon notification from DHEC on a monthly basis.
(iii) Notwithstanding the preceding provisions of this paragraph, if a State is described in section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-2(b)), that State shall remove the names of ineligible voters from the computerized list in accordance with State law.	Yes			South Carolina currently meets this requirement. In accordance with the NVRA of 1993, a confirmation card policy is in effect and appropriate voters are removed as required.
(B) CONDUCT – The list maintenance performed under subparagraph (A) shall be conducted in a manner that ensures that –				
(i) the name of each registered voter appears in the computerized list;	Yes			South Carolina currently meets this requirement.
(ii) only voters who are not registered or who are not	Yes			South Carolina currently meets this requirement.

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	Meets Requirement	Meets Requirement Partially	New Capability to be Implemented	
eligible to vote are removed from the computerized list; and				Name, SS#, and date of birth verified on each voter before name removed from voter registration file.
(iii) duplicate names are eliminated from the computerized list.	Yes			South Carolina currently meets this requirement. State Election Commission performs quarterly comparison using SS# and date of birth. A report is generated listing all duplicate records. This report is distributed to County Registration Boards for confirmation before names are actually deleted by State Election Commission.
(3) TECHNOLOGICAL SECURITY OF COMPUTERIZED LIST – The appropriate State or local official shall provide adequate technological security measures to prevent the unauthorized access to the computerized list established under this section.	Yes			South Carolina currently meets this requirement. Old System: This IDMS mainframe system is secured by RACF. It is deployed over a SNA network or by EZ3270 TCP/IP emulator over the internet. The transmission of data is encrypted. New System: The users of this web application will be authenticated by an LDAP server. Each user will be assigned a unique USERID and password. The application will be deployed over a secured Internet connection using HTTPS.
(4) MINIMUM STANDARD FOR ACCURACY OF STATE VOTER REGISTRATION RECORDS – The State election system shall include provisions to ensure that voter registration records in the State are accurate and are updated regularly, including the following:	Yes			South Carolina currently meets this requirement.
(A) A system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters. Under such system, consistent with the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), registrants who have not responded to a notice and who have not voted in 2 consecutive general elections for Federal office shall be removed from the official list of eligible voters, except that no registrant may be removed solely by reason of a failure to vote.	Yes			South Carolina currently meets this requirement. South Carolina has a confirmation mailing procedure consistent with the National Voter Registration Act of 1993.
(B) Safeguards to ensure that eligible voters are not removed	Yes			South Carolina currently meets this requirement.

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in error from the official list of eligible voters.				Name, SS#, and date of birth are compared on each voter before removal.
(5) VERIFICATION OF VOTER REGISTRATION INFORMATION –				
(A) REQUIRING PROVISION OF CERTAIN INFORMATION BY APPLICANTS –				
(i) IN GENERAL – Except as provided in clause (ii), notwithstanding any other provision of law, an application for voter registration for an election for Federal office may not be accepted or processed by a State unless the application includes –				
(I) in the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number; or	Yes			SC law requires full Social Security Number and does not accept the driver's license number as a valid alternative.
(II) in the case of any other applicant (other than an applicant to whom clause (ii) applies), the last 4 digits of the applicant's social security number.	Yes			South Carolina currently meets this requirement. SC requires full Social Security Number.
(ii) SPECIAL RULE FOR APPLICANTS WITHOUT DRIVER'S LICENSE OR SOCIAL SECURITY NUMBER – If an applicant for voter registration for an election for Federal office has not been issued a current and valid driver's license or a social security number, the State shall assign the applicant a number which will serve to identify the applicant for voter registration purposes. To the extent that the State has a computerized list in effect under this subsection and the lists assigns unique identifying numbers to registrants, the number assigned under this clause shall be the unique identifying number assigned under the list.	Yes			SC law requires full Social Security Number. Our voter registration system assigns a voter registration number to each applicant that is unique to each voter.
(iii) DETERMINATION OF VALIDITY OF NUMBERS PROVIDED – The State shall determine whether the information provided by an individual is sufficient to meet the requirements of this subparagraph, in accordance with State law.	Yes			South Carolina currently meets this requirement.

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	Meets Requirement	Meets Requirement Partially	New Capability to be Implemented	
(B) REQUIREMENTS FOR STATE OFFICIALS –				
(i) SHARING INFORMATION IN DATABASES – The chief State election official and the official responsible for the State motor vehicle authority of a State shall enter into an agreement to match information in the database of the statewide voter registration system with information in the database of the motor vehicle authority to the extent required to enable each such official to verify the accuracy of the information provided on applications for voter registration.	Yes			Not applicable in South Carolina because the entire social security number is required by State law, and thus the State falls under (D) Special Rule for Certain States.
(ii) AGREEMENTS WITH COMMISSIONER OF SOCIAL SECURITY – The official responsible for the State motor vehicle authority shall enter into an agreement with the Commissioner of Social Security under section 205(r)(8) of the Social Security Act (as added by subparagraph (C)).				Not applicable in South Carolina because the entire social security number is required by State law, and thus the State falls under (D) Special Rule for Certain States.
(C) ACCESS TO FEDERAL INFORMATION –				South Carolina requires the full social security number by State law.
(D) SPECIAL RULE FOR CERTAIN STATES – In the case of a State which is permitted to use social security numbers, and provides for the use of social security numbers, on applications for voter registration, in accordance with section 7 of the Privacy Act of 1974, the provisions of this paragraph shall be optional.				South Carolina requires the full social security number by State law.
(b) REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL –				
(1) IN GENERAL – Notwithstanding section 6(c) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4(c)) and subject to paragraph (3), a State shall, in a uniform and nondiscriminatory manner, require an individual to meet the requirements of paragraph (2) if –				
(A) the individual registered to vote in a jurisdiction by mail; and	Yes			South Carolina currently meets this requirement.

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	Meets Requirement	Meets Requirement Partially	New Capability to be Implemented	
(B)(i) the individual has not previously voted in an election for federal office in the State; or	Yes			South Carolina currently meets this requirement.
(ii) the individual has not previously voted in such an election in the jurisdiction and the jurisdiction is located in a State that does not have a computerized list that complies with the requirements of subsection (a).	Yes			South Carolina currently meets this requirement.
(2) REQUIREMENTS –				
(A) IN GENERAL – An individual meets the requirements of this paragraph if the individual –				
(i) in the case of an individual who votes in person –				
(I) presents to the appropriate State or local election official a current and valid photo identification; or	Yes			South Carolina currently meets this requirement. Each voter is required to present one form of ID when voting in person: valid SC driver's license with current address, or photo ID issued by DMV with current address, or as shown below, a voter registration certificate.
(II) presents to the appropriate State or local election official a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter; or	Yes			South Carolina law does not permit the presentation of one specific government document – the voter registration certificate - to identify the voter.
(ii) in the case of an individual who votes by mail, submits with the ballot –				
(I) a copy of a current and valid photo identification; or.	Yes			South Carolina currently meets this requirement.
(II) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.	Yes			South Carolina law permits the presentation of one specific government document – the voter registration certificate - to identify the voter.
(B) FAIL-SAFE VOTING –				
(i) IN PERSON – An individual who desires to vote in person, but who does not meet the requirements of subparagraph (A)(i), may cast a provisional ballot under	Yes			South Carolina currently meets this requirement. SC provides provisional ballots at each precinct.

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	Meets Requirement	Meets Requirement Partially	New Capability to be Implemented	
section 302(a).				
(ii) BY MAIL – An individual who desires to vote by mail, but who does not meet the requirements of subparagraph (A)(ii), may cast such a ballot by mail and the ballot shall be counted as a provisional ballot in accordance with section 302(a).	Yes			South Carolina currently meets this requirement. SC provides provisional ballots for this purpose. The ballots are placed in a provisional envelope and kept separate from other absentee ballots until they are counted.
(3) INAPPLICABILITY – Paragraph (1) shall not apply in the case of a person –				
(A) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 and submits as part of such registration either	Yes			South Carolina currently meets this requirement.
(i) a copy of a current and valid photo identification; or	Yes			South Carolina currently meets this requirement. The voter registration system was modified to track whether voters who register by mail provide the proper ID. If proper ID is not provided, a notation will appear to the poll managers to obtain this information before allowing the voter to cast a ballot.
(ii) a copy of a current utility bill, bank statement, government check, pay check, or government document that shows the name and address of the voter;	Yes			South Carolina currently meets this requirement.
(B)(i) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits as part of such registration either –	Yes			South Carolina currently meets this requirement.
(I) a driver's license number; or	Yes			SC law requires full Social Security Number and does not accept the driver's license number as a valid alternative.
(II) at least the last 4 digits of the individual's social security number; and	Yes			South Carolina currently meets this requirement. SC requires applicant's complete SS# on all applications.
(ii) with respect to whom a State or local election official matches the information submitted under clause (i) with an	Yes			South Carolina currently meets this requirement.

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	Meets Requirement	Meets Requirement Partially	New Capability to be Implemented	
existing State identification record bearing the same number, name and date of birth as provided in such registration; or				
(C) who is –				
(i) entitled to vote by absentee ballot under the Uniformed and Oversea Citizens Absentee Voting Act (42 U.S.C. 1973ff-1 et seq.);	Yes			South Carolina tracks this exemption on applicant's electronic record by identifying applicant as UOCAVA.
(ii) provided the right to vote otherwise than in person under section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee-1(b)(2)(B)(ii)); or	Yes			South Carolina meets this requirement through automatic processing in the voter registration system and through poll worker training.
(iii) entitled to vote otherwise than in person under any other Federal law.	Yes			South Carolina meets this requirement.through automatic override in the voter registration system.
(4) CONTENTS OF MAIL-IN REGISTRATON FORM –				
(A) IN GENERAL – The mail voter registration form developed under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) shall include the following:				
(i) The question "Are you a citizen of the United States of America?" and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States.	Yes			This question appears on all voter registration by mail applications used in South Carolina.
(ii) The question "Will you be 18 years of age on or before election day?" and boxes for the applicant to check to indicate whether or not the applicant will be 18 years of age or older on election day.	Yes			This question appears on all voter registration by mail applications used in South Carolina.

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(iii) The statement "If you checked 'no' in response to either of these questions, do not complete this form".	Yes			This statement appears on all voter registration by mail applications used in South Carolina.
(iv) A statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, the appropriate information required under this section must be submitted with the mail-in registration form in order to avoid the additional identification requirements upon voting for the first time.	Yes			This statement appears on all voter registration by mail applications used in South Carolina.
(B) INCOMPLETE FORMS – If an applicant for voter registration fails to answer the question included on the mail voter registration form pursuant to subparagraph (A)(i), the registrar shall notify the applicant of the failure and provide the applicant with an opportunity to complete the form in a timely manner to allow for the completion of the registration form prior to the next election for Federal office (subject to State law).	Yes			Standard procedure is that all county offices will notify voters that their application was incomplete and give them a period of time to submit missing information.
(c) PERMITTED USE OF LAST 4 DIGITS OF SOCIAL SECURITY NUMBERS – The last 4 digits of a social security number described in subsections (a)(5)(A)(i)(II) and (b)(3)(B)(i)(II) shall not be considered to be a social security number for purposes of section 7 of the Privacy Act of 1974 (5U.S.C. 522a note).				
(d) EFFECTIVE DATE –				

2. Payment Distribution and Monitoring

How the State of South Carolina will distribute and monitor the distribution of the requirements payment to units of local government or other entities in the State for carrying out the activities described in "1. Meeting Title III Requirements and Other Activities," including a description of the criteria to be used to determine the eligibility of such units or entities for receiving the payment; and the methods to be used by the State to monitor the performance of the units or entities to whom the payment is distributed, consistent with the performance goals and measures adopted under "8. Performance Goals and Measures."

Eligibility of Local Units to Receive the Payment

The State Election Commission centrally manages the initiatives funded through HAVA. The SEC is responsible for accounting for all expenditures, funding levels, program controls, and outcomes.

The SEC implemented HAVA by providing equipment, supplies, services, and training programs and materials to the counties. All counties in South Carolina were beneficiaries of the improvements funded by HAVA:

- As part of the statewide uniform voting system, counties received one voting unit for every 200 registered voters (based on 2003 voter registration statistics).
  - Counties who used vote recorders during November 2000 and have since replaced them with HAVA Section 301 compliant electronic voting systems are eligible for reimbursement[1] of the voting system costs if:
    1. The county adopts the statewide voting system and,
    2. Excess funds designated for the implementation of a statewide voting system are available after implementation of all phases referenced in section *6. Proposed State Budget*
- If a county in this State had chosen not to participate in the statewide uniform electronic voting system, the county would have received funding to purchase 1 direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place by January 1, 2006.
- Education programs were developed by the SEC for county election commissions and boards of registration and staff.

[1] Reimbursement will be made following the county's resale of previously purchased voting machines. The State will reimburse the difference between the original purchase price and the fair market value received upon sale of voting machines. This reimbursement will not exceed 50% of the original purchase price of the machines.

- Training programs and materials were developed by the SEC and distributed to county election commissions to conduct consistent Poll Manager training.

- Voter education programs and materials were developed by the SEC and distributed to county election commissions and boards of registration.

Performance Measures for Local Units

Funds are centrally managed. The SEC monitors the performance of each initiative that is funded by requirements payments in the following areas:

- **Financial Controls**: Working with the State Budget Office, State Treasurer, and State Comptroller General, SEC will develop and use standard financial reporting for all initiatives funded by HAVA. SEC will be prepared for periodic federal audits.

- **Compliance with Standards**: SEC developed and used standard program management reporting for all initiatives funded by HAVA. The State Auditor's Office conducts a statewide single audit to ensure that the SEC complies with all Federal laws, regulations and program compliance requirements.

- **Program Results**: SEC developed key performance indicators for each initiative funded by HAVA. See *Component 8: Performance Goals and Measures* for specific goals and measures.

3. Provision for Education and Training

How the State of South Carolina will provide for programs for voter education, election official education and training, and poll worker training which will assist the State in meeting the requirements of Title III.

3.1 Training for Election Officials

As mandated by South Carolina law, the SEC currently administers a statewide election official training and certification program. This program provides professional development courses related to the voter registration and election community to all members and staff of the County Voter Registration Boards and Election Commissions.

To receive certification, a voter registration or election official or staff member must complete required components, including core components and electives, within 18 months of their appointment or date of hire. Following initial certification, each official must take at least one training course each year to remain certified.

Two types of certification are offered:

- Voter Registration or Election Commission Members and Directors

  This certification requires completion of three core courses (Duties of Voter Registration Board, Duties of Election Commission, Budgeting/Reimbursement of Election Expenses), two voter registration/election electives, and two additional electives.

- Voter Registration or Election Commission Staff

  This certification requires completion of two core courses (Absentee Registration/Balloting, Office Procedures), two voter registration/election electives, and one additional elective.

Various components are offered each quarter throughout the year. Components are held in Columbia, regionally and in conjunction with an annual conference for voter registration and election officials.

County Election Commissioners and Board of Voter Registration members must attend poll manager training and receive poll manager certification within 18 months of their appointment. County Election Commissioners are required to monitor polling places all day on Election Day.

3.2 Training for Poll Managers

Note: Since South Carolina law defines "Poll Workers" as "Poll Managers," this section refers to Poll Managers, instead of Poll Workers.

As mandated by South Carolina law, training for Poll Managers is a county responsibility. In accordance with South Carolina state law, all managers are required to attend refresher training/briefings within 30 days of an election. County election commissions will be encouraged to conduct these sessions on different days and times to make them more accessible.

Every Poll Manager will be certified using a standardized training and testing program. This training and testing program will be developed by the SEC and various county election officials. Recertification will be required prior to each statewide primary or general election.

The following topics will receive special focus in the standardized training and testing program:

- Basic state and federal laws and processes governing elections
- Operating the voting system
- Intensive training on provisional ballots
- Sensitivity training for processing all voters with emphasis on those who need special assistance (Illiteracy, Non-English speakers / readers)
- The rights of people with disabilities, the required accessibility of polling places to people with disabilities, and how to facilitate people with different disabilities
- Procedures to verify that the voter is in the correct precinct and to direct the voter to correct precinct, if needed

Testing will be "open book" to reflect the reality that poll managers are permitted to search provided handbooks for information needed to address situations at the polls.

Certification training will be conducted year round at different times of day and on different days of the week. The state's technical colleges and public television system may also be used to present training sessions. Training materials developed by the state will include a demonstration video, presentation material, and a Poll Manager handbook. Materials will be available through the SEC website. Certified managers will receive both a certificate and a badge.

Persons with disabilities will be encouraged to become poll managers.

3.3 Training for Voters

Expanded voter training will be part of the implementation of the HAVA State Plan. The SEC will produce voter training material, and the counties will coordinate implementation of voter training.

As a statewide uniform electronic voting system is implemented, it will be important to get visibility and generate voter interest. A brochure and a video will be developed to promote the voting system as simple to operate, to encourage the voter to participate on Election Day, and to provide instructions on updating voter registration information. The brochure should be printed in sufficient quantities to use as handouts at voter registration offices, drivers license offices, and other government facilities. Also, the brochure and the video should be published on the website.

On an on-going basis, a concerted effort should be made to educate voters about referenda before they go into the voting booth.

Special effort will be made to reach voters with disabilities and let them know how much easier it will be to vote with the new system and improvements in the polling places. It is critical that voter information, including publications and brochures, be made available through communication vehicles that are accessible and frequently used by people with disabilities, for example:

- A well-designed fully accessible website
- E-Mail to distribution lists provided by selected disability groups (statewide cross-disability organizations can help identify disability groups)
- Non-profit organizations and other non-governmental organizations
- State agencies that work with the disability community

South Carolina County Election Commissions are encouraged to participate in mock elections and other voter education programs such as conducting elections in schools. Mock elections are a way to educate students and their families and to recruit and train high school students as Poll Managers.

County Election Commissions will be encouraged to demonstrate the voting system at public locations prior to an election. These demonstrations are opportunities to register voters, update voter registration information, and recruit Poll Managers.

3.4 Other Interested Citizens

Candidates, their workers, and poll watchers will be encouraged to take the certification training. Attendees will receive a candidate's guide to elections and the Poll Manager

handbook, both of which have been developed by the SEC. This will provide them with more information on Election Day processes and prevent misunderstandings between Poll Managers and poll watchers.

4. Voting System Guidelines and Processes

How the State of South Carolina will adopt voting system guidelines and processes which are consistent with the requirements of section 301.

As outlined in *Component 1: Meeting Title III Requirements and Other Activities*, South Carolina decided to implement a statewide uniform electronic voting system and processes.

The voting system chosen through the RFP process involved State and County Election Commission officials, consultants, and other State agency personnel as needed. The RFP ensured that the system selected met South Carolina election laws and all requirements outlined in section 301 of HAVA.

The SEC will define and document uniform voting processes and update the relevant training material. As required by law, before any changes are made to processes that affect the voters, the proposed process will be presented for review and approval by the Justice Department under the Voting Rights Act of 1965.

5. Fund for Administering State Activities

How the State of South Carolina will establish a fund for purposes of administering the State's activities, including information on fund management.

Working with the Budget and Control Board, the South Carolina Election Commission established a new program where the funds are kept separate from all other programs within the agency. The program contains both federal funds and general funds. The federal fund portion will be used to maintain federal funds and the general fund portion will be used to maintain funds which are reserved under the 5% match required by HAVA.

The South Carolina Election Commission and the State Budget Office will work with the State Comptroller and the State Treasurer to follow and enforce all mandated fiscal controls and policies.

6. Proposed State Budget

The State of South Carolina's proposed budget for activities under this part, based on the State's best estimates of the costs of such activities and the amount of funds to be made available, including (A) specific information on the costs of the activities required to be carried out to meet the requirements of Title III; (B) the portion of the requirements payment which will be used to carry out activities to meet such requirements; and (C) the portion of the requirements payment which will be used to carry out other activities.

The implementation of HAVA in South Carolina will take place over four calendar years, as follows:

Year	Implementation
2003	♦ Voter registration System enhancements ♦ Administration of State Plan ♦ Voter education and poll worker training
2004	♦ Voting system purchases (15 counties) ♦ Administration of State Plan ♦ Voter education and poll worker training ♦ Automate voter history
2005	♦ Voting system purchases (31 counties) ♦ Administration of State Plan ♦ Voter education and poll worker training ♦ Scanning/signature verification systems
2006	♦ Administration of State Plan ♦ Voter education and poll worker training
2009	♦ Voter Registration System ♦ Improvement of Election Administration

The implementation of this plan is contingent upon receipt of the associated federal funding. Implementation items may be combined if associated funds are received. Counties may implement ahead of their scheduled year if funds are available.

The total proposed funding will come from the following sources:

	Total Federal Funding	South Carolina Share of Federal Funds	South Carolina Matching Funds
Early payments	$ 650,000,000	$ 6,900,000	Not applicable
2003	$ 850,000,000	$11,602,190	$ 610,642
2004	$ 1,300,000,000	$ 20,819,090	$ 1,095,742
2008	$ 115,000,000	$ 1,591,647	$ 83,771
2009	$ 100,000,000	$ 1,384,041	$ 72,844
Total Funding	**$ 3,015,000,000**	**$ 42,296,968**	**$ 1,862,998**

Total anticipated funding for South Carolina, prior to 2005, was approximately $48,550,000. Congress did not appropriate the expected allocation in 2005, however, since additional funding is available for 2008 and 2009, the figures below have been adjusted accordingly. Excess funds will be moved between categories and future appropriations will be applied to existing categories. The money will be used to carry out the requirements of Title III as follows:

				Federal Funding			
Category	**HAVA Requirements**	**Total Proposed**	**Total Expended**	**Section 101 Funds**	**Section 102 Funds**	**Section 251 Funds**	**State Match**
1	Statewide Voting System	$ 36,000,000	$ 34,680,415	$ 785,319	$1,998,330	$ 30,503,520	$ 1,393,246
2	Education	$ 2,200,000	$ 1,837,669	$ 702,932		$ 932,201	$ 202,536
3	Statewide Voter Registration System Upgrade	$ 170,000	$ 169,288	$ 136,799		$ 31,539	$ 950
4	Voter Registration and Outreach Programs	$ 3,200,000	$ 2,933,969	$ 1,858,512		$ 965,806	$ 109,652
5	Administration Of State Plan	$ 300,000	$ 297,546	$ 297,546			
6	Election Administration Improvements	$ 3,530,000	$ 0				
	Total	**$ 39,918,887**	**$ 3,781,108**	**$1,998,330**	**$ 32,433,066**	**$ 1,706,384**	

The Election Administration Improvements category was added to allocate funds for use in projects to improve the administration of elections and voter registration such as, but not limited to, a new voter registration system and electronic poll book solutions.

7. Maintenance of Prior Year Expenditures

How the State of South Carolina, in using the requirements payment, will maintain the expenditures of the State for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the State for the fiscal year ending prior to November 2000.

Consistent with HAVA §254(a)(7), in using any requirements payment, South Carolina will maintain expenditure of the State for activities funded by the payment at a level equal or greater than the level of such expenditures in State Fiscal Year 2000.

The SEC has taken several reductions to the base budget since 2000. To absorb those reductions, operating expenses have been cut drastically by condensing office space, leaving vacant positions unfilled, and a reduction in force plan was implemented which eliminated one full time employee.

During the 2003 legislative session, the South Carolina General Assembly did not provide any funds for the 2004 Statewide Primaries. However, all HAVA funds will be maintained completely separate and no HAVA funds will be used to offset either the general fund or primary election fund shortfalls.

The State budget represents only a small portion of the statewide aggregate operating budget expenditures needed to sustain elections in a given fiscal year, since by South Carolina law the great majority of election administration resources are provided at the county level.

South Carolina's 46 local election office budgets typically support year-round core staff and operating expenses for continuous functions such as voter registration, information services, and IT support. In addition, county registration boards and election commissions provide the significant increase in funding associated with each specific election – for Poll Managers, temporary office staff, ballot production, mass mailings, election-day support (including personnel, equipment, and supplies), etc. In some cases, key election support resources provided at the county level may not even be included within election office budgets, but are provided through other county agencies and donations.

It is therefore important to note that the projected HAVA budget set forth in *Chapter 6: Proposed State Budget* is based on the critical budget assumption that the State will mandate that this foundation of county-funded election operations be maintained at existing levels. Without this foundation in place, the short-term infusion of funds HAVA provides would not be sufficient to maintain new State election environment in the long term.

8. Performance Goals and Measures

How the State of South Carolina will adopt performance goals and measures that will be used by the State to determine its success and the success of units of local government in the State in carrying out the plan, including timetables for meeting each of the elements of the plan, descriptions of the criteria the State will use to measure performance and the process used to develop such criteria, and a description of which official is to be held responsible for ensuring that each performance goal is met.

The State Election Commission along with members of the South Carolina Association of Registration and Election Officials (SCARE) will establish performance goals and measure progress of achieving these goals. A list of preliminary Plan goals is provided below. An advisory team, including County Election officials, was appointed to oversee plan management and compliance with HAVA. This advisory team will review the goals of the plan on an on-going basis and make any changes necessary.

An important goal of the advisory team is to ensure a smooth transition for the local election commissions into a statewide uniform electronic voting system while complying with HAVA requirements. The SEC will determine the goals, measurements, and related timeframes in accordance with requirements outlined in HAVA.

The following is a list of plan elements, preliminary plan goals under consideration, the SEC division in charge of ensuring the element is met, and the timeframe for meeting such element of the plan.

Plan Element	Preliminary Plan Goals Under Consideration	Division	HAVA Timeframe
Voting System (§301)	▪ Uniform electronic system implemented statewide ▪ Statewide voting system will accommodate as many disabled voters as possible ▪ Voter can verify / change ballot before casting ▪ Voter is informed or prevented from casting votes for multiple candidates for single office ▪ Disabled voters have accessibility to polling place ▪ Manual audit capability ▪ Uniform definition of what constitutes a vote	Voter Services Training and Public Information	1/1/06
Provisional Voting (§302)	▪ Voter can ascertain whether a provisional vote was counted and obtain an explanation if the vote was not counted ▪ Additional voting instructions posted for provisional voting and for prohibitions on fraud	Voter Services Training and Public Information	1/1/04

Plan Element	Preliminary Plan Goals Under Consideration	Division	HAVA Timeframe
Voter Registration (§303a &303b, 101, 304, 305)	▪ Procedures established to track receipt of identification at registration ▪ Mail voter registration form revised to add mandated questions and procedures revised to notify voters of incomplete forms ▪ Implement image scanning and retention of the voter registration application, including the voter signature ▪ New voter registration system ▪ Electronic Poll Book solution	Voter Services	(303a) 1/1/06 (303b) 1/1/04 1/1/2010
Education (§254a3)	▪ Poll Manager training developed ▪ Poll Manager certification process implemented ▪ Poll Manager pre-election refresher training implemented ▪ Election officials included in Poll Manager training and certification ▪ Voter awareness and education plan implemented ▪ Disabled voter awareness and education plan implemented	Training and Public Information	11/1/04
Budget/Funding	▪ Legislated program established to isolate and manage federal and state funds ▪ Procedures established to track budget and actual expenditures	Administrative Services	6/1/04
Complaint Procedures (§402)	▪ Complaint process in place statewide ▪ Timely complaint resolution	Voter Services	1/1/04
Absentee Ballots for UOCAVA Voters (§704)	▪ Modify procedure to allow UOCAVA absentee voters to receive absentee ballots through the next 2 regularly scheduled general elections for Federal office.	Voter Services	1/1/04

Performance measures

There are areas that the management team will measure to collect data and report on performance. These include:

- **Schedule**: Are goals being met, timelines followed, or at least progression towards meeting goal/timelines?
- **Ability**: Are the right people hired to oversee the state management plan to make sure plan goals are met? Are there enough financial resources to maintain those hired?
- **Effectiveness:** Is the project meeting all expectations in regards to customer satisfaction (County Election Commissions, Boards of Voter Registration, and voters)?

Other plan elements will be added as needed. The SEC will monitor collected data for reporting purposes. This data will be distributed to local county election boards as well as to the SEC to monitor progress of ensuring all goals of HAVA are achieved.

9. Administrative Complaint Procedures

A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under section 402.

South Carolina implemented an administrative complaint procedure that complies with HAVA. This procedure has been posted to the SEC website.

Any person who believes a violation of HAVA Title III has occurred, is occurring or is about to occur may file a complaint. Complaints must be:

- in writing (use of complaint form is preferred)
- notarized
- submitted to the State Election Commission

Title III includes:

- Voting system standards
  - Requirements, audit capacity, accessibility, alternate languages, error rates, definition of what constitutes a vote
- Provisional voting
- Voting information
  - Public posting on election day
- Computerized statewide voter registration list
  - List maintenance, security, verification of voter registration information
- Registration by mail
  - Identification requirements, age and citizenship questions

State-Based Administrative Complaint Procedure

The Executive Director, or designee, will review all complaints to determine if a violation of HAVA Title III has occurred. If multiple complaints are filed for the same violation, they may be reviewed together.

If a violation has not occurred, the Executive Director may dismiss the complaint. If a violation has occurred, the Executive Director, or designee, will attempt to resolve the complaint and provide a remedy.

The Executive Director will release the findings for all complaints received. Findings will be mailed to complainant and any county involved. If the complainant is not pleased with the decision of the Executive Director, he/she may request an administrative hearing.

Alternate Dispute Resolution

If the Executive Director is unable to resolve the complaint within 90 days, the complaint shall be resolved within 60 days by the State Election Commission.

10. Use of Title I Payment

If the State of South Carolina received any payment under Title I, a description of how such payment will affect the activities proposed to be carried out under the plan, including the amount of funds available for such activities.

As shown in *Component 6: Proposed State Budget*, the HAVA Title I monies are an integral part of the overall funding for development and execution of the State Plan to improve administration of elections, and as such, will be used to comply with the requirements under Title III. The South Carolina Title I payment of $6,900,000 (May, 2003) represents approximately 14% of the total HAVA initiative and 36% of the 2003 budget.

The Title I monies provided initial funding to start the process. Activities initiated in 2003 include:

- Develop the State Plan
- Establish criteria for a statewide uniform electronic voting system
- Issue a Request for Proposal (RFP) for a statewide uniform electronic voting system
- Upgrade the voter registration system
- Modify supporting processes for voter registration
- Establish administrative complaint procedures
- Develop voter education and poll worker training
- Improve election administration
- Training of State Election Commission and County Election Commission Officials

Any monies remaining from the Title I payment will be applied toward purchase of the new voting system selected through the RFP process. All monies will be maintained by the SEC and no funds will be distributed directly to the counties unless approved by the HAVA Advisory Team.

11. Ongoing Management of Plan

How the State of South Carolina will conduct ongoing management of the plan, except that the State may not make any material change in the administration of the law unless the change (A) is developed and published in the Federal Register in accordance with section 255 in the same manner as the State plan; (B) is subject to public notice and comment in accordance with section 256 in the same manner as the State plan; and (C) takes effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register in accordance with subparagraph (A).

The Executive Director of the S.C. State Election Commission is responsible for coordination of the State's responsibilities under this Act, and therefore ultimately responsible for the ongoing management of the State Plan.

The State Plan will serve as the roadmap for HAVA implementation. As stated in *Component 8: Performance Goals and Measures*, the State Election Commission will establish a State Plan advisory team to manage and oversee the statewide plan. This State Plan advisory team will audit performance goals and measures and publish any material changes. The team will meet on a regular basis with a frequency to be set by the team.

No material changes will be made unless the change is published in the Federal Register in accordance with HAVA §255, is subject to public notice in accordance with HAVA §256, and takes effect after the expiration of the 30 day period which begins on the date the change is published in the Federal Register in accordance with HAVA §255.

12. Previous Year Plan

In the case of a State with a State plan in effect under this subtitle during the previous fiscal year, a description of how the plan reflects changes from the State plan for the previous fiscal year and of how the State succeeded in carrying out the State plan for such previous fiscal year.

Following is a summary of changes to the 2006 State Plan:

1. Meeting Title III Requirements and Other Activities

A project to re-write the statewide voting system was abandoned due to lack of resources. No HAVA funds were used for this project. The System currently in use was developed in 1968 and currently meets the requirements of HAVA; however, historical increases in election participation have placed a heavy burden on the system. This burden caused numerous performance issues within the system during the 2006 and 2008 General Elections.

The State Election Commission continues to administer the Federal Health and Human Services Accessibility grant funding for counties. This money is used to upgrade accessibility for the disabled to polling places in the state, as well as educating the disabled community on voter registration and elections. $103,615.12 was issued to county election commissions for this fiscal year.

A program was purchased to maintain historical election results and make them available through the SCVotes.org website.

2. Payment Distribution and Monitoring

The following chart depicts a high level view of payment distribution as of March 2009:

Category	HAVA Requirements	Amount Distributed
1	Statewide Voting System	$ 34,680,415
2	Education	$ 1,837,669
3	Statewide Voter Registration System	$ 169,288
4	Voter Registration and Outreach Programs	$ 2,933,969
5	Administration of State Plan	$ 297,546
6	Election Administration Improvements	$ 0
	Total	**$ 39,918,887**

$169,188 in Section 102 funds is being held awaiting a decision from the Election Assistance Commission on whether the funds will need to be returned because Sumter County did not meet the November 2, 2004 General Election deadline for replacing their punch card system. Sumter County became compliant in January 2005.

3. Provision for Education and Training

3.1 Training for Election Officials

This requirement was previously met. The SEC continues to maintain the State Training and Certification program without the use of HAVA funds.

3.2 Training for Poll Managers

An educational video concerning disability access to the statewide voting system was updated to assist in training poll managers about general solutions to various polling place inaccessibility issues.

3.3 Voter Education and Outreach

The Voter Education and Outreach Program was continued by focusing on senior citizens, voters with disabilities, and college and high school age students. A total of 136 outreach programs were conducted. These programs consisted of visits to high schools, colleges, senior centers, commissions on aging, disability awareness organizations and functions, as well as churches, fairs, and festivals. Visits included a presentation on voter registration and voting. One-on-one voting machine demonstrations were available to everyone. During the Outreach, the team visited editorial boards, television stations, and radio talk shows to gain additional media coverage.

The HAVA bus purchased in 2004 and outfitted with electronic voting machines, election information flyers, and a red, white and blue "Every Vote Matters, Every Vote Counts" design, continues to be utilized effectively. This bus is used to travel to scheduled sites, fairs, and festivals. It provided instruction to voters on how to use the voting system and also provided publicity of HAVA changes associated with voter registration and voting. Newspaper, radio, and publicity tactics were used to announce when and where the bus visited. In addition to the bus, campaign-themed tents, tables and backdrops were used to support the presentation at these events.

The HAVA Voter Education and Outreach team worked to have the SC Governor and General Assembly declare September "Voter Education Month." The month began with a kick-off press conference at the Statehouse. Speakers included leaders from a number of voter-pertinent organizations such as the State Office on Aging, SC Chamber of Commerce, members of the General Assembly, and voter rights advocates. Many county election directors and staff were present. The focus was voter registration, absentee, and the importance of both. The branded theme "Every Vote Matters, Every

Vote Counts" was reinforced. Voter Education Month produced great news coverage throughout the state allowing our message to reach a large number of voters

A video was produced for voters who are deaf or hard of hearing. This 4 minute video, requested by the S.C. Voting Disability Coalition, used visual, audio, closed-captioning, and American Sign Language as communication means for the viewer. The video, available at www.scvotes.org, was the first of its kind produced in S.C. for such an audience. It explains the step-by-step process of what to expect when going to the polling place.

3.4 Training for Political Parties

This requirement was previously met. The SEC continues to maintain the State Training and Certification program without the use of HAVA funds.

3.5 Other Interested Citizens

This requirement was previously met. The SEC continues to maintain the State Training and Certification program without the use of HAVA funds.

4. Voting System Guidelines and Processes

This requirement was previously met. The SEC continues to maintain the State Training and Certification program without the use of HAVA funds.

5. Fund for Administering State Activities

- $ 1,145,251 has been accrued in interest since 2005.

6. Proposed State Budget

No HAVA funding has been received since 2004. Spreadsheets were revised to reflect actual funds received prior to 2005 and funds allocated in 2008 and 2009..

7. Maintenance of Prior Year Expenditures

None of the HAVA funds were used to maintain normal operating expenses. All expenses are associated with requirements of this Plan and can be linked to specific categories listed in the proposed funding spreadsheet listed in Section 6.

8. Performance Goals and Measures

Performance goals were established and are monitored by SEC staff.

9. Administrative Complaint Procedures

No complaints were received during this period.

10. Use of Title I Payment

Portions of the Title I payment were used to fund the statewide voting system, voter education and outreach initiatives, and training to state and county election officials.

11. Ongoing Management of Plan

An advisory team of 10 people was appointed in 2004 to oversee changes to the plan. This same team, with the exception of two members, met to discuss and approve revisions to the State Plan.

13. Committee

A description of the committee which participated in the development of the South Carolina State plan in accordance with section 255 and the procedures followed by the committee under such section and section 256.

The HAVA State Plan task force provided broad representation across the state, and included representatives from state organizations, county organizations, legislators, and interested stakeholders.

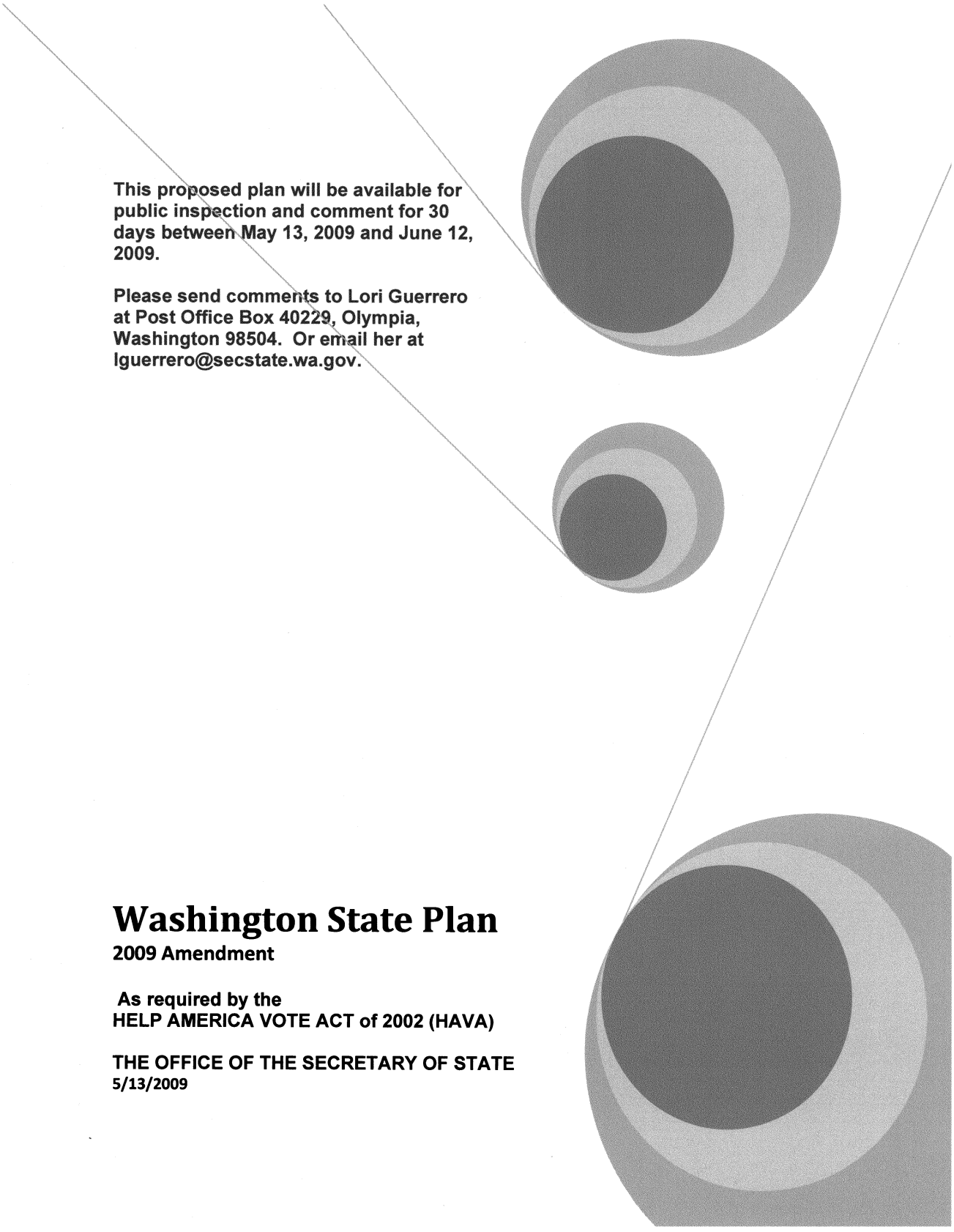
Name	Organization
Adell Adams	Richland County Election Commission
David Alexander	Office of Research and Statistics
Marci Andino	State Election Commission
Susan Barden	S.C. State Senate Judiciary Committee
Russell Barrett	Florence County Election Commission
Garry Baum	State Election Commission
Conway Belangia	Greenville County Registration/Elections
James Blake	Marion County Voter Registration/Elections
Bobby Bowers	Office of Research and Statistics
Lesly Bowers	Protection and Advocacy for People with Disabilities
Marilyn Bowers	Pickens County Voter Registration/Elections
Tommie Brice	Calhoun County Voter Registration/Elections
Brett Bursey	S.C. Progressive Network
Hoyt Campbell	Darlington County Registration/Elections
Pete Cantrell	Protection and Advocacy for People with Disabilities
Mike Cinnamon	Richland County Election Commission
Eliza Claxton	NAACP
John Darby	Governor's Office
Rusty DePass	State Republican Party
Benjamin Duncan II	Governor's Office
Lelia Ferguson	Protection and Advocacy for People with Disabilities
Agnes Garvin	Beaufort County Voter Registration/Elections
Cheryl Goodwin	State Election Commission
Adlena Graham	NAACP
Wayne Hale	State Election Commission
Jim Harrison	S.C. House of Representatives
Betsy Hartman	Office of State CIO
Rita Henderson	Laurens County Voter Registration/Elections
Lynn Hill	Lee County Voter Registration/Elections

Name	Organization
Pat Jefferson	Sumter County Voter Registration/Elections
Ruth Jordan	NAACP
L.Z. Keitt	NAACP
Carol Khare	State Democratic Party
Carolyn Lecque	Charleston County Election Commission
Hannah Majewski	State Election Commission
Larry Martin	S.C. State Senate
Mariah C. Miller	NAACP
Thomas L. Moore	S.C. State Senate
Cindy Peel	State Election Commission
Cathy Pelletier	Disability Action Center, Columbia
Edith Redden	Williamsburg County Voter Registration/Elections
Janet Reynolds	State Election Commission
James H. Ritchie	S.C. State Senate
Shan Rose	League of Women Voters
Drew Royall	Department of Disabilities and Special Needs
Donna Royson	State Election Commission
John Russell	Governor's Office
John Scott	S.C. House of Representatives
Gary Simrill	S.C. House of Representatives
Steve Skardon	Palmetto Project
Gilbert Smith	S.C. Independent Living Council
Tanya Thompson	Protection and Advocacy for People with Disabilities
David Williams	Legislative Council, Columbia
Ron Wilson	York County Voter Registration/Elections

The task force was divided into five teams, each of which focused in depth on a specific functional area of HAVA: Administration and Funding, Education, Voting System Standards, Statewide Voter Registration System, and Accountability.

On-going management of the State Plan will be handled by the SEC with assistance from an advisory team appointed by the Chief Election Official. Members of this team are as follows:

Name	Organization
William B. DePass, Jr. Co-Chair	Former Chairman, State Election Commission
Steve Skardon, Jr. Co-Chair	Palmetto Project
Conway Belangia	Greenville County Voter Registration/Elections
Bobby Bowers	SC Office of Research and Statistics
Marilyn Bowers	Charleston County Voter Registration/Elections
Mike Cinnamon	Richland County Election Commission
Dean Crepes	Lexington County Voter Registration/Elections
Edith Redden	Williamsburg County Voter Registration



This proposed plan will be available for public inspection and comment for 30 days between May 13, 2009 and June 12, 2009.

Please send comments to Lori Guerrero at Post Office Box 40229, Olympia, Washington 98504. Or email her at lguerrero@secstate.wa.gov.

Washington State Plan

2009 Amendment

As required by the
HELP AMERICA VOTE ACT of 2002 (HAVA)

THE OFFICE OF THE SECRETARY OF STATE
5/13/2009

This is the first amendment to the original 2003 Washington State Plan to implement the Help America Vote Act of 2002 (HAVA). As of September 2006, Washington State was fully compliant with all requirements of HAVA. This amendment outlines the successes of the original plan and sets forth future goals and activities for use of additional HAVA funds.

In accordance with HAVA Section 255 the Office of the Secretary of State is pleased to file this amendment to sections 2, 3, 4, 7, 8, 9, 11, 12 and 13 of the original Washington State plan. In addition this amendment adds section 14 as required by HAVA.

2. How the State will use the requirements payment to meet the requirements of Title III, and, if applicable under Section 251(a)(2), to carry out other activities to improve the administration of elections. (Sec. 254, (a)(1))

Status as of this amendment: Requirements under Title III have been fully met.

Since Washington State is HAVA compliant, all remaining HAVA funds, future interest earned and any additional requirements payments given to Washington State will be spent on training election officials, educating voters, improving the accessibility of elections for individuals with disabilities, and making improvements to the administration of federal elections.

3. How the State will distribute and monitor the distribution of the requirements payment to units of local government or other entities in the State for carrying out the activities described in paragraph (1) including a description of—(A) the criteria to be used to determine the eligibility of such units or entities for receiving the payments; and (B) the methods to be used by the State to monitor the performance of the units or entities to whom the payment is distributed, consistent with the performance goals and measures adopted under paragraph (8). (Sec. 254, (a)(2))

Status as of this amendment:

The Secretary of State will manage activities and projects funded by the HAVA requirements payments, and the state will account for all expenditures, funding levels, program controls and outcomes in accordance with state and federal laws.

The Secretary of State established a local government grant program to assist county auditors in complying with HAVA requirements. Only County Auditors are eligible for local grant funding. Because our state is HAVA compliant, a portion of the requirements payments authorized in Title III will be allocated for local government grants.

The Secretary of State established a HAVA Grant Advisory Board (HGAB), consisting of three County Auditors, the director of elections, a former County Auditor and two members from the disability community. The HGAB is mainly responsible for developing, reviewing and making recommendations to the Secretary in all matters pertaining to the local county grant program. Experts on disability issues will continue to be consulted in developing grant criteria.

The Secretary of State will administer the grant program and will be responsible for meeting federal auditing requirements.

Examples of activities eligible for local government grant funding are listed below:

- Replacing or upgrading voting equipment;
- Purchasing additional voting equipment;
- Developing voter education programs;
- Producing local voters' pamphlets;
- Purchasing or leasing election management system hardware and software;
- Training local election officials; and
- Purchasing or leasing equipment that will improve the administration of federal elections.

This list is not comprehensive and the state may fund grant applications for activities not listed as long as the activities are eligible under HAVA.

4. How the state will provide for programs for voter education, election official education and training, and poll worker training which will assist the state in meeting the requirements of Title III. (Sec. 254, (a)(3))

Status as of this amendment: Requirements under Title III have been fully met.

Since the adoption of the State Plan in 2003, Washington State has almost completely transitioned to vote by mail. For many voters with disabilities, this change increases the accessibility of voting because there is no need to travel to a polling place to cast a ballot. However, voters who cannot read or mark a printed ballot, continue to need an accessible voting unit in order to vote privately and independently.

Washington State has taken several steps to address this difficulty. These include funding of outreach efforts directed at voters with disabilities, support for county disability accessibility election advisory committees, and a twenty-day "early voting" period. The OSOS and counties have partnered with disability service organizations and advocates to get the word out about accessible voting. The OSOS will continue

7. The State's proposed budget for activities under this part, based on the State's best estimates of the costs for such activities and the amount of funds to be made available, including specific information on—A. the costs of the activities required to be carried out to meet the requirements of Title III; B. the portion of the requirements payments which will be used to carry out activities to meet such requirements; and C. the portion of the requirements payment which will be used to carry out other activities. (Sec. 254, (a)(6))

Status as of this amendment: See charts below

HAVA Funding Available through December 31, 2008	
Section 101	$6,098,449
Section 102	$6,799,430
Section 251	$47,195,971
State Match	$2,494,442
Interest through 12/2008	$5,772,108
Total	**$68,360,400**

The chart below reflects how Washington State spent and/or committed Sections 101, 102 and the 2004 Requirements Payments:

Category of expenditures and/or commitments through December 31, 2008	Budget
Developing the statewide voter registration database	$6,014,203
Maintaining the voter registration database	$3,290,591
Replacing punch card voting equipment	$6,313,881
Purchasing or leasing accessible voting units	$8,886,375
Purchasing or leasing county election management systems	$6,568,526
Establishing a voting systems program	$237,892
Providing provisional notification	$11,545
Administering HAVA and establishing complaint procedures	$1,035,809
Improving accessibility for voters with disabilities	$2,349,392
Improving minority language election information	$500,000
Educating voters	$8,711,793
Training election officials	$722,213
Enhancing the statewide voter registration database	$8,793,442
Improving the administration of federal elections	$14,147,681
Total expenditures and/or commitments	**$67,583,343**

In accordance with the EAC calculations, Washington State is eligible for $2,312,945 under the 2008 Requirements Payment and $2,011,256 under the 2009 Requirements Payment. The Washington State Legislature has appropriated $228,000 to cover the required state match.

2008 Requirements Payment	
Section 251	$2,312,945
State Match	$122,000
Total	**$2,434,945**

2009 Requirements Payment	
Section 251	$2,011,256
State Match	$106,000
Total	**$2,117,256**

Since Washington State is HAVA compliant, all remaining HAVA funds, future interest earned and any additional requirements payments given to Washington State will be spent on training election officials, educating voters, improving the accessibility of election for individuals with disabilities, and making improvements to the administration of federal elections.

8. How the State, in using the requirements payments, will maintain the expenditures of the State for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the State for the fiscal year ending prior to November 2000. (Sec. 254, (a)(7))

Status as of this amendment:

The Washington State Secretary of State's Office has maintained expenditure levels set by the state fiscal year ending prior to the November 2000, election. The 2003 state plan incorrectly listed the entire election budget as the maintenance of effort level. This was due to a misunderstanding when the plan was written. The only Title III related activity that the state was funding prior to the November 2000 election was a small voting systems program that only included one third of an employee's time, which amounted to $27,557.90.

Washington will continue to maintain expenditures of the state for activities funded by the requirements payment at a level equal to or greater than $27,557.90.

9. How the state will adopt performance goals and measures that will be used by the State to determine its success and the success of units of local government in the State in carrying out the plan, including timetables for meeting each of the elements of the plan, descriptions of the criteria the State will use to measure performance and the process used to develop such criteria, and a description of which official is to be held responsible for ensuring that each performance goal is met. (Sec. 254, (a)(8))

Status as of this amendment: Requirements under Title III have been fully met.

The original state plan laid out clear, time-bound, and measurable objectives for each element of HAVA. This amendment to the state plan specifically details how and when each objective was met, thus satisfying the intent and requirement of HAVA, Section 254, (a)(8).

a. Elimination of punch card voting equipment

i. Timetable: January 1, 2006
ii. Criteria: Replacement of punch card voting equipment and compliance with Title III HAVA requirements for the 16 counties that utilized punch card equipment in the 2000 General Election.
iii. How Criteria is Judged: Success of meeting this performance goal is based on the number of punch card voting systems still in use after January 1, 2006.
iv. Responsible Official: Secretary of State with the cooperation of County Auditors.

HAVA Section 102 (a)(3)(B) specifies that equipment needs to be replaced by the first election for Federal office held after January 1, 2006. Additionally, vendor supply and demand could not accommodate replacement of all punch card voting equipment by January 1, 2006.

Washington State met the legally required deadline of having the punch card voting equipment in place in all 16 counties by the first federal election that was held in September 2006.

The counties were responsible to procure their own equipment through aid from grant cycles provided by the Office of the Secretary of State.

b. Voter education program on how to correctly cast a ballot for each type of voting system

i. Timetable: January 1, 2006

ii. Criteria: Establishment and implementation of a voter education program specific to each type of voting system that clearly explains to voters how to correctly cast a ballot, correct an error, how to obtain a replacement ballot, and the effect of casting multiple votes for an office.

iii. How Criteria is Judged: Success of meeting this performance goal is based on the establishment and implementation of a voter education program developed in cooperation with County Auditors that is specific to each type of voting system used in Washington.

iv. Responsible Official: Secretary of State with the cooperation of County Auditors.

State supported the local effort by offering voter education campaigns. However, many counties established and implemented their own education programs specific to their newly acquired voting systems with the help of HAVA grants provided by the Office of the Secretary of State.

c. Accessibility for individuals with disabilities

i. Timetable: January 1, 2006

ii. Criteria: Implementation of at least one Direct Recording Electronic voting device (referred to in Washington State as Accessible Voting Units or AVUs) that meets the accessibility standards in each polling place in the state and adequate placement of this equipment throughout counties that have adopted vote by mail, and significant involvement by individuals with disabilities and other stakeholders in implementation of this equipment.

iii. How Criteria is Judged: Success of meeting this performance goal is based on the placement of at least one accessible Direct Recording Electronic voting device in each polling place in the state and adequate placement of this equipment throughout counties that have adopted vote by mail, and evidenced by increased participation on the part of individuals with disabilities in the voting process.

iv. Responsible Official: Secretary of State with the cooperation of County Auditors.

Section 301 of HAVA states that each jurisdiction shall be required to comply with this requirement of this section on and after January 1, 2006. Vendor supply and demand could not accommodate Washington State's demand for AVU equipment by January 1, 2006.

Washington State was in compliance with this requirement by the first Federal election in September 2006. The counties were responsible for determining the number of AVUs needed and procured the equipment with HAVA funds from a local government grant program provided by the Office of the Secretary of State.

d. Provisional Voting

i. Timetable: January 1, 2004
ii. Criteria: Implementation of a free access system in each county so that the voters can determine if their provisional ballot was counted.
iii. How Criteria is Judged: Success of meeting this performance goal is based on the establishment of a free access system in each county so that the voters can determine if their provisional ballot was counted.
iv. Responsible Official: Secretary of State with the cooperation of County Auditors.

Timeline per State plan: January 1, 2004 *extended to September 2006

Washington State met its goal of establishing and implementing a free access system by the first federal election in 2006. The counties were responsible to establish and implement their own free access systems with the help of grants provided by the Office of the Secretary of State.

e. Posting of voting information

i. Timetable: January 1, 2004
ii. Criteria: Posting of the required information in each polling location.
iii. How Criteria is Judged: Success of meeting this performance goal is based on the posting of the required information in each polling location in the state.
iv. Responsible Official: Secretary of State with the cooperation of County Auditors.

Washington State met the deadline for posting voting information at polling locations by the first federal election for the determined year, September 2004. The Office of the Secretary of State created, printed, and distributed a "HAVA Poster" with required information to all counties. The Counties were responsible to distribute the posters appropriately within their jurisdictions.

Additionally, as laws in Washington State changed, the poster has been updated and sent to all counties for further distribution.

f. Statewide Voter Registration Database

i. Timetable: January 1, 2006

ii. Criteria: Implementation of a "single, uniform, official, centralized, interactive, computerized statewide voter registration list that is defined, maintained, and administered at the state level".

iii. How Criteria is Judged: Success of meeting this performance goal is based on the implementation of a statewide voter registration system that meets the requirement of HAVA.

iv. Responsible Official: Secretary of State with the cooperation of County Auditors.

Washington State met the deadline of January 1, 2006, for implementing a "single, uniform, official, centralized, interactive, computerized state wide voter registration list that is defined, maintained, and administered at the state level". The counties work in conjunction with the Office of the Secretary of State by providing data from their county registration lists on a consistent basis.

11. If the State received any payment under Title I, a description of how such payment will affect the activities proposed to be carried out under the plan, including the amount of funds available for such activities. (Sec. 254, *(a)(10)*)

Status as of this amendment:

Additional Title I funds were not part of the 2008 Requirements payment. All Section 101 funds from the original 2003 payment have been expended. All punch card voting equipment has been replaced; however, Washington State did not use all of the Section 102 funds. If allowed by the EAC, the remainder of these funds will be used to assist counties with increased maintenance and warranty costs associated with punch card replacement equipment.

12. How the state will conduct ongoing management of the plan, except that the state may not make any material change in the administration of the plan unless the change:

A. is developed and published in the Federal Register in accordance with section 255 in the same manner as the State plan;

B. is subject to public notice and comment in accordance with section 256 in the same manner as the State plan; and

C. takes effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register in accordance with subparagraph (A). (Sec. 254, (a)(11))

Status as of this amendment:

Washington State has a long history of being a national leader in both innovation and quality of election services provided to its citizens. The development of a very high level of trust and coordination between local election officials and the Secretary of State has created fertile ground for original ideas and fresh ways to solve problems and improve service. New ideas receive clear and thorough discussions and, when implemented, are administered with the highest level of professionalism. By actively seeking local election official input, Washington State is able to take advantage of further opportunities provided by HAVA.

The Secretary of State established a HAVA Grant Advisory Board, consisting of three County Auditors, the director of elections, a former County Auditor and two members from the disability community. Experts on disability issues will continue to be consulted in developing the grant criteria for accessibility for individuals with disabilities.

Ongoing management of the state plan is ultimately the responsibility of the Secretary of State as the Chief Election Officer. The state understands and agrees to comply with HAVA requirements related to the ongoing management of the state plan. Specifically, the State agrees not to make any material change in the administration of the state plan unless the change:

- Is developed and published in the Federal Register in accordance with HAVA Section 255 in the same manner as the State plan,
- Is subject to public notice and comment in accordance with HAVA Section 256 in the same manner as the State plan, and
- Takes effect only after the expiration of the 30-day comment period that begins on the date the change is published in the Federal Register in accordance with subparagraph (A)).

13. A description of the committee which participated in the development of the State plan in accordance with Section 255 and the procedures followed by the committee under such Section and Section 256. (Sec. 254, (a)(13))

Status as of this amendment:

Section 255 (a) of HAVA states that the chief State election official shall develop the state plan under this subtitle through a committee of appropriate individuals, including the chief election officials of the two most populous jurisdictions within the states, other local election officials, stakeholders (including representatives of groups of individuals with disabilities), and other citizens, appointed for such purpose by the chief state election official.

The Secretary of State appointed the following persons or their designee to assist in the development of this amended state plan:

Office of the Secretary of State
Sam Reed, Secretary of State

Douglas County Auditor's Office
Thad Duvall, Douglas County Auditor

Cowlitz County Auditor's Office
Kris Swanson, Cowlitz County Auditor

Spokane County Auditor's Office
Vicky Dalton, Spokane County Auditor

Pierce County Auditor's Office
Lori Augino, Elections Manager

King County Elections
Sherril Huff, Director

Washington Association of County Auditors
Kim Wyman, Thurston County Auditor

Governor's Committee on Disability Issues and Employment
Denise Colley, Program Coordinator III

League of Women Voters
Barbara Seitle, President

Washington Assistive Technology Alliance
Deborah Cook, Project Director

Washington State Republican Party
Luke Esser, Chairman

Washington Democratic Party
Bertha McDaniel, Office Manager

Office of the Secretary of State
Nick Handy, Director of Elections

Office of the Secretary of State
Sheryl Moss, Certification and Training Unit Manager

Office of the Secretary of State
Paul Miller, VRDB

Office of the Secretary of State
Lori Guerrero, HAVA Coordinator

Legal assistance was provided by Jeff Even, Assistant Attorney General.

14. In the case of a State with a State plan in effect under this subtitle during the previous fiscal year, a description of how the plan reflects changes from the State plan for the previous fiscal year and of how the State succeeded in carrying out the State plan for such previous fiscal year (Sec. 254, (a)(12))

Status as of this amendment:

The spirit and intent of the original state plan was fully implemented. Specifics of those achievements and future activities are given in the narrative under each section above. Changes from the original state plan are reflected in actual budget categories as outlined in #7 above. When the plan was drafted in 2002 and 2003, costs could not be accurately calculated and estimates were listed. The original state plan noted that the estimates were subject to change based on funding and alteration of variables.

This is Washington's 2009 State Plan Amendment, addressing Fiscal Years 2008 and beyond. As of the first update of the state plan following five years of implementation, every element of this plan reflects the achievement of HAVA requirements and planned objectives in the original 2003 plan. All HAVA requirements have been fully met. Funding permitting, future work through HAVA will address training election officials, educating voters, improving the accessibility of election for individuals with disabilities, and making improvements to the administration of federal elections.

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Federal Register

Friday,
July 17, 2009

Part III

Office of Personnel Management

Excepted Service; Consolidated Listing of Schedules A, B, and C Exceptions; Notice

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service; Consolidated Listing of Schedules A, B, and C Exceptions

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives a consolidated notice of all positions excepted under Schedules A, B, and C as of June 30, 2008, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Glenda Haendschke, Acting Group Manager, Executive Resources Services Group, (202) 606–2246.

SUPPLEMENTARY INFORMATION: Civil Service Rule VI (5 CFR 6.1) requires the U.S. Office of Personnel Management (OPM) to publish notice of all exceptions granted under Schedules A, B, and C. Title 5, Code of Federal Regulations, 213.103(c), further requires that a consolidated listing, current as of June 30 of each year, be published annually as a notice in the **Federal Register**. Agencies will notice the change in format of this notice from previous editions. The format has changed because it is not appropriate to set out what appears to be regulatory text in a notice document and therefore references to specific sections of the Code of Federal Regulations have been removed. The notice that follows is a summary of all Schedule A, B, and C excepted authorities. OPM maintains continuing information on the status of all Schedule A, B, and C excepted appointing authorities. Some of these exceptions are codified in the Code of Federal Regulations at 5 CFR, part 213, while others are not. We have identified those authorities below which are codified and those which are not. We remind agencies to consult the CFR before using these governmentwide authorities. Agencies are also reminded to consult your agency headquarters before using any agency-specific authority. Additionally, the authorities are subject to the provisions of 5 CFR, part 302 unless specifically exempted from those procedures. Interested parties needing information about specific authorities during the year may obtain information by writing to the Executive Resources Services Group, Center for Performance Management Systems and Evaluation, Human Capital Leadership and Merit System Accountability Division, Office of Personnel Management, 1900 E Street, NW., Room 7425, Washington, DC 20415, or by calling (202) 606–2246.

The following listing summarizes the Schedule A excepted authorities that are authorized for Governmentwide use. These authorities are codified at 5 CFR part 213. These excepted authorities are current as of June 30, 2008. Please consult the CFR to read the full authority.

Schedule A

The following are Schedule A authorities that are authorized for use by the entire Executive Civil Service:

1. Positions of Chaplain and Chaplain's Assistant.
2. Positions to which appointments are made by the President without confirmation by the Senate.
3. Attorneys.
4. Law clerk trainee positions.
5. Temporary and less-than-full-time positions for which examining is impracticable. These are: Positions in remote/isolated locations where examination is impracticable; positions for which a critical hiring need exists; and other positions that OPM may determine are impracticable to examine.
6. Positions filled by current or former Federal employees eligible for placement under special statutory provisions.
7. Positions without compensation, provided appointments thereto meet the requirements of applicable laws relating to compensation.
8. Positions requiring the temporary or intermittent employment of professional, scientific, and technical experts for consultation purposes.
9. Any local physician, surgeon, or dentist employed under contract or on a part-time or fee basis.
10. Positions of a scientific, professional or analytical nature when filled by bona fide members of the faculty of an accredited college or university who have special qualifications for the positions to which appointed.
11. Positions established in support of fellowship and similar programs that are filled from limited applicant pools and operate under specific criteria developed by the employing agency and/or a non-Federal organization.
12. Positions with compensation fixed under 5 U.S.C. 5351–5356 when filled by student-employees assigned or attached to Government hospitals, clinics or medical or dental laboratories.
13. Appointment of Persons with Mental Retardation, Severe Physical Disabilities, or Psychiatric Disabilities.
14. Positions for which a local recruiting shortage exists when filled by inmates of Federal, District of Columbia, and State (including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands) penal and correctional institutions under work-release programs authorized by the Prisoner Rehabilitation Act of 1965, the District of Columbia Work Release Act, or under work-release programs authorized by the States.
15. Not to exceed 30 positions of assistants to top-level Federal officials when filled by persons designated by the President as White House Fellows.
16. Scientific and professional research associate positions at GS–11 and above when filled on a temporary basis by persons having a doctoral degree in an appropriate field of study for research activities of mutual interest to appointees and their agencies.
17. Positions when filled by aliens in the absence of qualified citizens.
18. Not to exceed 24 positions when filled in accordance with an agreement between OPM and the Department of Justice by persons in programs administered by the Attorney General of the United States under Public Law 91–452 and related statutes.
19. Positions of Fellows in the Presidential Management Fellows Program.
20. Positions of Senior Fellows in the Presidential Management Fellows Program.
21. Positions as needed of readers for blind employees, interpreters for deaf employees and personal assistants for handicapped employees.
22. Positions on the staffs of temporary organizations, as defined in 5 U.S.C. 3161(a).

The following summary of Schedule A exceptions, current as of June 30, 2008, are agency-specific and are not codified in the Code of Federal Regulations. Agencies should consult with their headquarters to read the full authority.

23. Executive Office of the President

Office of Administration—Not to exceed 75 positions to provide administrative services and support to the White House Office.

Office of Management and Budget—Not to exceed 15 positions at grades GS–5/15.

Council on Environmental Quality—Professional and technical positions in grades GS–9 through 15 on the staff of the Council.

National Security Council—All positions on the staff of the Council.

Office of Science and Technology Policy—Thirty positions of Senior Policy Analyst, GS–15; Policy Analyst, GS–11/14; and Policy Research

Assistant, GS–9; for employment of anyone not to exceed 5 years on projects of a high priority nature.

Office of National Drug Control Policy—Not to exceed 15 positions, GS–15 and below, of senior policy analysts and other personnel with expertise in drug-related issues and/or technical knowledge to aid in anti-drug abuse efforts.

24. Department of State

Office of the Secretary—All positions, GS–15 and below, on the staff of the Family Liaison Office, Director General of the Foreign Service and the Director of Personnel, Office of the Under Secretary for Management.

One position of Museum Curator (Arts), in the Office of the Under Secretary for Management, whose incumbent will serve as Director, Diplomatic Reception Rooms. No new appointments may be made after February 28, 1997.

American Embassy, Paris, France—Chief, Travel and Visitor Unit. No new appointments may be made under this authority after August 10, 1981.

Bureau of Population, Refugees, and Migration—Not to exceed 10 positions at grades GS–5 through 11 on the staff of the Bureau.

Bureau of Administration—One Presidential Travel Officer. No new appointments may be made under this authority after June 11, 1981.

One position as Director, Art in Embassies Program, GM–1001–15.

Up to 250 time-limited positions within the Department of State in support of the June 2004 Economic Summit of Industrial Nations. No new appointments may be made under this authority after June 30, 2004.

25. Department of the Treasury

Office of the Secretary—Not to exceed 20 positions at the equivalent of GS–13 through GS–17 to supplement permanent staff in the study of complex problems relating to international financial, economic, trade, and energy policies and programs of the Government, when filled by individuals with special qualifications for the particular study being undertaken.

Not to exceed 20 positions, which will supplement permanent staff involved in the study and analysis of complex problems in the area of domestic economic and financial policy.

Not to exceed 50 positions in the Office of the Under Secretary (Enforcement).

U.S. Customs Service—Positions in foreign countries designated as ''interpreter-translator'' and ''special employees'' when filled by appointment of persons who are not citizens of the United States; and messenger and janitor positions in foreign countries.

Not to exceed 25 positions of Customs Patrol Officers in the Papago Indian Agency in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood.

Office of Thrift Supervision (OTS)—All positions in the supervision policy and supervision operations functions of OTS. No new appointments may be made under this authority after December 31, 1993.

Internal Revenue Service—Twenty positions of investigator for special assignments.

Bureau of Alcohol, Tobacco, and Firearms—One hundred positions of criminal investigator for special assignments. One non-permanent Senior Level (SL) Criminal Investigator to serve as a senior advisor to the Assistant Director (Firearms, Explosives, and Arson).

26. Department of Defense (DOD)

Office of the Secretary—One Executive Secretary, US–USSR Standing Consultative Commission and Staff Analyst (SALT), Office of the Assistant Secretary of Defense (International Security Affairs).

Entire Department (including the Office of the Secretary of Defense and the Departments of the Army, Navy, and Air Force)—Professional positions in Military Dependent School Systems overseas.

Positions in attache 1 systems overseas, including all professional and scientific positions in the Naval Research Branch Office in London.

Positions of clerk-translator, translator, and interpreter overseas; positions of Educational Specialist the incumbents of which will serve as Director of Religious Education on the staffs of the chaplains in the military services.

Positions under the program for utilization of alien scientists, approved under pertinent directives administered by the Director of Defense Research and Engineering of the Department of Defense, when occupied by alien scientists initially employed under the program including those who have acquired United States citizenship during such employment.

Positions in overseas installations of the DOD when filled by dependents of military or civilian employees of the U.S. Government residing in the area.

Twenty secretarial and staff support positions at GS–12 or below on the White House Support Group.

Positions in DOD research and development activities occupied by participants in the DOD Science and Engineering Apprenticeship Program for High School Students.

Positions engaged in the reconstruction of Iraq for hiring non-U.S. citizens when there is a severe shortage of candidates with U.S. citizenship. This authority is limited to appointments made on or before July 1, 2004, and is subject to any restrictions set forth in the Department of Defense FY 2002 Appropriations Act.

Temporary or time-limited positions in direct support of U.S. Government efforts to rebuild and create an independent, free and secure Iraq and Afghanistan, when no other appropriate appointing authority applies. Positions will generally be located in Iraq or Afghanistan, but may be in other locations, including the United States, when directly supporting operations in Iraq or in Afghanistan. No new appointments may be made under this authority after March 31, 2009.

General—Positions concerned with advising, administering, supervising, or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, and estimation of intelligence information, including scientific and technical positions in the intelligence function; and positions involved in the planning, programming, and management of intelligence resources when, in the opinion of OPM, it is impracticable to examine. This authority does not apply to positions assigned to cryptologic and communications intelligence activities/functions.

Positions involved in intelligence-related work of the cryptologic intelligence activities of the military departments. This includes all positions of intelligence research specialist, and similar positions in the intelligence classification series; all scientific and technical positions involving the applications of engineering, physical or technical sciences to intelligence work; and professional as well as intelligence technician positions in which a majority of the incumbent's time is spent in advising, administering, supervising, or performing work in the collection, processing, analysis, production, evaluation, interpretation, dissemination, and estimation of intelligence information or in the planning, programming, and management of intelligence resources.

Uniformed Services University of the Health Sciences—Positions of President, Vice Presidents, Assistant Vice Presidents, Deans, Deputy Deans, Associate Deans, Assistant Deans, Assistants to the President, Assistants to

the Vice Presidents, Assistants to the Deans, Professors, Associate Professors, Assistant Professors, Instructors, Visiting Scientists, Research Associates, Senior Research Associates, and Postdoctoral Fellows, and positions established to perform work on projects funded from grants.

National Defense University—Not to exceed 16 positions of senior policy analyst, GS–15, at the Strategic Concepts Development Center.

Defense Communications Agency—Not to exceed 10 positions at grades GS–10/15 to staff and support the Crisis Management Center at the White House.

Defense Acquisitions University—The Provost and professors.

George C. Marshall European Center for Security Studies, Garmisch, Germany—The Director, Deputy Director, and positions of professor, instructor, and lecturer at the George C. Marshall European Center for Security Studies, Garmisch, Germany.

Asia-Pacific Center for Security Studies, Honolulu, Hawaii—The Director, Deputy Director, Dean of Academics, Director of College, deputy department chairs, and senior positions of professor, associate professor, and research fellow within the Asia Pacific Center.

Business Transformation Agency—Fifty temporary or time-limited (not to exceed four years) positions, at grades GS–11–15. The authority will be used to appoint persons in the following series: Management and Program Analysis, GS–343: Logistics Management, GS–346; Financial Management Programs, GS–501; Accounting, GS–510; Computer Engineering, GS–854; Business and Industry, GS–1101; Operations Research, GS–1515; Computer Science, GS–1550; General Supply, GS–2001; Supply Program Management, GS–2003; Inventory Management, GS–2010; and Information Technology, GS–2210.

27. Department of the Army

U.S. Military Academy, West Point, New York—Civilian professors, instructors, teachers (except teachers at the Children's School), Cadet Social Activities Coordinator, Chapel Organist and Choir-Master, Director of Intercollegiate Athletics, Associate Director of Intercollegiate Athletics, coaches, Facility Manager, Building Manager, three Physical Therapists (Athletic Trainers), Associate Director of Admissions for Plans and Programs, Deputy Director of Alumni Affairs; and librarian when filled by an officer of the Regular Army retired from active service, and the military secretary to the Superintendent when filled by a U.S. Military Academy graduate retired as a regular commissioned officer for disability.

Defense Language Institute—All positions (professors, instructors, lecturers) which require proficiency in a foreign language or knowledge of foreign language teaching methods.

Army War College, Carlisle Barracks, PA—Positions of professor, instructor, or lecturer associated with courses of instruction of at least 10 months duration for employment not to exceed 5 years, which may be renewed in 1-, 2-, 3-, 4-, or 5-year increments indefinitely thereafter.

U.S. Military Academy Preparatory School, Fort Monmouth, New Jersey—Positions of academic director, department head, and instructor.

U.S. Army Command and General Staff College, Fort Leavenworth, Kansas—Positions of professor, associate professor, assistant professor, and instructor associated with courses of instruction of at least 10 months duration, for employment not to exceed up to 5 years, which may be renewed in 1-, 2-, 3-, 4-, or 5-year increments indefinitely thereafter.

28. Department of the Navy

General—Marine positions assigned to a coastal or seagoing vessel operated by a naval activity for research or training purposes. All positions necessary for the administration and maintenance of the official residence of the Vice President.

Naval Academy, Naval Postgraduate School, and Naval War College—Professors, instructors, and teachers; the Director of Academic Planning, Naval Postgraduate School; and the Librarian, Organist-Choirmaster, Registrar, the Dean of Admissions, and social counselors at the Naval Academy.

Chief of Naval Operations—One position at grade GS–12 or above that will provide technical, managerial, or administrative support on highly classified functions to the Deputy Chief of Naval Operations (Plans, Policy, and Operations).

Military Sealift Command—All positions on vessels operated by the Military Sealift Command.

Pacific Missile Range Facility, Barking Sands, Hawaii—All positions. This authority applies only to positions that must be filled pending final decision on contracting of facility operations. No new appointments may be made under this authority after July 29, 1988.

Office of Naval Research—Scientific and technical positions, GS–13/15, in the Office of Naval Research International Field Office which covers satellite offices within the Far East, Africa, Europe, Latin America, and the South Pacific. Positions are to be filled by personnel having specialized experience in scientific and/or technical disciplines of current interest to the Department of the Navy.

29. Department of the Air Force

Office of the Secretary—One special assistant in the Office of the Secretary of the Air Force. This position has advisory rather than operating duties except as operating or administrative responsibilities may be exercised in connection with the pilot studies.

General—Professional, technical, managerial and administrative positions supporting space activities, when approved by the Secretary of the Air Force.

One hundred eighty positions, serviced by Hill Air Force Base, Utah, engaged in interdepartmental activities in support of national defense projects involving scientific and technical evaluations.

Norton and McClellan Air Force Bases, California—Not to exceed 20 professional positions, GS–11 through GS–15, in Detachments 6 and 51, SM–ALC, Norton and McClellan Air Force Bases, California, which will provide logistic support management to specialized research and development projects.

U.S. Air Force Academy, Colorado—Positions of Professor, Associate Professor, Assistant Professor, and Instructor, in the Dean of Faculty, Commandant of Cadets, Director of Athletics, and Preparatory School of the United States Air Force Academy.

Air Force Office of Special Investigations—Positions of Criminal Investigators/Intelligence Research Specialists, GS–5 through GS–15, in the Air Force Office of Special Investigations.

Wright-Patterson Air Force Base, Ohio—Not to exceed eight positions, GS–12 through 15, in Headquarters Air Force Logistics Command, DCS Material Management, Office of Special Activities, Wright-Patterson Air Force Base, Ohio, which will provide logistic support management staff guidance to classified research and development projects.

Air University, Maxwell Air Force Base, Alabama—Positions of Professor, Instructor, or Lecturer.

Air Force Institute of Technology, Wright-Patterson Air Force Base, Ohio—Civilian deans and professors.

Air Force Logistics Command—One Supervisory Logistics Management Specialist, GM–346–14, in Detachment 2, 2762 Logistics Management Squadron (Special), Greenville, Texas.

2762nd Logistics Squadron (Special)—One position of Supervisory Logistics Management Specialist, GS–346–15, in the 2762nd Logistics Squadron (Special), at Wright-Patterson Air Force Base, Ohio.

Air National Guard Readiness Center—One position of Commander, Air National Guard Readiness Center, Andrews Air Force Base, Maryland.

30. Department of Justice

General—Deputy U.S. Marshals employed on an hourly basis for intermittent service. Positions at GS–15 and below on the staff of an office of a special counsel.

Positions of Program Manager and Assistant Program Manager supporting the International Criminal Investigative Training Assistance Program in foreign countries.

Immigration and Naturalization Service—Not to exceed 500 positions of interpreters and language specialists, GS–1040–5/9.

Not to exceed 25 positions, GS–15 and below, with proficiency in speaking, reading, and writing the Russian language and serving in the Soviet Refugee Processing Program with permanent duty location in Moscow, Russia.

Drug Enforcement Administration—Four hundred positions of Intelligence Research Agent and/or Intelligence Operation Specialist in the GS–132 series, grades GS–9 through GS–15. Not to exceed 200 positions of Criminal Investigator (Special Agent). New appointments may be made under this authority only at grades GS–7/11.

National Drug Intelligence Center—All positions.

31. Department of Homeland Security

Up to 50 positions at the GS–5 through 15 grade levels at the Department of Homeland Security. No new appointments may be made under this authority after September 30, 2005.

Ten positions for oversight policy and direction of sensitive law enforcement activities. Up to 15 Senior Level and General Schedule (or equivalent) positions within the Homeland Security Labor Relations Board and the Homeland Security Mandatory Removal Board.

32. Department of the Interior

General—Technical, maintenance, and clerical positions at or below grades GS–7, WG–10, or equivalent, in the field service of the Department of the Interior, when filled by the appointment of persons who are certified as maintaining a permanent and exclusive residence within, or contiguous to, a field activity or district, and as being dependent for livelihood primarily upon employment available within the field activity of the Department.

All positions on Government-owned ships or vessels operated by the Department of the Interior. Temporary or seasonal caretakers at temporarily closed camps or improved areas to maintain grounds, buildings, or other structures and prevent damages or theft of Government property. Such appointments shall not extend beyond 130 working days a year without the prior approval of OPM.

Temporary, intermittent, or seasonal field assistants at GS–7, or its equivalent, and below in such areas as forestry, range management, soils, engineering, fishery and wildlife management, and with surveying parties.

Temporary positions established in the field service of the Department for emergency forest and range fire prevention or suppression and blister rust control for not to exceed 180 working days a year: Provided, that an employee may work as many as 220 working days a year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property.

Persons employed in field positions, the work of which is financed jointly by the Department of the Interior and cooperating persons or organizations outside the Federal service.

All positions in the Bureau of Indian Affairs and other positions in the Department of the Interior directly and primarily related to providing services to Indians when filled by the appointment of Indians. The Secretary of the Interior is responsible for defining the term ''Indian.''

Temporary, intermittent, or seasonal positions at GS–7 or below in Alaska, as follows: Positions in nonprofessional mining activities, such as those of drillers, miners, caterpillar operators, and samplers. Employment under this authority shall not exceed 180 working days a year and shall be appropriate only when the activity is carried on in a remote or isolated area and there is a shortage of available candidates for the positions.

Temporary, part-time, or intermittent employment of mechanics, skilled laborers, equipment operators and tradesmen on construction, repair, or maintenance work not to exceed 180 working days a year in Alaska, when the activity is carried on in a remote or isolated area and there is a shortage of available candidates for the positions.

Seasonal airplane pilots and airplane mechanics in Alaska, not to exceed 180 working days a year.

Temporary staff positions in the Youth Conservation Corps Centers operated by the Department of the Interior. Employment under this authority shall not exceed 11 weeks a year except with prior approval of OPM.

Positions in the Youth Conservation Corps for which pay is fixed at the Federal minimum wage rate. Employment under this authority may not exceed 10 weeks.

Indian Arts and Crafts Board—The Executive Director.

Office of the Assistant Secretary, Territorial and International Affairs—Not to exceed four positions of Territorial Management Interns, grades GS–5, GS–7, or GS–9, when filled by territorial residents who are U.S. citizens from the Virgin Islands or Guam; U.S. nationals from American Samoa; or in the case of the Northern Marianas, will become U.S. citizens upon termination of the U.S. trusteeship. Employment under this authority may not exceed 6 months. Special Assistants to the Governor of American Samoa who perform specialized administrative, professional, technical, and scientific duties as members of his or her immediate staff.

National Park Service—Positions established for the administration of Kalaupapa National Historic Park, Molokai, Hawaii, when filled by appointment of qualified patients and Native Hawaiians, as provided by Public Law 95–565.

Seven full-time permanent and 31 temporary, part-time, or intermittent positions in the Redwood National Park, California, which are needed for rehabilitation of the park, as provided by Public Law 95–250.

One Special Representative of the Director.

All positions in the Grand Portage National Monument, Minnesota, when filled by the appointment of recognized members of the Minnesota Chippewa Tribe.

Bureau of Reclamation—Appraisers and examiners employed on a temporary, intermittent, or part-time basis on special valuation or prospective-entrymen-review projects where knowledge of local values on conditions or other specialized qualifications not possessed by regular Bureau employees are required for successful results. Employment under this provision shall not exceed 130 working days a year in any individual case: Provided, that such employment may, with prior approval of OPM, be

extended for not to exceed an additional 50 working days in any single year.

Office of the Deputy Assistant Secretary for Territorial Affairs—Positions of Territorial Management Interns, GS–5, when filled by persons selected by the Government of the Trust Territory of the Pacific Islands. No appointment may extend beyond 1 year.

33. Department of Agriculture

General—Agents employed in field positions the work of which is financed jointly by the Department and cooperating persons, organizations, or governmental agencies outside the Federal service. Except for positions for which selection is jointly made by the Department and the cooperating organization, this authority is not applicable to positions in the Agricultural Research Service or the National Agricultural Statistics Service. This authority is not applicable to the following positions in the Agricultural Marketing Service: Agricultural commodity grader (grain) and (meat), (poultry), and (dairy), agricultural commodity aid (grain), and tobacco inspection positions.

Temporary, intermittent, or seasonal employment in the field service of the Department in positions at and below GS–7 and WG–10 in the following types of positions: Field assistants for sub professional services; agricultural helpers, helper-leaders, and workers in the Agricultural Research Service and the Animal and Plant Health Inspection Service; and subject to prior OPM approval granted in the calendar year in which the appointment is to be made, other clerical, trades, crafts, and manual labor positions. Total employment under this subparagraph may not exceed 180 working days in a service year: Provided, that an employee may work as many as 220 working days in a service year when employment beyond 180 days is required to cope with extended fire seasons or sudden emergencies such as fire, flood, storm, or other unforeseen situations involving potential loss of life or property. This paragraph does not cover trades, crafts, and manual labor positions covered by paragraph (i) of Sec. 213.3102 or positions within the Forest Service.

Farm Service Agency—Members of State Committees: Provided, that employment under this authority shall be limited to temporary intermittent (WAE) positions whose principal duties involve administering farm programs within the State consistent with legislative and Departmental requirements and reviewing national procedures and policies for adaptation at State and local levels within established parameters. Individual appointments under this authority are for 1 year and may be extended only by the Secretary of Agriculture or his designee. Members of State Committees serve at the pleasure of the Secretary.

Rural Development—County committeemen to consider, recommend, and advise with respect to the Rural Development program.

Professional and clerical positions in the Trust Territory of the Pacific Islands when occupied by indigenous residents of the Territory to provide financial assistance pursuant to current authorizing statutes.

Agricultural Marketing Service:

Positions of Agricultural Commodity Graders, Agricultural Commodity Technicians, and Agricultural Commodity Aids at grades GS–9 and below in the tobacco, dairy, and poultry commodities; Meat Acceptance Specialists, GS–11 and below; Clerks, Office Automation Clerks, and Computer Clerks at GS–5 and below; Clerk-Typists at grades GS–4 and below; and Laborers under the Wage System. Employment under this authority is limited to either 1,280 hours or 180 days in a service year.

Positions of Agricultural Commodity Graders, Agricultural Commodity Technicians, and Agricultural Commodity Aids at grades GS–11 and below in the cotton, raisin, and processed fruit and vegetable commodities and the following positions in support of these commodities: Clerks, Office Automation Clerks, and Computer Clerks and Operators at GS–5 and below; Clerk-Typists at grades GS–4 and below; and, under the Federal Wage System, High Volume Instrumentation (HVI) Operators and HVI Operator Leaders at WG/WL–2 and below, respectively, Instrument Mechanics/Workers/Helpers at WG–10 and below, and Laborers. Employment under this authority may not exceed 180 days in a service year. In unforeseen situations such as bad weather or crop conditions, unanticipated plant demands, or increased imports, employees may work up to 240 days in a service year. Cotton Agricultural Commodity Graders, GS–5, may be employed as trainees for the first appointment for an initial period of 6 months for training without regard to the service year limitation.

Milk Market Administrators.

All positions on the staffs of the Milk Market Administrators.

Food Safety and Inspection Service—Positions of Meat and Poultry Inspectors (Veterinarians at GS–11 and below and non-Veterinarians at appropriate grades below GS–11) for employment on a temporary, intermittent, or seasonal basis, not to exceed 1,280 hours a year.

Grain Inspection, Packers and Stockyards Administration—One hundred and fifty positions of Agricultural Commodity Aid (Grain), GS–2/4; 100 positions of Agricultural Commodity Technician (Grain), GS–4/7; and 60 positions of Agricultural Commodity Grader (Grain), GS–5/9, for temporary employment on a part-time, intermittent, or seasonal basis not to exceed 1,280 hours in a service year.

Alternative Agricultural Research and Commercialization Corporation—Executive Director.

34. Department of Commerce

General—Not to exceed 50 scientific and technical positions whose duties are performed primarily in the Antarctic. Incumbents of these positions may be stationed in the continental United States for periods of orientation, training, analysis of data, and report writing.

Bureau of the Census—Managers, supervisors, technicians, clerks, interviewers, and enumerators in the field service, for time-limited employment to conduct a census. Current Program Interviewers employed in the field service.

Office of the Under Secretary for International Trade:

Fifteen positions at GS–12 and above in specialized fields relating to international trade or commerce in units under the jurisdiction of the Under Secretary for International Trade.

Incumbents will be assigned to advisory rather than to operating duties, except as operating and administrative responsibility may be required for the conduct of pilot studies or special projects. Not to exceed 15 positions in grades GS–12 through GS–15, to be filled by persons qualified as industrial or marketing specialists; who possess specialized knowledge and experience in industrial production, industrial operations and related problems, market structure and trends, retail and wholesale trade practices, distribution channels and costs, or business financing and credit procedures applicable to one or more of the current segments of U.S. industry served by the Under Secretary for International Trade, and the subordinate components of his organization which are involved in Domestic Business matters.

National Oceanic and Atmospheric Administration:

All civilian positions on vessels operated by the National Ocean Service.

Temporary positions required in connection with the surveying operations of the field service of the

National Ocean Service. Appointment to such positions shall not exceed 8 months in any 1 calendar year.

National Telecommunication and Information Administration—Thirty-eight professional positions in grades GS–13 through GS–15.

35. Department of Labor

Office of the Secretary—Chairman and five members, Employees' Compensation Appeals Board. Chairman and eight members, Benefits Review Board.

Employment and Training Administration—Not to exceed 10 positions of Supervisory Manpower Development Specialist and Manpower Development Specialist, GS–7/15, in the Division of Indian and Native American Programs, when filled by the appointment of persons of one-fourth or more Indian blood. These positions require direct contact with Indian tribes and communities for the development and administration of comprehensive employment and training programs.

36. Department of Health and Human Services

General—Intermittent positions, at GS–15 and below and WG–10 and below, on teams under the National Disaster Medical System including Disaster Medical Assistance Teams and specialty teams, to respond to disasters, emergencies, and incidents/events involving medical, mortuary and public health needs.

Public Health Service:

Positions at Government sanatoria when filled by patients during treatment or convalescence. Positions concerned with problems in preventive medicine financed or participated in by the Department of Health and Human Services and a cooperating State, county, municipality, incorporated organization, or an individual in which at least one-half of the expense is contributed by the participating agency either in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

Not to exceed 50 positions associated with health screening programs for refugees.

All positions in the Public Health Service and other positions in the Department of Health and Human Services directly and primarily related to providing services to Indians when filled by the appointment of Indians. The Secretary of Health and Human Services is responsible for defining the term ''Indian.''

Health care positions of the National Health Service Corps for employment of any one individual not to exceed 4 years of service in health manpower shortage areas. Not to exceed 200 staff positions, GS–15 and below, in the Immigration Health Service, for an emergency staff to provide health related services to foreign entrants.

The President's Council on Physical Fitness—Four staff assistants.

37. Department of Education

Positions concerned with problems in education financed and participated in by the Department of Education and a cooperating State educational agency, or university or college, in which there is joint responsibility for selection and supervision of employees, and at least one-half of the expense is contributed by the cooperating agency in salaries, quarters, materials, equipment, or other necessary elements in the carrying on of the work.

38. Board of Governors, Federal Reserve System

All positions.

39. Department of Veterans Affairs

Construction Division—Temporary construction workers paid from ''purchase and hire'' funds and appointed for not to exceed the duration of a construction project.

Alcoholism Treatment Units and Drug Dependence Treatment Centers—Not to exceed 400 positions of rehabilitation counselors, GS–3 through GS–11, in Alcoholism Treatment Units and Drug Dependence Treatment Centers, when filled by former patients.

Board of Veterans' Appeals:

Positions, GS–15, when filled by a member of the Board. Except as provided by section 201(d) of Public Law 100–687, appointments under this authority shall be for a term of 9 years, and may be renewed.

Positions, GS–15, when filled by a non-member of the Board who is awaiting Presidential approval for appointment as a Board member.

Vietnam Era Veterans Readjustment Counseling Service—Not to exceed 600 positions at grades GS–3 through GS–11, involved in the Department's Vietnam Era Veterans Readjustment Counseling Service.

40. Small Business Administration

When the President under 42 U.S.C. 1855–1855g, the Secretary of Agriculture under 7 U.S.C. 1961, or the Small Business Administration under 15 U.S.C. 636(b)(1) declares an area to be a disaster area, positions filled by time-limited appointment of employees to make and administer disaster loans in the area under the Small Business Act, as amended. Service under this authority may not exceed 4 years, and no more than 2 years may be spent on a single disaster. Exception to this time limit may only be made with prior Office of Personnel Management approval. Appointments under this authority may not be used to extend the 2-year service limit contained in paragraph (b) below. No one may be appointed under this authority to positions engaged in long-term maintenance of loan portfolios.

When the President under 42 U.S.C. 1855–1855g, the Secretary of Agriculture under 7 U.S.C. 1961, or the Small Business Administration under 15 U.S.C. 636(b)(1) declares an area to be a disaster area, positions filled by time-limited appointment of employees to make and administer disaster loans in that area under the Small Business Act, as amended. No one may serve under this authority for more than an aggregate of 2 years without a break in service of at least 6 months. Persons who have had more than 2 years of service under paragraph (a) of this section must have a break in service of at least 8 months following such service before appointment under this authority. No one may be appointed under this authority to positions engaged in long-term maintenance of loan portfolios.

41. Federal Deposit Insurance Corporation

Temporary positions located at closed banks or savings and loan institutions that are concerned with liquidating the assets of the institutions, liquidating loans to the institutions, or paying the depositors of closed insured institutions.

42. U.S. Soldiers' and Airmen's Home

Positions when filled by member-residents of the Home.

43. Selective Service System

State Directors.

44. National Aeronautics and Space Administration

One hundred and fifty alien scientists having special qualifications in the fields of aeronautical and space research where such employment is deemed by the Administrator of the National Aeronautics and Space Administration to be necessary in the public interest.

45. Social Security Administration

Six positions of Social Insurance Representative in the district offices of the Social Security Administration in the State of Arizona when filled by the appointment of persons of one-fourth or more Indian blood.

Seven positions of Social Insurance Representative in the district offices of the Social Security Administration in the State of New Mexico when filled by the appointment of persons of one-fourth or more Indian blood.

Two positions of Social Insurance Representative in the district offices of the Social Security Administration in the State of Alaska when filled by the appointments of persons of one-fourth or more Alaskan Native blood (Eskimos, Indians, or Aleuts).

46. The President's Crime Prevention Council

Up to 7 positions established in the President's Crime Prevention Council office created by the Violent Crime Control and Law Enforcement Act of 1994. No new appointments may be made under this authority after March 31, 1998.

47. Chemical Safety and Hazard Investigation Board

Seven positions of either Chemical Incident Investigators or Chemical Safety Recommendation Specialists, in the Office of Investigations and Safety Programs. No new appointments may be made under this authority after October 15, 2002, or until the seventh person (who was given an offer of employment on September 13, 2002, and is waiting a physical examination clearance) is appointed, whichever is later.

48. Court Services and Offender Supervision Agency of the District of Columbia

All positions, except for the Director, established to create the Court Services and Offender Supervision Agency of the District of Columbia. No new appointments may be made under this authority after March 31, 2004.

49. Millennium Challenge Corporation

Positions of Resident Country Directors and Deputy Resident Country Directors. The length of appointments will correspond to the length or term of the compact agreements made between the Millennium Challenge Corporation (MCC) and the country in which MCC will work, plus one additional year to cover pre- and post-compact agreement related activities.

50. Smithsonian Institution

All positions located in Panama which are part of or which support the Smithsonian Tropical Research Institute.

Positions at GS–15 and below in the National Museum of the American Indian requiring knowledge of, and experience in, tribal customs and culture. Such positions comprise approximately 10 percent of the Museum's positions and, generally, do not include secretarial, clerical, administrative, or program support positions.

51. Woodrow Wilson International Center for Scholars

One Asian Studies Program Administrator, one International Security Studies Program Administrator, one Latin American Program Administrator, one Russian Studies Program Administrator, one West European Program Administrator, one Environmental Change & Security Studies Program Administrator, one United States Studies Program Administrator, two Social Science Program Administrators, and one Middle East Studies Program Administrator.

52. Community Development Financial Institutions Fund

All positions in the Fund and positions created for the purpose of establishing the Fund's operations in accordance with the Community Development Banking and Financial Institutions Act of 1994, except for any positions required by the Act to be filled by competitive appointment. No new appointments may be made under this authority after September 23, 1998.

53. Utah Reclamation and Conservation Commission

Executive Director.

54. National Foundation on the Arts and the Humanities

National Endowment for the Arts—Artistic and related positions at grades GS–13 through GS–15 engaged in the review, evaluation and administration of applications and grants supporting the arts, related research and assessment, policy and program development, arts education, access programs and advocacy or evaluation of critical arts projects and outreach programs. Duties require artistic stature, in-depth knowledge of arts disciplines and/or artistic-related leadership qualities.

55. African Development Foundation

One Enterprise Development Fund Manager.

56. Office of Personnel Management

Part-time and intermittent positions of test examiners at grades GS–8 and below.

57. Department of Transportation

U.S. Coast Guard—Lamplighters.

Professors, Associate Professors, Assistant Professors, Instructors, one Principal Librarian, one Cadet Hostess, and one Psychologist (Counseling) at the Coast Guard Academy, New London, Connecticut.

Maritime Administration:

All positions on Government-owned vessels or those bareboats chartered to the Government and operated by or for the Maritime Administration.

U.S. Merchant Marine Academy, positions of: Professors, Instructors, and Teachers, including heads of Departments of Physical Education and Athletics, Humanities, Mathematics and Science, Maritime Law and Economics, Nautical Science, and Engineering; Coordinator of Shipboard Training; the Commandant of Midshipmen, the Assistant Commandant of Midshipmen; Director of Music; three Battalion Officers; three Regimental Affairs Officers; and one Training Administrator.

U.S. Merchant Marine Academy positions of: Associate Dean; Registrar; Director of Admissions; Assistant Director of Admissions; Director, Office of External Affairs; Placement Officer; Administrative Librarian; Shipboard Training Assistant; three Academy Training Representatives; and one Education Program Assistant.

58. Federal Emergency Management Agency

Field positions at grades GS–15 and below, or equivalent, which are engaged in work directly related to unique response efforts to environmental emergencies not covered by the Disaster Relief Act of 1974, Public Law 93–288, as amended. Employment under this authority may not exceed 36 months on any single emergency. Persons may not be employed under this authority for long-term duties or for work not directly necessitated by the emergency response effort.

Not to exceed 30 positions at grades GS–15 and below in the Offices of Executive Administration, General Counsel, Inspector General, Comptroller, Public Affairs, Personnel, Acquisition Management, and the State and Local Program and Support Directorate which are engaged in work directly related to unique response efforts to environmental emergencies not covered by the Disaster Relief Act of 1974, Public Law 93–288, as amended. Employment under this authority may not exceed 36 months on any single emergency, or for long-term duties or work not directly necessitated by the emergency response effort. No one may be reappointed under this authority for service in connection with a different

emergency unless at least 6 months have elapsed since the individual's latest appointment under this authority.

Not to exceed 350 professional and technical positions at grades GS–5 through GS–15, or equivalent, in Mobile Emergency Response Support Detachments (MERS).

59. Temporary Organizations

Positions on the staffs of temporary organizations, as defined in 5 U.S.C. 3161(a). Appointments may not exceed 3 years, but temporary organizations may extend the appointments for 2 additional years if the conditions for extension are related to the completion of the study or project.

The following summary of Schedule B excepted authorities are authorized for Governmentwide use and are codified in 5 CFR part 213. Please consult 5 CFR, part 213 to read the full authority.

Schedule B

Entire Executive Civil Service

1. Student Educational Employment Program—Student Temporary Employment Program.

2. Student Educational Employment Program—Student Career Experience Program.

3. Special executive development positions established in connection with Senior Executive Service candidate development programs which have been approved by OPM.

4. Positions when filled under any of the following conditions:

a. Appointment at grades GS–15 and above, or equivalent, in the same or a different agency without a break in service from a career appointment in the Senior Executive Service (SES) of an individual who has completed the SES probationary period; been removed from the SES because of less than fully successful executive performance, failure to be recertified, or a reduction in force; and is entitled to be placed in another civil service position under 5 U.S.C. 3594(b).

b. Appointment in a different agency without a break in service of an individual originally appointed under this paragraph.

c. Reassignment, promotion, or demotion within the same agency of an individual appointed under this authority.

5. Positions when filled by preference eligibles or veterans who have been separated from the armed forces under honorable conditions after 3 years or more of continuous active service and who, in accordance with 5 U.S.C. 3304(f) (Pub. L. 105–339), applied for these positions under merit promotion procedures when applications were being accepted by the agency from individuals outside its own workforce. These veterans may be promoted, demoted, or reassigned, as appropriate, to other positions within the agency but would remain employed under this excepted authority as long as there is no break in service. No new appointments may be made under this authority after November 30, 1999.

6. The Federal Career Intern Program

The following summary of Schedule B exceptions, current as of June 30, 2008, are agency-specific and are not codified in the Code of Federal Regulations (CFR). Agencies should consult with their headquarters to read the full authority.

7. Executive Office of the President

Office of the Special Representative for Trade Negotiations—Seventeen positions of economist at grades GS–12 through GS–15.

8. Department of State

One non-permanent senior level position to serve as Science and Technology Advisor to the Secretary.

Fourteen positions on the household staff of the President's Guest House (Blair and Blair-Lee Houses).

Scientific, professional, and technical positions at grades GS–12 to GS–15 when filled by persons having special qualifications in foreign policy matters.

9. Department of the Treasury

Positions of Deputy Comptroller of the Currency, Chief National Bank Examiner, Assistant Chief National Bank Examiner, Regional Administrator of National Banks, Deputy Regional Administrator of National Banks, Assistant to the Comptroller of the Currency, National Bank Examiner, Associate National Bank Examiner, and Assistant National Bank Examiner, whose salaries are paid from assessments against national banks and other financial institutions.

Positions concerned with the protection of the life and safety of the President and members of his immediate family, or other persons for whom similar protective services are prescribed by law, when filled in accordance with special appointment procedures approved by OPM.

Positions, grades GS–5 through 12, of Treasury Enforcement Agent in the Bureau of Alcohol, Tobacco, and Firearms; and Treasury Enforcement Agent, Pilot, Marine Enforcement Officer, and Aviation Enforcement Officer in the U.S. Customs Service. Service under this authority may not exceed 3 years and 120 days.

10. Department of Defense

Office of the Secretary—Professional positions at GS–11 through GS–15 involving systems, costs, and economic analysis functions in the Office of the Assistant Secretary (Program Analysis and Evaluation); and in the Office of the Deputy Assistant Secretary (Systems Policy and Information) in the Office of the Assistant Secretary (Comptroller).

Four Net Assessment Analysts.

Interdepartmental activities:

Six positions to provide general administration, general art and information, photography, and/or visual information support to the White House Photographic Service.

Eight positions, GS–15 or below, in the White House Military Office, providing support for airlift operations, special events, security, and/or administrative services to the Office of the President.

National Defense University—Sixty-one positions of Professor, GS–13/15, for employment of any one individual on an initial appointment not to exceed 3 years, which may be renewed in any increment from 1 to 6 years indefinitely thereafter.

General

One position of Law Enforcement Liaison Officer (Drugs), GS–301–15, U.S. European Command.

Acquisition positions at grades GS–5 through GS–11, whose incumbents have successfully completed the required course of education as participants in the Department of Defense scholarship program authorized under 10 U.S.C. 1744.

Office of the Inspector General—Positions of Criminal Investigator, GS–1811–5/15.

Department of Defense Polygraph Institute, Fort McClellan, Alabama—One Director, GM–15.

Defense Security Assistance Agency—All faculty members with instructor and research duties at the Defense Institute of Security Assistance Management, Wright Patterson Air Force Base, Dayton, Ohio.

11. Department of the Army

U.S. Army Command and General Staff College—Seven positions of professors, instructors, and education specialists. Total employment of any individual under this authority may not exceed 4 years.

12. Department of the Navy

Naval Underwater Systems Center, New London, Connecticut—One

position of Oceanographer, grade GS–14, to function as project director and manager for research in the weapons systems applications of ocean eddies.

Armed Forces Staff College, Norfolk, Virginia—All civilian faculty positions of professors, instructors, and teachers on the staff of the Armed Forces Staff College, Norfolk, Virginia.

Defense Personnel Security Research and Education Center—One Director and four Research Psychologists at the professor or GS–15 level in the Defense Personnel Security Research and Education Center.

Marine Corps Command and Staff College—All civilian professor positions at the Marine Corps Command and Staff College.

Executive Dining Facilities at the Pentagon—One position of Staff Assistant, GS–301, whose incumbent will manage the Navy's Executive Dining Facilities at the Pentagon.

Bachelor Quarters Management Study—One position of Housing Management Specialist, GM–1173–14, involved with the Bachelor Quarters Management Study. No new appointments may be made under this authority after February 29, 1992.

13. Department of the Air Force

Air Research Institute at the Air University, Maxwell Air Force Base, Alabama—Not to exceed four interdisciplinary positions for the Air Research Institute at the Air University, Maxwell Air Force Base, Alabama, for employment to complete studies proposed by candidates and acceptable to the Air Force.

Air University—Positions of Instructor or professional academic staff at the Air University associated with courses of instruction of varying durations, for employment not to exceed 3 years, which may be renewed for an indefinite period thereafter.

U.S. Air Force Academy, Colorado—One position of Director of Development and Alumni Programs, GS–301–13, with the U.S. Air Force Academy, Colorado.

14. Department of Justice

Criminal Investigator (Special Agent) positions in the Drug Enforcement Administration. New appointments may be made under this authority only at grades GS–5 through 11. Service under the authority may not exceed 4 years. Appointments made under this authority may be converted to career or career-conditional appointments under the provisions of Executive Order 12230, subject to conditions agreed upon between the Department and OPM.

Not to exceed 400 positions at grades GS–5 through 15 assigned to regional task forces established to conduct special investigations to combat drug trafficking and organized crime. Positions, other than secretarial, GS–6 through GS–15, requiring knowledge of the bankruptcy process, on the staff of the offices of United States Trustees or the Executive Office for U.S. Trustees.

15. Department of Agriculture

Foreign Agricultural Service—Positions of a project nature involved in international technical assistance activities. Service under this authority may not exceed 5 years on a single project for any individual unless delayed completion of a project justifies an extension up to but not exceeding 2 years.

General

Temporary positions of professional Research Scientists, GS–15 or below, in the Agricultural Research Service, Economic Research Service, and the Forest Service, when such positions are established to support the Research Associateship Program and are filled by persons having a doctoral degree in an appropriate field of study for research activities of mutual interest to appointees and the agency. Appointments are limited to proposals approved by the appropriate Administrator. Appointments may be made for initial periods not to exceed 2 years and may be extended for up to 2 additional years. Extensions beyond 4 years, up to a maximum of 2 additional years, may be granted, but only in very rare and unusual circumstances, as determined by the Human Resources Officer for the Research, Education, and Economics Mission Area, or the Human Resources Officer, Forest Service.

Not to exceed 55 Executive Director positions, GM–301–14/15, with the State Rural Development Councils in support of the Presidential Rural Development Initiative.

16. Department of Commerce

Bureau of the Census—Not to exceed 50 Community Services Specialist positions at the equivalent of GS–5 through GS–12.

National Telecommunications and Information Administration—Not to exceed 10 positions of Telecommunications Policy Analysts, grades GS–11 through 15.

17. Department of Labor

Administrative Review Board—Chair and a maximum of four additional Members.

Bureau of International Labor Affairs—Positions in the Office of Foreign Relations, which are paid by outside funding sources under contracts for specific international labor market technical assistance projects. Appointments under this authority may not be extended beyond the expiration date of the project.

18. Department of Education

Seventy-five positions, not to exceed GS–13, of a professional or analytical nature when filled by persons, other than college faculty members or candidates working toward college degrees, who are participating in mid-career development programs authorized by Federal statute or regulation, or sponsored by private nonprofit organizations, when a period of work experience is a requirement for completion of an organized study program.

Fifty positions, GS–7 through GS–11, concerned with advising on education policies, practices, and procedures under unusual and abnormal conditions. Persons employed under this provision must be bona fide elementary school and high school teachers.

19. Department of Veterans Affairs

Not to exceed 800 principal investigatory, scientific, professional, and technical positions at grades GS–11 and above in the medical research program.

Not to exceed 25 Criminal Investigator (Undercover) positions, GS–1811, in grades 5 through 12, conducting undercover investigations in the Veterans Health Administration supervised by the VA, Office of Inspector General.

20. Broadcasting Board of Governors

International Broadcasting Bureau—Not to exceed 200 positions at grades GS–15 and below in the Office of Cuba Broadcasting. Appointments may not be made under this authority to administrative, clerical, and technical support positions.

21. U.S. Soldiers' and Airmen's Home

Director, Health Care Services; Director, Member Services; Director, Logistics; and Director, Plans and Programs.

22. National Archives and Records Administration

Executive Director, National Historical Publications and Records Commission.

23. National Aeronautics and Space Administration

Not to exceed 40 positions of Command Pilot, Pilot, and Mission Specialist candidates at grades GS–7 through 15 in the Space Shuttle Astronaut program. Employment under this authority may not exceed 3 years.

24. Social Security Administration

Temporary and time-limited positions in the Ticket to Work and Work Incentives Advisory Panel. No employees may be appointed after November 17, 2007.

25. Smithsonian Institution

Freer Gallery of Art—Not to exceed four positions of Oriental Art Restoration Specialist at grades GS–9 through GS–15.

26. Appalachian Regional Commission

Two Program Coordinators.

27. Armed Forces Retirement Home

Naval Home, Gulfport, Mississippi—One Resource Management Officer position and one Public Works Officer position, GS/GM–15 and below.

28. National Foundation on the Arts and the Humanities

National Endowment for the Humanities—Professional positions at grades GS–11 through GS–15 engaged in the review, evaluation, and administration of grants supporting scholarship, education, and public programs in the humanities, the duties of which require in-depth knowledge of a discipline of the humanities.

29. Office of Personnel Management

Not to exceed eight positions of Associate Director at the Executive Seminar Centers at grades GS–13 and GS–14. Appointments may be made for any period up to 3 years and may be extended without prior approval for any individual. Not more than half of the authorized faculty positions at any one Executive Seminar Center may be filled under this authority.

Twelve positions of faculty members at grades GS–13 through 15, at the Federal Executive Institute.

The following summary of Schedule C exceptions, current as of June 30, 2008, are agency-specific and are not codified in the Code of Federal Regulations.

Schedule C

Executive Office of the President

Council of Economic Advisers

CEGS60001 Confidential Assistant to the Chairman

CEGS60004 Confidential Assistant to the Chairman

CEGS60005 Administrative Operations Assistant to the Member (Council for Economic Advisers)

Council on Environmental Quality

EQGS00018 Associate Director for Congressional Affairs to the Chairman

EQGS60019 Associate Director for Agriculture, Lands and Wildlife to the Chairman

EQGS60021 Special Assistant to the Chairman to the Chairman

Office of Government Ethics

GGGS02900 Confidential Assistant to the Director

Office of Management and Budget

BOGS00151 Deputy Press Secretary to the Associate Director for Communications

BOGS00152 Portfolio Manager to the Administrator, E–Government and Information Technology

BOGS60011 Deputy General Counsel to the General Counsel

BOGS60026 Confidential Assistant to the Associate Director for General Government Programs

BOGS60027 Confidential Assistant to the Administrator, Office of Information and Regulatory Affairs

BOGS70001 Associate General Counsel to the General Counsel and Senior Policy Advisor

BOGS70004 Special Assistant and Counselor to the Controller to the Controller, Office of Federal Financial Management

BOGS70005 Confidential Assistant to the Associate Director for Legislative Affairs

BOGS70008 Deputy to the Associate Director for Legislative Affairs (House) to the Associate Director for Legislative Affairs

BOGS70009 Confidential Assistant to the Deputy Director for Management

BOGS70010 Confidential Assistant to the Deputy Director

BOGS70015 Confidential Assistant to the Associate Director for National Security Programs

BOGS70017 Special Assistant to the Director

BOGS70019 Director of Scheduling to the Director

BOGS70020 Confidential Assistant to the Administrator Office of Federal Procurement Policy

BOGS70021 Confidential Assistant to the Controller, Office of Federal Financial Management

BOGS80002 Confidential Assistant to the Associate Director for Natural Resource Programs

BOGS80003 Deputy to the Associate Director for Legislative Affairs to the Associate Director for Legislative Affairs

BOGS80006 Press Secretary to the Associate Director for Communications

BOGS80007 Confidential Assistant to the Administrator, E–Government and Information Technology

Office of National Drug Control Policy

QQGS00028 White House Liaison and Intergovernmental Affairs Specialist to the Chief of Staff

QQGS60097 Public Affairs Specialist to the Counselor to the Deputy Director

QQGS70001 Public Affairs Specialist to the Associate Director for Public Affairs

QQGS70002 Confidential Assistant to the Associate Director for Public Affairs

QQGS70003 Deputy Chief of Staff to the Chief of Staff

QQGS70004 Public Affairs Specialist (Media Campaign) to the Associate Director for Public Affairs

QQGS70005 Confidential Assistant to the Deputy Chief of Staff

QQGS70006 Counselor to the Deputy Director to the Deputy Director for Demand Reduction

QQGS70009 Special Assistant to the Director to the Chief of Staff

QQGS70011 Confidential Assistant to the Director

QQGS70012 Policy Analyst to the Deputy Director for State, Local and Tribal Affairs

QQGS80002 Special Assistant to the Director to the Chief of Staff

QQGS80003 Confidential Assistant to the Director to the Deputy Chief of Staff

QQGS80004 Policy Analyst to the Chief of Staff

QQGS80005 Confidential Assistant to the Director

QQGS80007 Confidential Assistant to the Deputy Chief of Staff

QQGS80008 Special Assistant to the Associate Director for the Office of Legislative Affairs to the Associate Director Office of Legislative Affairs

QQGS80010 Legislative Analyst to the Associate Director Office of Legislative Affairs

Office of Personnel Management

PMGS00033 Chief, Office of Senate Affairs to the Director, Office of Congressional Relations

PMGS00043 White House Liaison to the Chief of Staff and Director of External Affairs

PMGS00052 Special Counsel to the General Counsel

PMGS00057 Executive Director to Chief Human Capital Officer Council

to the Executive Director and Senior Counselor
PMGS00070 Deputy White House Liaison to the Chief of Staff and Director of External Affairs
PMGS00071 Scheduler and Special Assistant to the Chief of Staff and Director of External Affairs
PMGS30249 Congressional Relations Officer to the Director, Office of Congressional Relations
PMGS60009 Special Assistant to the Director, Office of Communications and Public Liaison
PMGS60018 Special Assistant to the Director, Office of Communications and Public Liaison
PMGS60019 Special Assistant to the Director, Office of Communications and Public Liaison

Official Residence of the Vice President

RVGS00005 Deputy Social Secretary and Residence Manager to the Assistant to the Vice President and Deputy Chief of Staff

Office of Science and Technology Policy

TSGS60043 Program Management Specialist to the Chief of Staff and General Counsel
TSGS60044 Assistant to the Director for Communications and Public Affairs to the Chief of Staff and General Counsel
TSGS60045 Assistant to the Director for Legislative Affairs to the Chief of Staff and General Counsel
TSGS60046 Assistant Director for Telecommunications and Information Technology to the Chief of Staff and General Counsel
TSGS60047 Deputy Chief of Staff and Associate General Counsel to the Chief of Staff and General Counsel
TSGS80001 Policy Assistant to the Chief of Staff and General Counsel

Office of the United States Trade Representative

TNGS70001 Confidential Assistant to the Chief of Staff and Associate Director for Scheduling and Advance to the Chief of Staff
TNGS70002 Special Assistant to Deputy United States Representative to the Deputy United States Trade Representative
TNGS70004 Executive Assistant to the United States Trade Representative to the United States Trade Representative
TNGS70005 Director of Scheduling and Advance to the United States Trade Representative
TNGS70006 Deputy Assistant United States Trade Representative for Public and Media Affairs to the Assistant United States Trade Representative for Public and Media Affairs
TNGS70008 Deputy Assistant United States Trade Representative for Congressional Affairs to the Assistant United States Trade Representative for Congressional Affairs
TNGS80001 Speechwriter to the Assistant United States Trade Representative for Public and Media Affairs

Federal Communications Commission

FCGS00196 Director, Office of Legislative Affairs to the Chairman
FCGS06040 Special Assistant to the Chairman
FCGS07052 Bureau Chief to the Chairman
FCGS95448 Attorney Advisor (Legal Advisor) to the Chairman

President's Commission on White House Fellowships

WHGS00018 Special Assistant to the Director, President's Commission on White House Fellowships
WHGS00020 Staff Assistant to the Associate Director

Department of State

DSGS60152 Supervisory Foreign Affairs Officer to the Under Secretary for Global Affairs
DSGS60201 Staff Assistant to the Under Secretary for Global Affairs
DSGS60267 Foreign Affairs Officer to the Principal Deputy Assistant Secretary
DSGS60389 Senior Advisor to the Assistant Secretary, Bureau of Educational and Cultural Affairs
DSGS60394 Legislative Management Officer to the Assistant Secretary for Legislative and Intergovernmental Affairs
DSGS60395 Director, Art in Embassies Program to the Deputy Assistant Secretary
DSGS60417 Supervisory Foreign Affairs Officer to the Under Secretary for Global Affairs
DSGS60734 Public Affairs Specialist to the Assistant Secretary for Public Affairs
DSGS60749 Special Assistant to the Deputy Assistant Secretary
DSGS60765 Public Affairs Specialist to the Assistant Secretary for Public Affairs Special Assistant to the Under Secretary for Management
DSGS60774 Special Assistant to the Coordinator
DSGS60793 Chief, Voluntary Visitors Division to the Assistant Secretary, Bureau of Educational and Cultural Affairs
DSGS60971 Public Affairs Specialist to the Assistant Secretary for Public Affairs
DSGS60973 Chief of Staff to the Director, Policy Planning Staff
DSGS60980 Staff Assistant to the Under Secretary for Arms Control and Security Affairs
DSGS60984 Special Assistant to the Senior Advisor to the Secretary and White House Liaison
DSGS60986 Senior Advisor to the Under Secretary for Public Diplomacy and Public Affairs
DSGS60990 Senior Advisor to the Assistant Secretary for Near Eastern and South Asian Affairs
DSGS61014 Assistant Manager, President's Guest House to the Deputy Chief of Protocol
DSGS61019 Senior Advisor to the Under Secretary for Global Affairs
DSGS61022 Special Assistant to the Deputy Assistant Secretary
DSGS61026 Special Assistant to the Under Secretary for Public Diplomacy and Public Affairs
DSGS61038 Special Assistant to the Chief of Protocol
DSGS61040 Staff Assistant to the Deputy Assistant Secretary
DSGS61042 Foreign Affairs Officer to the Assistant Secretary for International Organizational Affairs
DSGS61047 Legislative Management Officer to the Assistant Secretary for Legislative and Intergovernmental Affairs
DSGS61060 Protocol Assistant to the Deputy Chief of Protocol
DSGS61061 Protocol Officer (Gifts) to the Chief of Protocol
DSGS61062 Foreign Affairs Officer (Visits) to the Chief of Protocol
DSGS61071 Public Affairs Specialist to the Assistant Secretary for Public Affairs
DSGS61081 Foreign Affairs Officer to the Director
DSGS61084 Staff Assistant to the Director, Policy Planning Staff
DSGS61085 Senior Advisor to the Assistant Secretary, Bureau of Educational and Cultural Affairs
DSGS61088 Special Assistant to the Chief Financial Officer
DSGS61089 Supervisory Protocol Officer (Visits) to the Chief of Protocol
DSGS61095 Special Assistant to the Deputy Assistant Secretary for Plans, Programs, and Operations
DSGS61096 Senior Advisor to the Director, Policy Planning Staff
DSGS61097 Foreign Affairs Officer (Ceremonials) to the Chief of Protocol
DSGS61098 Legislative Analyst to the Assistant Secretary for Legislative and Intergovernmental Affairs
DSGS61099 Senior Advisor to the Chief of Staff
DSGS61102 Special Assistant to the Senior Advisor to the Secretary and White House Liaison

DSGS61103 Staff Assistant to the Under Secretary for Arms Control and Security Affairs
DSGS61105 Senior Advisor to the Ambassador-At-Large (War Crimes)
DSGS61106 Staff Assistant to the Assistant Secretary for Economic and Business Affairs
DSGS61108 Special Assistant to the Under Secretary for Global Affairs
DSGS61109 Public Affairs Specialist to the Assistant Secretary for Western Hemispheric Affairs
DSGS61110 Special Assistant to the Assistant Secretary for East Asian and Pacific Affairs
DSGS61111 Legislative Management Officer to the Assistant Secretary for Legislative and Intergovernmental Affairs
DSGS61116 Special Assistant to the Deputy Assistant Secretary
DSGS61118 Senior Advisor to the Assistant Secretary for Western Hemispheric Affairs
DSGS61119 Staff Assistant to the Assistant Secretary for International Organizational Affairs
DSGS61120 Staff Assistant to the Director, Office of International Visitors
DSGS61123 Staff Assistant to the Assistant Secretary for Western Hemispheric Affairs
DSGS61125 Protocol Officer (Visits) to the Chief of Protocol
DSGS61127 Special Assistant to the Assistant Secretary for International Organizational Affairs
DSGS61128 Special Assistant to the Under Secretary for Global Affairs
DSGS61192 Staff Assistant to the Assistant Secretary Bureau of International Narcotics and Law Enforcement Affairs
DSGS61193 Legislative Management Officer to the Assistant Secretary for Legislative and Intergovernmental Affairs
DSGS61194 Director to the Assistant Secretary for Democracy Human Rights and Labor
DSGS61196 Special Assistant to the Under Secretary for Arms Control and Security Affairs
DSGS61198 Director of Communications to the Hiv/Aids Coordinator
DSGS61199 Legislative Management Officer to the Assistant Secretary for Legislative and Intergovernmental Affairs
DSGS61200 Staff Assistant to the Under Secretary for Public Diplomacy and Public Affairs
DSGS61202 Senior Advisor to the Coordinator for International Information Programs
DSGS61205 Protocol Officer (Visits) to the Chief of Protocol
DSGS61207 Special Assistant (Senior Advisor) to the Assistant Secretary for Democracy Human Rights and Labor
DSGS61208 Legislative Management Officer (Staff Director) to the Assistant Secretary for Legislative and Intergovernmental Affairs
DSGS61211 Protocol Officer (Visits) to the Chief of Protocol
DSGS61212 Special Assistant to the Women's Human Rights Coordinator
DSGS61214 Staff Assistant to the Director, Policy Planning Staff
DSGS61217 Public Affairs Specialist to the Assistant Secretary for Public Affairs
DSGS61218 Public Affairs Specialist to the Assistant Secretary for Public Affairs
DSGS61219 Foreign Affairs Officer to the Assistant Secretary
DSGS61221 Senior Advisor to the Assistant Secretary for Economic and Business Affairs
DSGS61222 Special Assistant to the Principal Deputy Assistant Secretary
DSGS61224 Legislative Management Officer to the Assistant Secretary for Legislative and Intergovernmental Affairs
DSGS61231 Special Assistant to the Assistant Secretary for Near Eastern and South Asian Affairs
DSGS61235 Public Affairs Specialist to the Assistant Secretary for Public Affairs
DSGS61236 Special Assistant to the Women's Human Rights Coordinator
DSGS61237 Deputy Chief of Staff to the Secretary of State
DSGS61238 Program Officer to the Assistant Secretary for Public Affairs
DSGS61239 Staff Assistant to the Counselor
DSGS61241 Special Advisor to the Assistant Secretary for Economic and Business Affairs
DSGS61243 Special Assistant to the Director, Policy Planning Staff
DSGS61247 Staff Assistant to the Assistant Secretary for Economic and Business Affairs
DSGS61248 Special Assistant to the Under Secretary for Economic Affairs
DSGS61250 Special Assistant to the Assistant Secretary
DSGS61253 Protocol Officer (Visits) to the Chief of Protocol
DSGS61255 Staff Assistant to the Assistant Secretary for Public Affairs
DSGS61257 Special Assistant to the Legal Adviser
DSGS61259 Public Affairs Specialist to the Principal Deputy Assistant Secretary
DSGS61260 Staff Assistant to the Ambassador-At-Large (War Crimes)
DSGS61262 Legislative Management Officer to the Assistant Secretary for Legislative and Intergovernmental Affairs
DSGS61263 Special Assistant to the Assistant Secretary for Democracy Human Rights and Labor
DSGS61268 Special Assistant to the Under Secretary for Public Diplomacy and Public Affairs
DSGS61269 Protocol Officer (Ceremonials) to the Chief of Protocol
DSGS61270 Public Affairs Specialist to the Assistant Secretary for Public Affairs
DSGS61273 Public Affairs Specialist to the Assistant Secretary for Near Eastern and South Asian Affairs
DSGS61274 Special Assistant to the Chief of Protocol
DSGS61278 Special Assistant to the Deputy Assistant Secretary, Bureau of Near Eastern and South Asian Affairs
DSGS61290 Deputy Assistant Secretary to the Assistant Secretary for Economic and Business Affairs
DSGS61291 Staff Assistant to the Chief Financial Officer
DSGS61292 Foreign Affairs Officer to the Assistant Secretary for International Organizational Affairs
DSGS62176 Foreign Affairs Officer to the Assistant Secretary for International Organizational Affairs
DSGS68234 Foreign Affairs Officer to the Assistant Secretary for Democracy Human Rights and Labor
DSGS69721 Staff Assistant to the Director, Policy Planning Staff
DSGS69722 Senior Advisor to the Assistant Secretary for Democracy Human Rights and Labor
DSGS69726 Protocol Officer to the Foreign Affairs Officer (Visits)
DSGS69727 Special Assistant to the Deputy Assistant Secretary
DSGS69728 Legislative Management Officer to the Deputy Assistant Secretary
DSGS69731 Staff Assistant to the Counselor
DSGS69732 Staff Assistant to the Director, Policy Planning Staff
DSGS69733 Staff Assistant to the Under Secretary for Public Diplomacy and Public Affairs
DSGS69735 Senior Advisor to the Principal Deputy Assistant Secretary for Counterproliferation
DSGS69736 Deputy Director to the Principal Deputy Assistant Secretary
DSGS69738 Public Affairs Specialist (Speechwriter) to the Deputy Assistant Secretary
DSGS69739 Policy Advisor and Chief Speechwriter to the Deputy Director (Principal)
DSGS69740 Special Assistant to the Under Secretary for Global Affairs
DSGS69741 Staff Assistant to the Assistant Secretary, Bureau of Educational and Cultural Affairs

DSGS69742 Office Director to the Principal Deputy Assistant Secretary
DSGS69743 Staff Assistant to the Under Secretary for Arms Control and Security Affairs
DSGS69744 Staff Assistant to the Senior Advisor to the Secretary and White House Liaison
DSGS69745 Special Assistant to the Assistant Secretary for International Organizational Affairs
DSGS69746 Public Affairs Specialist to the Principal Deputy Assistant Secretary

Department of the Treasury

DYGS00230 Public Affairs Specialist to the Director, Public Affairs
DYGS00250 Director, Public Affairs to the Deputy Assistant Secretary (Public Affairs)
DYGS00375 Director of Legislative and Governmental Affairs to the Director of the Mint
DYGS00420 Special Assistant to the Deputy Assistant Secretary for Legislative Affairs (Banking and Finance)
DYGS00424 Senior Advisor to the Assistant Secretary (Economic Policy)
DYGS00430 Senior Advisor to the Assistant Secretary for Financial Markets
DYGS00440 Public Affairs Specialist to the Assistant Secretary (Public Affairs) and Director of Policy Planning
DYGS00441 Director of Outreach to the Deputy Assistant Secretary (Financial Education)
DYGS00447 Senior Advisor to the Under Secretary to the Under Secretary for Terrorism and Financial Crimes
DYGS00453 Media Coordinator to the Assistant Secretary (Public Affairs) and Director of Policy Planning
DYGS00455 Program Coordinator to the Deputy Assistant Secretary (Financial Education)
DYGS00457 Deputy Executive Secretary to the Chief of Staff
DYGS00459 Special Assistant to Director of Legislative and Intergovernmental Affairs to the Director of Legislative and Governmental Affairs
DYGS00460 Senior Advisor and Chief of Staff to the Under Secretary for Terrorism and Financial Crimes
DYGS00461 Senior Advisor to the Assistant Secretary (Tax Policy) to the Assistant Secretary (Tax Policy)
DYGS00464 Special Assistant to the Assistant Secretary (Deputy Under Secretary) for Legislative Affairs
DYGS00465 Special Assistant to the Assistant Secretary (Management) and Chief Financial Officer
DYGS00467 Associate Director to the White House Liaison
DYGS00473 Director of Protocol to the Assistant Secretary (Management) and Chief Financial Officer
DYGS00476 Director of Operations to the Chief of Staff
DYGS00483 Senior Advisor to the Assistant Secretary (Terrorist Financing)
DYGS00484 Executive Secretary Officer to the Executive Secretary
DYGS00488 Executive Assistant to the Special Envoy for China and the Strategic Economic Dialogue
DYGS00489 Operations Coordinator to the Director of Operations
DYGS00490 Special Advisor to the Special Envoy for China and the Strategic Economic Dialogue
DYGS00492 Special Advisor (Legislative Affairs) to the Assistant Secretary (Deputy Under Secretary) for Legislative Affairs
DYGS00494 Special Assistant to the Director of the Mint
DYGS00495 Associate Director of Operations for Advance to the Director of Operations
DYGS00496 Special Advisor for Business Affairs and Public Liaison to the Deputy Assistant Secretary for Business Affairs and Public Liaison
DYGS00498 Deputy Executive Secretary to the Deputy Chief of Staff and Executive Secretary
DYGS00499 Deputy Chief of Staff for External Affairs to the Chief of Staff for External Affairs
DYGS00500 Scheduler to the Treasurer of the United States
DYGS00501 Special Assistant to the Under Secretary for Domestic Finance
DYGS00502 Senior Policy Advisor to the Under Secretary for Domestic Finance
DYGS00503 Senior Advisor to the Director of the Mint
DYGS00844 Public Affairs Specialist to the Deputy Assistant Secretary (Public Affairs)
DYGS60139 Director of Scheduling to the Chief of Staff
DYGS60277 Senior Speechwriter to the Assistant Secretary (Public Affairs) and Director of Policy Planning
DYGS60307 Senior Advisor to the Treasurer of the United States
DYGS60351 Senior Advisor to the Assistant Secretary (Public Affairs) and Director of Policy Planning
DYGS60381 Special Assistant to the Deputy Assistant Secretary for Legislative Affairs (International)
DYGS60390 Senior Advisor to the Assistant Secretary (Management) and Chief Financial Officer
DYGS60391 Deputy Scheduler to the Chief of Staff
DYGS60395 Deputy Executive Secretary to the Executive Secretary
DYGS60396 Senior Advisor to the Deputy Assistant Secretary for Business Affairs and Public Liaison
DYGS60401 Special Assistant to the Chief of Staff
DYGS60404 Senior Advisor to the Assistant Secretary (Financial Institutions)
DYGS60414 Executive Assistant to the Deputy Secretary of the Treasury

Department of Defense

DDGS00714 Special Assistant to the Under Secretary of Defense (Policy) to the Under Secretary of Defense for Policy
DDGS00779 Staff Assistant to the Principal Deputy Assistant Secretary of Defense (International Security Affairs)
DDGS16660 Director of Assessments to the Deputy Under Secretary of Defense (International Technology Security)
DDGS16692 Confidential Assistant to the Secretary of Defense
DDGS16709 Defense Fellow to the Special Assistant to the Secretary of Defense for White House Liaison
DDGS16811 Special Assistant to the Director, Small Business Programs
DDGS16874 Confidential Assistant to the Assistant Secretary of Defense (Reserve Affairs) to the Assistant Secretary of Defense (Reserve Affairs)
DDGS16890 Special Assistant, Dusd (Budget and Appropriations Affairs) to the Deputy Under Secretary of Defense (Resource Planning/ Management)
DDGS16908 Civilian Executive Assistant to the Special Assistant to the Secretary of Defense for White House Liaison
DDGS16909 Staff Assistant to the Special Assistant to the Secretary of Defense for White House Liaison
DDGS16914 Personal and Confidential Assistant to the Deputy Secretary of Defense
DDGS16918 Staff Assistant to the Deputy Assistant Secretary of Defense (Negotiations Policy)
DDGS16945 Defense Fellow to the Special Assistant to the Secretary of Defense for White House Liaison
DDGS16962 Speechwriter to the Principal Deputy Assistant Secretary of Defense for Public Affairs
DDGS16988 Executive Assistant to the Director, Operational Test and Evaluation
DDGS17001 Speechwriter to the Assistant Secretary of Defense Public Affairs
DDGS17002 Confidential Assistant to the Under Secretary of Defense

Personnel and Readiness to the Under Secretary of Defense (Personnel and Readiness)
DDGS17010 Public Affairs Specialist to the Assistant Secretary of Defense Public Affairs
DDGS17012 Public Affairs Specialist to the Assistant Secretary of Defense Public Affairs
DDGS17015 Staff Assistant to the Deputy Assistant Secretary of Defense (Detainee Affairs)
DDGS17016 Defense Fellow to the Special Assistant to the Secretary of Defense for White House Liaison
DDGS17017 Defense Fellow to the Special Assistant to the Secretary of Defense for White House Liaison
DDGS17023 Public Affairs Specialist to the Assistant Secretary of Defense Public Affairs
DDGS17025 Staff Specialist to the Under Secretary of Defense (Acquisition, Technology, and Logistics)
DDGS17029 Administrative Assistant to the Special Assistant to the Secretary of Defense for White House Liaison
DDGS17030 Staff Assistant to the Deputy Assistant Secretary of Defense (North Atlantic Treaty Organization and Europe)
DDGS17031 Special Assistant to the Deputy Under Secretary of Defense (Asian and Pacific Security Affairs) to the Deputy Under Secretary of Defense (Asian and Pacific Security Affairs)
DDGS17032 Special Assistant to the Assistant Secretary of Defense (Legislative Affairs)
DDGS17033 New Media Development Account Assistant to the Assistant Secretary of Defense Public Affairs
DDGS17034 Administrative Assistant to the Director, Department of Defense Office of Legislative Counsel
DDGS17039 Confidential Assistant to the Secretary of Defense to the Secretary of Defense
DDGS17041 Special Assistant to the Assistant Secretary of Defense (Legislative Affairs)
DDGS17043 Special Assistant to the Under Secretary of Defense (Comptroller)
DDGS17045 Staff Assistant to the Deputy Assistant Secretary of Defense (Counternarcotics, Counterproliferation and Global Threats)
DDGS17046 Public Affairs Analyst to the Assistant Secretary of Defense Public Affairs
DDGS17049 Confidential Assistant to the Deputy Under Secretary of Defense (Acquisition and Technology)
DDGS17050 Advisor to the Special Assistant to the Secretary and Deputy Secretary of Defense to the Special Assistant to the Secretary and Deputy Secretary of Defense
DDGS17051 Defense Fellow to the Special Assistant to the Secretary of Defense for White House Liaison
DDGS17052 Confidential Assistant to the Director of Defense Research and Engineering
DDGS17056 Defense Fellow to the Special Assistant to the Secretary of Defense for White House Liaison
DDGS17062 Special Assistant to the Director, Department of Defense Office of Legislative Counsel
DDGS17064 Protocol Specialist to the Special Assistant to the Secretary of Defense for Protocol
DDGS17067 Special Assistant to the Assistant Secretary of Defense (Special Operations/Low Intensity Conflict and Interdependent Capabilities)
DDGS17070 Defense Fellow to the Special Assistant to the Secretary of Defense for White House Liaison
DDGS17071 Special Assistant to the Assistant Secretary of Defense (Legislative Affairs)
DDGS17074 Congressional Inquiries Assistant to the Assistant Secretary of Defense (Legislative Affairs)
DDGS17078 Defense Fellow to the Special Assistant to the Secretary of Defense for White House Liaison
DDGS17079 Special Assistant to the Assistant Secretary of Defense (International Security Affairs)
DDGS17080 Staff Assistant to the Principal Deputy Under Secretary of Defense (Personnel and Readiness) to the Principal Deputy Under Secretary of Defense (Personnel and Readiness)
DDGS17081 Defense Fellow to the Special Assistant to the Secretary of Defense for White House Liaison
DDGS17082 Special Assistant to the Special Assistant to the Secretary of Defense for White House Liaison
DDGS17083 Confidential Assistant to the Special Assistant to the Secretary and Deputy Secretary of Defense
DDGS17086 Supervisory Speechwriter to the Assistant Secretary of Defense Public Affairs
DDGS17089 Public Affairs Specialist to the Assistant Secretary of Defense Public Affairs
DDGS17091 Staff Assistant to the Principal Deputy Assistant Secretary of Defense (Asian and Pacific Security Affairs)
DDGS17092 Supervisory Staff Assistant to the Deputy Assistant Secretary of Defense (Near East and South Asian Affairs)
DDGS17093 Staff Assistant to the Deputy Assistant Secretary of Defense (Near East and South Asian Affairs)
DDGS17095 Staff Assistant for Correspondence to the Special Assistant to the Secretary and Deputy Secretary of Defense
DDGS17097 Staff Assistant to the Principal Deputy Under Secretary of Defense for Policy
DDGS17098 Defense Fellow to the Special Assistant to the Secretary of Defense for White House Liaison
DDGS17099 Public Affairs Specialist to the Assistant Secretary of Defense Public Affairs
DDGS17100 Public Affairs Specialist to the Assistant Secretary of Defense Public Affairs
DDGS17101 Public Affairs Specialist to the Assistant Secretary of Defense Public Affairs
DDGS17103 Public Affairs Specialist to the Assistant Secretary of Defense Public Affairs
DDGS17105 Public Affairs Specialist to the Assistant Secretary of Defense Public Affairs
DDGS17107 Special Assistant to the Assistant Secretary of Defense (Legislative Affairs)
DDGS17108 Staff Assistant to the Principal Deputy Assistant Secretary of Defense (Asian and Pacific Security Affairs)
DDGS17109 Defense Fellow to the Special Assistant to the Secretary of Defense for White House Liaison
DDGS17113 Staff Assistant to the Deputy Assistant Secretary of Defense (Western Hemisphere Affairs)
DDGS17117 Special Assistant to the Assistant Secretary of Defense (Legislative Affairs)
DDGS17118 Defense Fellow to the Special Assistant to the Secretary of Defense for White House Liaison
DDGS17119 Special Assistant to the Under Secretary of Defense (Intelligence) to the Under Secretary of Defense (Intelligence)
DDGS17120 Special Assistant to the Assistant Secretary of Defense Health Affairs to the Assistant Secretary of Defense (Health Affairs)
DDGS17121 Staff Assistant to the Deputy Assistant Secretary of Defense (Middle East)
DDGS17122 Public Affairs Specialist to the Assistant Secretary of Defense Public Affairs
DDGS17123 Special Assistant to the Deputy Executive Secretary for Legislative Affairs
DDGS17124 Special Events Coordinator to the Assistant Secretary of Defense Public Affairs
DDGS17127 Special Assistant to the Deputy General Counsel Legal Counsel
DDGS17128 Staff Assistant to the Assistant Secretary of Defense (International Security Affairs)

DDGS17131 Special Assistant to the Assistant Secretary of Defense (Special Operations/Low Intensity Conflict and Interdependent Capabilities)
DDGS17134 Special Assistant to the Assistant Secretary of Defense (Legislative Affairs)
DDGS17136 Special Assistant to the Assistant Secretary of Defense (Special Operations/Low Intensity Conflict and Interdependent Capabilities)
DDGS17137 Special Assistant to the Assistant Secretary of Defense (Legislative Affairs)
DDGS17138 Special Assistant to the Principal Deputy Assistant Secretary of Defense (Asian and Pacific Security Affairs)
DDGS17139 Special Assistant to the Assistant Secretary of Defense (Legislative Affairs)
DDGS17140 Public Affairs Analyst to the Public Affairs Specialist
DDGS17141 Special Assistant for Research to the Supervisory Speechwriter
DDGS17142 Defense Fellow to the Special Assistant to the Secretary of Defense for White House Liaison
DDGS17143 Defense Fellow to the Special Assistant to the Secretary of Defense for White House Liaison
DDGS17144 Personal and Confidential Assistant to the Under Secretary of Defense (Comptroller)
DDGS17146 Special Assistant to the Assistant Secretary of Defense (Legislative Affairs)
DDGS17147 Special Assistant to the Principal Deputy Assistant Secretary of Defense (Global Security Affairs)
DDGS17150 Special Assistant to the Special Assistant to the Secretary and Deputy Secretary of Defense
DDGS17151 Special Assistant to the Secretary of Defense for Protocol to the Secretary of Defense
DDGS17152 Executive Assistant to the Special Assistant to the Secretary of Defense for White House Liaison
DDGS17153 Staff Assistant to the Special Assistant to the Secretary of Defense for White House Liaison
DDGS17154 Special Assistant to the Director, Department of Defense Office of Legislative Counsel
DDGS17155 Defense Fellow to the Special Assistant to the Secretary of Defense for White House Liaison
DDGS17157 Special Assistant to the Deputy Under Secretary of Defense (Budget and Appropriations Affairs)
DDGS17158 Special Assistant to the Director, Department of Defense Office of Legislative Counsel
DDGS17159 Special Assistant to the Assistant Secretary of Defense (Legislative Affairs) to the Assistant Secretary of Defense (Legislative Affairs)
DDGS17160 Special Assistant/Senior Advisor to the Under Secretary of Defense (Comptroller) to the Under Secretary of Defense (Comptroller)
DDGS17161 Personal and Confidential Assistant to the Principal Deputy Assistant Secretary of Defense for Public Affairs
DDGS17163 Speechwriter for the Deputy Secretary of Defense to the Special Assistant to the Deputy Secretary of Defense
DDGS60312 Director, Cooperative Threat Reduction to the Assistant Secretary of Defense (Global Security Affairs)
DDGS60314 Coordinator of Reserve Integration to the Principal Deputy Assistant Secretary of Defense (Reserve Affairs)
DDGS60319 Confidential Assistant to the Deputy Secretary of Defense
DDGS60369 Executive Assistant to the Director of Force Transformation
DDGS60454 Special Assistant to the Director of Net Assessment
DDGS60475 Staff Assistant to the Deputy Assistant Secretary of Defense (Forces Policy)
DDGS60520 Special Assistant to the Deputy Assistant Secretary of Defense (Prisoners of War/Military Police) Director, Prisoners of War Missing Persons Office

Department of the Army

DWGS00065 Special Assistant to the Deputy Assistant Secretary of the Army for Privatization and Partnerships to the Deputy Assistant Secretary of the Army for Privatization and Partnerships
DWGS00077 Confidential Assistant to the Assistant Secretary of the Army (Civil Works) to the Assistant Secretary of the Army (Civil Works)
DWGS00090 Special Assistant to the General Counsel to the General Counsel
DWGS00092 Special Assistant to the General Counsel to the General Counsel
DWGS00095 Personal and Confidential Assistant (Installations and Environment) to the Assistant Secretary of the Army (Installations and Environment)
DWGS00096 Personal and Confidential Assistant to the Deputy Under Secretary of the Army to the Deputy Under Secretary of the Army
DWGS60002 Special Assistant to the Secretary of the Army
DWGS60019 Business Transformation Initiatives Analyst to the Special Assistant to the Secretary of the Army for Business Transformation Initiatives
DWGS60024 Personal and Confidential Assistant to the Under Secretary of the Army
DWGS60028 Personal and Confidential Assistant to the Assistant Secretary of the Army (Installations and Environment)
DWGS60029 Special Assistant to the Army General Counsel to the General Counsel
DWGS60032 Special Assistant to the Deputy Assistant Sec of the Army (Environment, Safety and Occupational Health) to the General Counsel
DWGS60064 Personal and Confidential Assistant to the Principal Deputy Assistant Secretary of the Army (Manpower and Reserve Affairs)/Deputy Assistant Secretary (Training, Readiness and Mobilization)
DWGS60076 Special Assistant to the Assistant Secretary of the Army (Civil Works) to the Assistant Secretary of the Army (Civil Works)
DWGS60086 Special Assistant to the General Counsel to the General Counsel

Department of the Navy

DNGS07166 Residence Manager and Social Secretary to the Vice President to the Secretary of the Navy
DNGS07300 Confidential Assistant to the Assistant Secretary of the Navy (Manpower and Reserve Affairs)
DNGS07343 Special Assistant to the Secretary of the Navy
DNGS07355 Director for Strategic Initiatives to the Special Assistant to the Secretary
DNGS07368 Staff Assistant to the Special Assistant to the Secretary
DNGS08115 Staff Assistant (Policy) to the Deputy Under Secretary of the Navy
DNGS08116 Staff Assistant (Policy) to the Deputy Under Secretary of the Navy
DNGS08166 Staff Assistant to the Deputy Under Secretary of the Navy

Department of the Air Force

DFGS00010 Secretary to the Assistant Secretary (Financial Management and Comptroller)
DFGS00011 Director for Strategic Initiatives to the Assistant Secretary (Financial Management and Comptroller)
DFGS07001 Special Assistant to the Assistant Secretary of the Air Force (Acquisition) for Industrial Relations to the Assistant Secretary of the Air Force (Acquisition)

DFGS60013 Special Counsel and Special Assistant to the General Counsel
DFGS60016 Special Counsel and Special Assistant to the General Counsel
DFGS60047 Financial Management Specialist to the Assistant Secretary (Financial Management and Comptroller)

Department of Justice

DJGS00028 Director of Congressional Affairs to the Administrator, Drug Enforcement Administration
DJGS00033 Counsel to the Assistant Attorney General to the Assistant Attorney General
DJGS00048 Congressional Liaison Specialist to the Administrator, Drug Enforcement Administration
DJGS00064 Principal Deputy Director to the Associate Attorney General
DJGS00067 Chief of Staff to the Assistant Attorney General, Office of Justice Programs
DJGS00069 Confidential Assistant to the Director, Office of Public Affairs
DJGS00071 Press Assistant to the Deputy Director
DJGS00072 Senior Advisor to the Director, Office of Public Affairs
DJGS00073 Senior Legal Counsel to the Director, Office of Faith-Based and Community Initiatives
DJGS00076 Public Affairs Specialist to the United States Attorney, Texas, Western District
DJGS00081 Special Assistant to the Chairman to the Chairman
DJGS00082 Special Assistant to the Assistant Attorney General Environment and Natural Resources
DJGS00084 Senior Counsel to the Assistant Attorney General Environment and Natural Resources
DJGS00085 Speech Writer to the Director, Office of Public Affairs
DJGS00086 Senior Press Assistant to the Director, Office of Public Affairs
DJGS00087 Senior Policy Advisor to the Director of the Violence Against Women Office
DJGS00088 Deputy Director Scheduling to the Attorney General
DJGS00089 Senior Advisor to the Associate Attorney General
DJGS00090 Chief of Staff and Counsel to the Assistant Attorney General to the Assistant Attorney General
DJGS00091 Staff Assistant to the Assistant Attorney General (Legislative Affairs)
DJGS00093 Deputy White House Liaison to the White House Liaison
DJGS00094 Counsel to the Assistant Attorney General
DJGS00095 Confidential Assistant to the Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives
DJGS00100 Deputy Director to the Director, Office of Public Affairs
DJGS00102 Counsel to the Assistant Attorney General
DJGS00103 Counsel to the Associate Attorney General
DJGS00106 Special Assistant and Media Affairs Coordinator to the Assistant Attorney General
DJGS00109 Associate Director to the Director
DJGS00110 Senior Counsel to the Director, Office of Public Affairs
DJGS00117 Deputy Director, Office of Faith-Based and Community Initiatives to the Director, Office of Faith-Based and Community Initiatives
DJGS00118 Special Assistant to the Director
DJGS00125 Special Assistant to the Assistant Attorney General
DJGS00130 Counsel to the Assistant Attorney General to the Assistant Attorney General
DJGS00136 Senior Policy Advisor to the Director of the Violence Against Women Office
DJGS00145 Executive Assistant to the Solicitor General to the Solicitor General
DJGS00159 Senior Counsel to the Assistant Attorney General (Legal Policy)
DJGS00160 Confidential Assistant to the Assistant Attorney General (Legislative Affairs)
DJGS00161 Counselor to the Assistant Attorney General to the Assistant Attorney General (Legal Policy)
DJGS00162 Counsel to the Assistant Attorney General
DJGS00177 Counsel to the Associate Attorney General
DJGS00179 Counsel to the Principal Deputy Assistant Attorney General
DJGS00185 Senior Counsel to the Deputy Attorney General to the Deputy Attorney General
DJGS00196 Special Assistant to the Chief of Staff
DJGS00201 Counselor to the Assistant Attorney General to the Assistant Attorney General Criminal Division
DJGS00203 Counsel to the Assistant Attorney General Criminal Division
DJGS00204 Senior Counsel to the Deputy Attorney General
DJGS00226 Senior Advisor to the Director of Justice Assistance to the Director, Bureau of Justice Assistance
DJGS00252 Director of Scheduling and Advance to the Attorney General
DJGS00284 Research Assistant to the Deputy Director
DJGS00289 Counsel to the Chief of Staff
DJGS00292 Deputy Privacy and Civil Liberties Officer to the Chief of Staff
DJGS00295 Special Assistant to the United States Attorney, Massachusetts
DJGS00297 Counsel to the Assistant Attorney General (Civil Rights) to the Assistant Attorney General
DJGS00311 Counsel to the Principal Associate Deputy Attorney General
DJGS00318 Press Assistant to the Director, Office of Public Affairs
DJGS00323 Counsel to the Principal Deputy Assistant Attorney General
DJGS00332 Counsel to the Assistant Attorney General to the Assistant Attorney General
DJGS00339 Special Assistant to the Attorney General to the Attorney General
DJGS00344 Counsel to the Chief of Staff
DJGS00365 Special Assistant to the Attorney General to the Chief of Staff
DJGS00398 Media Affairs Specialist to the Director, Office of Public Affairs
DJGS00410 Senior Advisor to the Assistant Attorney General to the Assistant Attorney General, Office of Justice Programs
DJGS00413 Executive Assistant to the United States Attorney
DJGS00440 Confidential Assistant to the Assistant Attorney General Tax Division
DJGS60023 Special Assistant for International Protocol to the Director, Office of International Affairs
DJGS60173 Secretary (Office Automation) to the United States Attorney, Oklahoma, Northern District
DJGS60418 Secretary (Office Automation) to the United States Attorney, Nebraska
DJGS60420 Secretary (Office Automation) to the United States Attorney, Pennsylvania, Eastern District
DJGS60427 Secretary (Office Automation) to the United States Attorney, New Hampshire
DJGS60436 Secretary (Office Automation) to the United States Attorney, Alabama, Southern District
DJGS60437 Secretary (Office Automation) to the United States Attorney, Delaware

Department of Homeland Security

DMGS00051 Business Analyst to the Special Assistant
DMGS00151 Business Liaison to the Special Assistant
DMGS00259 Counter Narcotics Liaison to the Counter Narcotics Officer
DMGS00349 Senior Advisor to the Assistant Secretary for Infrastructure Protection to the Deputy Under Secretary, Mission Integration

DMGS00395 Senior Advisor to the Chief Medical Officer to the Chief Medical Officer
DMGS00413 Senior Legislative Policy Advisor to the Deputy Assistant Secretary for Border and Transportation Security Policy
DMGS00415 Public Affairs Specialist to the Assistant Commissioner for Public Affairs
DMGS00428 Advisor to the Chief of Staff to the Chief of Staff
DMGS00437 Advisor to the Director to the Deputy Director, Citizenship and Immigration Services
DMGS00449 Director of Legislative Affairs, Federal Emergency Management Agency to the Under Secretary for Federal Emergency Management
DMGS00454 Special Advisor for Refugee and Asylum Affairs to the Assistant Secretary for Policy
DMGS00458 Associate Executive Secretary for Internal Coordination to the Executive Secretary
DMGS00479 Advisor to the Executive Director of Operations and Administration to the Executive Director for Operations and Administration
DMGS00497 Executive Director to the Assistant Secretary, Office of State and Local Law Enforcement
DMGS00515 Assistant Director of Legislative Affairs for Miscellaneous Offices to the Assistant Secretary for Legislative Affairs
DMGS00516 Confidential Assistant to the Executive Director for Operations and Administration
DMGS00523 Special Assistant to the Assistant Secretary, Immigration and Customs Enforcement
DMGS00541 Director/Executive Secretariat, Private Sector Advisory Committee to the Executive Director, Homeland Security Advisory Committees
MGS00553 Director of Policy and Plans, Customs and Border Protection to the Commissioner, United States Customs and Border Protection
DMGS00556 Deputy Chief of Staff to the Director of Information Integration and Special Assistant to the Secretary
DMGS00577 Deputy Director of the Center for Faith Based and Community Initiatives to the Director of Faith Based and Community Initiatives
DMGS00586 Counselor to the Administrator and Deputy Administrator to the Administrator for Federal Emergency Management Agency
DMGS00589 Senior Advisor to the Under Secretary for Science and Technology to the Under Secretary for Science and Technology
DMGS00591 Senior Liaison Officer to the Executive Secretary
DMGS00593 Director of Scheduling and Advance to the Chief of Staff
DMGS00600 Confidential Assistant to the Under Secretary for Protocol and Advance Briefings to the Under Secretary for Science and Technology
DMGS00604 Special Assistant to the Secretary for Stakeholder Affairs and Information Integration to the Chief of Staff
DMGS00606 Component Liaison Officer to the Executive Director for Operations and Administration
DMGS00607 Business Liaison to the Assistant Secretary for Private Sector
DMGS00609 Associate Director of White House Actions and Policy Coordinating Committee Coordinator to the Executive Secretary
DMGS00613 Speechwriter to the Secretary to the Director of Speechwriting
DMGS00617 Director of Legislative Affairs for Policy to the Assistant Secretary for Legislative Affairs
DMGS00622 Associate Director of Communications and Speechwriter to the Director of Communications
DMGS00623 Associate Director of Strategic Communications for Outreach to the Director of Strategic Communications
DMGS00627 Counselor to the Director to the Director, Office of Counternarcotics Enforcement
DMGS00631 Advisor to the Administrator and Deputy Administrator to the Administrator for Federal Emergency Management Agency
DMGS00638 Special Assistant and Travel Aide to the Administrator for Federal Emergency Management Agency
DMGS00639 Advisor to the Under Secretary for Management to the Chief Human Capital Officer
DMGS00641 Policy Advisor to the Assistant Secretary and Chief Medical Officer to the Assistant Secretary for Health Affairs and Chief Medical Officer
DMGS00642 Special Assistant to the Chief of Staff
DMGS00643 Supervisory Management and Program Analyst to the Executive Director for Operations and Administration
DMGS00646 Assistant Press Secretary to the Deputy Assistant Secretary for Public Affairs
DMGS00650 Special Assistant to the Assistant Secretary, Immigration and Customs Enforcement
DMGS00651 Press Assistant to the Press Secretary
DMGS00652 Director, Ready Campaign to the Assistant Secretary for Public Affairs
DMGS00655 Coordinator for Local Affairs to the Director, Office of State and Local Government Coordination
DMGS00656 Director of Speechwriting to the Assistant Secretary for Public Affairs
DMGS00660 Director of Communications, Immigration and Customs Enforcement to the Assistant Secretary, Immigration and Customs Enforcement
DMGS00661 Advisor to the Chief of Staff
DMGS00662 Special Assistant to the Assistant Secretary, Immigration and Customs Enforcement
DMGS00663 Director, Transition and Transformation to the Director of Policy and Program Analysis
DMGS00664 Advance Representative to the Director of Scheduling and Advance
DMGS00668 Program Director to the Assistant Secretary for Intergovernmental Programs
DMGS00669 Director of Legislative Affairs for Intelligence and Operations to the Assistant Secretary for Legislative Affairs
DMGS00671 Coordinator for State and Local Affairs to the Assistant Secretary for Intergovernmental Programs
DMGS00672 Confidential Assistant to the Secretary to the Chief of Staff
DMGS00674 Special Assistant, Office of International Affairs to the Assistant Secretary for International Affairs
DMGS00678 Advisor to the Director for Congressional and Intergovernmental Affairs to the Director, United States Citizenship and Immigration Services
DMGS00680 Advisor to the Director for Policy to the Director, Domestic Nuclear Detection Office
DMGS00682 Special Assistant to the Executive Secretary
DMGS00683 Deputy Director of Scheduling and Protocol Coordinator to the Director of Scheduling and Advance
DMGS00686 Assistant Director to the Assistant Secretary for Legislative Affairs
DMGS00687 Director of Faith Based and Community Initiatives to the Under Secretary for National Protection and Programs
DMGS00689 Advance Representative to the Director of Scheduling and Advance
DMGS00691 Governor and Homeland Security Advisor Coordinator to the Assistant Secretary for Intergovernmental Programs

DMGS00692 Director of Legislative Affairs, Immigration and Customs Enforcement to the Assistant Secretary, Immigration and Customs Enforcement
DMGS00693 Special Assistant to the Under Secretary for Intelligence and Analysis to the Under Secretary for Intelligence and Analysis
DMGS00695 Confidential Legal Assistant to the General Counsel
DMGS00696 Assistant Director of Legislative Affairs to the Assistant Secretary for Legislative Affairs
DMGS00697 Special Assistant to the Director to the Deputy Assistant Secretary for Screening
DMGS00698 Associate Director of Strategic Communications to the Director of Strategic Communications
DMGS00702 Special Assistant to the Under Secretary for Intelligence and Analysis
DMGS00703 Advisor to the Director to the Deputy Chief of Staff
DMGS00706 Confidential Assistant to the White House Liaison
DMGS00707 Special Assistant to the Director, Office of National Capital Region Coordination
DMGS00708 Advisor to the Assistant Secretary for Infrastructure Protection
DMGS00709 Special Assistant to the Commissioner to the Chief of Staff
DMGS00710 International Policy Analyst to the Under Secretary for Science and Technology
DMGS00713 Special Assistant to the Assistant Secretary for Policy
DMGS00714 Special Assistant to the Secretary to the Chief of Staff
DMGS00717 Special Assistant to the Assistant Secretary for Private Sector
DMGS00718 Senior Advisor to the Director, United States Citizenship and Immigration Services
DMGS00719 Confidential Assistant to the White House Liaison
DMGS00720 Confidential Assistant to the Chief of Staff
DMGS00722 Advisor to the Executive Officer
DMGS00724 Executive Director, Homeland Security Advisory Committees to the Assistant Secretary for Policy
DMGS00726 Chief of Staff to the Assistant Secretary for Policy
DMGS00727 Advisor to the Chief of Staff to the Chief of Staff
DMGS00728 Press Secretary to the Assistant Secretary for Public Affairs
DMGS00729 Special Assistant to the Chief Privacy Officer to the Chief Privacy Officer
DMGS00731 Special Assistant to the Under Secretary for Intelligence and Analysis to the Under Secretary for Intelligence and Analysis
DMGS00735 Director of Special Projects and Protocol to the Assistant Secretary for Public Affairs
DMGS00736 Director of Strategic Communications to the Deputy Assistant Secretary for Public Affairs
DMGS00737 Confidential Assistant to the Chief of Staff to the Coordinator
DMGS00738 Deputy Director of Advance and Travel to the Director of Scheduling and Advance
DMGS00742 Deputy Secretary Briefing Book Coordinator to the Executive Director for Operations and Administration
DMGS00745 Confidential Assistant to the Deputy Assistant Secretary to the Coordinator of Recovery and Rebuilding In the Gulf Coast Region
DMGS00746 Staff Assistant to the White House Liaison
DMGS00747 Policy Advisor to the Deputy Administrator to the Deputy Administrator, Federal Emergency Management Agency
DMGS00748 Confidential Assistant to the Director, United States Citizenship and Immigration Services
DMGS00749 Confidential Assistant to the Counselors to the Counselor to the Secretary
DMGS00751 Public Affairs and Press Assistant to the Assistant Secretary for Public Affairs
DMOT00679 Special Assistant to the Assistant Secretary to the Assistant Secretary, Transportation Security Administration

Department of the Interior

DIGS00115 Special Assistant (Communications and Legislation) to the Deputy Commissioner (Director of External and Intergovernmental Affairs)
DIGS01059 Special Assistant—Historic Preservation to the Chief of Staff
DIGS01068 Special Assistant to the Secretary for Alaska to the Senior Adviser to the Secretary for Alaskan Affairs
DIGS01088 Special Assistant to the Solicitor
DIGS01089 Special Assistant to the Deputy Chief of Staff
DIGS01090 Special Assistant (Scheduling and Advance) to the Director—Scheduling and Advance
DIGS01091 Special Assistant—Scheduling and Advance to the Director—Scheduling and Advance
DIGS01093 White House Liaison to the Chief of Staff
DIGS01104 Special Assistant for Alaskan Affairs to the Senior Adviser to the Secretary for Alaskan Affairs
DIGS01107 Special Assistant to the Chief of Staff
DIGS01108 Special Assistant for Public Affairs to the Director, Take Pride in America
DIGS01110 Chief of Staff to the Director Minerals Management Service
DIGS01111 Associate Director—External and Intergovernmental Affairs to the Director, External and Intergovernmental Affairs
DIGS01114 Chief of Staff to the Assistant Secretary for Fish and Wildlife and Parks
DIGS01115 Associate Director—External and Intergovernmental Affairs to the Director, External and Intergovernmental Affairs
DIGS01116 Special Assistant to the Director, External and Intergovernmental Affairs
DIGS01117 Director of Scheduling and Advance to the Chief of Staff
DIGS01118 Special Assistant—Scheduling and Advance to the Director—Scheduling and Advance
DIGS01119 Special Assistant—Fish and Wildlife and Parks to the Special Assistant
DIGS01120 Special Assistant to the Director—Scheduling and Advance
DIGS01122 Special Assistant to the White House Liaison
DIGS01123 Science Advisor to the Assistant Secretary for Water and Science
DIGS01124 Media Relations Specialist to the Director, Office of Communications
DIGS01125 Senior Advisor to the Chief of Staff
DIGS01126 Senior Counsel and Special Assistant to the Solicitor to the Deputy Solicitor
DIGS01127 Deputy Director, Office of Communications to the Director, Office of Communications
DIGS05003 Special Assistant to the Deputy Director
DIGS07001 Special Assistant to the Director Bureau of Land Management
DIGS60025 Special Assistant to the Secretary
DIGS60134 Chief, Congressional and Legislative Affairs Office to the Deputy Commissioner (Director of External and Intergovernmental Affairs)
DIGS60525 Special Assistant to the Assistant Secretary—Land and Minerals Management
DIGS61027 Special Assistant to the Associate Deputy Secretary
DIGS61035 Special Assistant to the Director to the Director Office of Surface Mining Reclamation and Enforcement
DIGS70005 Assistant Director, Legislative and Congressional Affairs to the Director National Park Service

DIGS70007 Special Assistant to the Director to the Director National Park Service
DIGS79100 Special Assistant to the Director, United States Fish and Wildlife Service

Department of Agriculture

DAGS00164 Director of Web Design to the Deputy Chief of Staff
DAGS00200 Special Assistant to the Secretary
DAGS00609 Special Assistant to the Associate Assistant Secretary for Civil Rights
DAGS00611 Special Assistant to the Administrator, Food and Nutrition Service
DAGS00728 Confidential Assistant to the Under Secretary for Rural Development
DAGS00731 Special Assistant to the Chief to the Chief, Natural Resources Conservation Service
DAGS00739 Confidential Assistant to the Administrator for Risk Management
DAGS00741 Special Assistant to the Administrator
DAGS00768 Special Assistant to the Administrator
DAGS00773 Special Assistant to the Secretary
DAGS00785 Special Assistant to the Administrator to the Under Secretary for Marketing and Regulatory Programs
DAGS00787 Director of Advance to the Director of Communications
DAGS00789 Staff Assistant to the Secretary
DAGS00798 Confidential Assistant to the Administrator, Rural Housing Service
DAGS00801 Confidential Assistant to the Secretary
DAGS00807 White House Liaison to the Secretary
DAGS00822 Special Assistant to the Associate Administrator, Programs
DAGS00826 Confidential Assistant to the Administrator to the Administrator, Agricultural Marketing Service
DAGS00830 Chief of Staff to the Administrator
DAGS00836 Speech Writer to the Director of Communications
DAGS00837 Confidential Assistant to the Under Secretary for Rural Development
DAGS00842 Special Assistant to the Deputy Assistant Secretary for Administration
DAGS00843 Confidential Assistant to the Chief Financial Officer
DAGS00846 Deputy Director of Communications to the Director of Communications
DAGS00847 Confidential Assistant to the Associate Administrator
DAGS00850 Special Assistant to the Under Secretary for Rural Development
DAGS00851 Special Assistant to the Under Secretary for Research, Education and Economics
DAGS00854 Confidential Assistant to the Assistant Secretary for Congressional Relations
DAGS00855 Special Assistant to the Deputy Administrator for Field Operations
DAGS00858 Confidential Assistant to the Administrator, Farm Service Agency
DAGS00861 Director, Office of Faith-Based and Community Initiatives to the Chief of Staff
DAGS00862 Confidential Assistant to the Assistant Secretary for Congressional Relations
DAGS00864 Confidential Assistant to the Administrator, Rural Housing Service
DAGS00868 Confidential Assistant to the Administrator, Rural Housing Service
DAGS00869 Press Secretary to the Director of Communications
DAGS00874 Director of Speechwriting to the Director of Communications
DAGS00875 Confidential Assistant to the Assistant Secretary for Congressional Relations
DAGS00877 Confidential Assistant to the Deputy Assistant Secretary
DAGS00879 Confidential Assistant to the Deputy Under Secretary for Marketing and Regulatory Programs
DAGS00889 Senior Counselor to the General Counsel
DAGS00891 Staff Director to the Assistant Secretary for Congressional Relations
DAGS00892 Confidential Assistant to the Chief, Natural Resources Conservation Service
DAGS00897 Deputy Director of Intergovernmental Affairs to the Assistant Secretary for Congressional Relations
DAGS00899 Staff Assistant to the Under Secretary for Natural Resources and Environment
DAGS00900 Special Assistant to the Administrator, Foreign Agricultural Service
DAGS00902 Deputy White House Liaison to the Secretary
DAGS00904 Director of Legislative Affairs to the Administrator, Foreign Agricultural Service
DAGS00905 Special Assistant to the Administrator to the Under Secretary for Marketing and Regulatory Programs
DAGS00906 Assistant Press Secretary to the Director of Communications
DAGS00907 Confidential Assistant to the Administrator
DAGS00908 Confidential Assistant to the Under Secretary for Natural Resources and Environment
DAGS00909 Special Assistant to the Administrator
DAGS00910 Director of Legislative and Public Affairs to the Deputy Under Secretary for Rural Development
DAGS00912 Confidential Assistant to the Under Secretary for Food Safety
DAGS00916 Deputy Director of Advance to the Director of Communications
DAGS00918 Confidential Assistant to the Director of Legislative and Public Affairs
DAGS00919 Special Assistant to the Administrator, Food and Nutrition Service
DAGS00921 Confidential Assistant to the Assistant Secretary for Congressional Relations
DAGS00923 Associate Administrator, Special Nutrition Programs to the Administrator, Food and Nutrition Service
DAGS00924 Staff Assistant to the Administrator for Risk Management
DAGS00925 Senior Advisor to the Under Secretary to the Under Secretary for Farm and Foreign Agricultural Services
DAGS00926 Deputy Chief of Staff to the Chief of Staff
DAGS00928 Director of External Affairs to the Administrator, Farm Service Agency
DAGS00930 Senior Advisor to the Under Secretary to the Under Secretary for Farm and Foreign Agricultural Services
DAGS00931 Confidential Assistant to the Deputy Under Secretary, Research, Education and Economics
DAGS00932 Special Assistant to the Administrator, Rural Housing Service
DAGS00933 Confidential Assistant to the Chief of Staff
DAGS00934 Director of Native American Programs to the Assistant Secretary for Congressional Relations
DAGS00936 Special Assistant to the Administrator, Rural Housing Service
DAGS00937 Chief of Staff to the Chief, Natural Resources Conservation Service
DAGS00938 Director of Communications and Governmental Affairs to the Administrator, Food and Nutrition Service
DAGS00939 Staff Assistant to the Director of External Affairs
DAGS00940 Special Assistant to the Administrator
DAGS00941 Press Assistant to the Director of Communications

DAGS00942 Staff Assistant to the Assistant Secretary for Congressional Relations
DAGS60114 Confidential Assistant to the Deputy Secretary
DAGS60129 Special Assistant to the Administrator for Risk Management
DAGS60135 Confidential Assistant to the Administrator, Foreign Agricultural Service
DAGS60263 Special Assistant to the Chief, Natural Resources Conservation Service
DAGS60384 Confidential Assistant to the Secretary
DAGS60436 Confidential Assistant to the Administrator

Department of Commerce

DCGS00030 Special Assistant to the National Director, Minority Business Development Agency
DCGS00048 Confidential Assistant to the Legislative Affairs Specialist
DCGS00074 Director of Public Affairs to the Deputy Assistant Secretary for External Affairs and Communication
DCGS00154 Senior Advisor to the Under Secretary of Commerce for Industry and Security
DCGS00160 Confidential Assistant to the Director, Advocacy Center
DCGS00161 Confidential Assistant to the Director, Office of Legislative Affairs
DCGS00162 Senior Advisor to the Assistant Secretary for Market Access and Compliance
DCGS00172 Policy Advisor to the Assistant Secretary for Export Administration
DCGS00184 Confidential Assistant to the Assistant Secretary for Telecommunications and Information
DCGS00199 Legislative Affairs Specialist to the Assistant Secretary for Legislative and Intergovernmental Affairs
DCGS00202 Legislative Affairs Specialist to the Assistant Secretary for Legislative and Intergovernmental Affairs
DCGS00237 Senior Advisor to the Under Secretary for International Trade
DCGS00252 Confidential Assistant to the Assistant Secretary for Legislative and Intergovernmental Affairs
DCGS00262 Special Assistant to the Deputy Assistant Secretary for Services
DCGS00272 Special Assistant to the Director, Advocacy Center
DCGS00298 Senior Advisor to the Assistant Secretary for Telecommunications and Information
DCGS00317 Deputy Director of Advisory Committees to the Director of Advisory Committees
DCGS00338 Press Secretary to the Director of Public Affairs
DCGS00342 Chief of Staff for International Trade Administration/ Import Administration to the Assistant Secretary for Import Administration
DCGS00351 Confidential Assistant to the Deputy General Counsel
DCGS00359 Confidential Assistant to the Chief of Staff
DCGS00361 Chief of Congressional Affairs to the Associate Director for Communications
DCGS00368 Congressional Affairs Specialist to the Director, Office of Legislative Affairs
DCGS00380 Confidential Assistant to the Under Secretary for International Trade
DCGS00382 Confidential Assistant to the Coordinator for International Intellectual Property Enforcement
DCGS00383 Confidential Assistant to the Director, Advocacy Center
DCGS00386 Confidential Assistant to the Director, Office of Legislative Affairs
DCGS00389 Senior Advisor to the Assistant Secretary for Import Administration
DCGS00391 Special Assistant to the Under Secretary for Economic Affairs
DCGS00395 Confidential Assistant to the Director of Global Trade Programs
DCGS00398 Special Assistant to the Director, Advocacy Center
DCGS00418 Special Assistant to the Under Secretary for Economic Affairs
DCGS00427 Senior Advisor to the Assistant Secretary for Export Enforcement
DCGS00432 Confidential Assistant to the Director of Advance
DCGS00433 Senior Policy Advisor to the Chief of Staff for National Oceanic and Atmospheric Administration
DCGS00435 Confidential Assistant to the Deputy Secretary
DCGS00442 Director of Public Affairs to the Assistant Secretary for Telecommunications and Information
DCGS00446 Chief of Staff and Senior Advisor to the Under Secretary of Commerce for Industry and Security
DCGS00447 Confidential Assistant to the Director of Scheduling
DCGS00448 Confidential Assistant to the Assistant Secretary for Market Access and Compliance
DCGS00452 Confidential Assistant to the Chief of Staff
DCGS00457 Confidential Assistant to the Director of Scheduling
DCGS00460 Director of Intergovernmental Affairs to the Assistant Secretary for Legislative and Intergovernmental Affairs
DCGS00467 Confidential Assistant to the Deputy Assistant Secretary for Economic Development
DCGS00469 Deputy Director to the Director Office of White House Liaison
DCGS00473 Special Assistant to the Deputy General Counsel
DCGS00476 Deputy Director, Executive Secretariat to the Director, Executive Secretariat
DCGS00485 Special Assistant to the Director, Office of External Affairs
DCGS00488 Confidential Assistant to the Director, Office of Business Liaison
DCGS00492 Confidential Assistant to the Director of Advance
DCGS00495 Special Assistant to the Chief of Staff
DCGS00502 Deputy Director of Advance to the Director of Advance
DCGS00507 Confidential Assistant to the Chief of Staff for Market Access and Compliance
DCGS00521 Confidential Assistant to the Assistant Secretary and Director General of United States/For Commercial Services
DCGS00526 Confidential Assistant to the Under Secretary for International Trade
DCGS00540 Deputy Chief of Protocol to the Chief of Staff
DCGS00541 Special Assistant to the Deputy Assistant Secretary for Domestic Operations
DCGS00547 Confidential Assistant to the Deputy Under Secretary and Deputy Director of U.S. Patent and Trademark Office
DCGS00553 Confidential Assistant to the Assistant Secretary for Export Enforcement
DCGS00556 Confidential Assistant to the Chief of Staff to the Deputy Secretary
DCGS00561 Legislative Affairs Specialist to the Deputy Under Secretary and Deputy Director of U.S. Patent and Trademark Office
DCGS00562 Policy Advisor to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning
DCGS00569 Confidential Assistant to the Director for Speechwriting
DCGS00575 Confidential Assistant to the Director Office of White House Liaison
DCGS00579 Director for Legislative and Intergovernmental Affairs to the Assistant Secretary for Legislative and Intergovernmental Affairs
DCGS00587 Confidential Assistant to the Assistant Secretary for Legislative and Intergovernmental Affairs
DCGS00590 Confidential Assistant to the Director, Executive Secretariat

DCGS00593 Senior Advisor to the Coordinator for International Intellectual Property Enforcement
DCGS00599 Confidential Assistant to the Director, Office of Legislative Affairs
DCGS00603 Special Assistant to the Under Secretary for International Trade
DCGS00612 Director of Advisory Committees to the Assistant Secretary for Manufacturing and Services
DCGS00620 Director, Office of Legislative Affairs to the Under Secretary for International Trade
DCGS00652 Confidential Assistant to the Director of Public Affairs
DCGS00653 Deputy Director, Office of Public Affairs to the Director of Public Affairs
DCGS00655 Senior Advisor to the Deputy Assistant Secretary for Domestic Operations
DCGS00664 Special Assistant to the Director, Advocacy Center
DCGS00669 Confidential Assistant to the Assistant Secretary for Market Access and Compliance
DCGS00680 Deputy Press Secretary to the Director of Public Affairs
DCGS00684 Director for Speechwriting to the Director of Public Affairs
DCGS00686 Director of Advance to the Chief of Staff
DCGS00687 Policy Advisor to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning
DCGS00688 Confidential Assistant to the Chief of Staff for Market Access and Compliance
DCGS00689 Confidential Assistant to the Director, Executive Secretariat
DCGS60001 Deputy Director, Office of Business Liaison to the Director to the Director, Office of Business Liaison
DCGS60072 Director of Congressional Affairs to the Deputy Assistant Secretary for External Affairs and Communication
DCGS60136 Special Assistant to the Under Secretary of Commerce for Industry and Security
DCGS60189 Special Assistant to the Secretary
DCGS60263 Special Assistant to the Executive Director for Trade Promotion and Outreach
DCGS60276 Executive Assistant to the Under Secretary for Economic Affairs
DCGS60291 Public Affairs Specialist to the Director of Public Affairs
DCGS60302 Director of External Affairs to the Director of Communications
DCGS60312 Senior Advisor to the Deputy Assistant Secretary for Domestic Operations
DCGS60321 Director of Public Affairs to the Under Secretary for International Trade
DCGS60395 Confidential Assistant to the Executive Director for Trade Promotion and Outreach
DCGS60462 Director of Operations to the Deputy Under Secretary and Deputy Director of US Patent and Trademark Office
DCGS60490 Director of Scheduling to the Chief of Staff
DCGS60512 Senior Advisor to the Under Secretary of Commerce for Industry and Security
DCGS60532 Senior Counsel to the General Counsel
DCGS60536 Speechwriter to the Director for Speechwriting
DCGS60574 Confidential Assistant to the Director, Office of Business Liaison
DCGS60575 Confidential Assistant to the Deputy Assistant Secretary for Europe
DCGS60583 Special Assistant to the Assistant Secretary for Administrator and Chief Financial Officer
DCGS60596 Confidential Assistant to the Director of Public Affairs
DCGS60618 Special Assistant to the Deputy Under Secretary and Deputy Director of US Patent and Trademark Office
DCGS60637 Special Assistant to the Executive Director for Trade Promotion and Outreach
DCGS60670 Director Office of Business Liaison to the Chief of Staff for National Oceanic and Atmospheric Administration
DCGS60681 Speechwriter to the Under Secretary of Commerce for Intellectual Property and Director of the US Patent and Trademark Office

Department of Labor

DLGS00089 Director of Field Operations to the Director of Scheduling
DLGS00108 Senior Advance Representative to the Director of Planning, Scheduling, and Advance
DLGS00166 Staff Assistant to the Director, 21st Century Office and Deputy Assistant Secretary for Intergovernmental Affairs
DLGS00171 Special Assistant to the Director of Scheduling
DLGS60003 Staff Assistant to the Director, 21st Century Office and Deputy Assistant Secretary for Intergovernmental Affairs
DLGS60007 Special Assistant to the Director, 21st Century Office and Deputy Assistant Secretary for Intergovernmental Affairs
DLGS60011 Staff Assistant to the Deputy Secretary of Labor
DLGS60015 Intergovernmental Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs
DLGS60017 Senior Legislative Officer to the Assistant Secretary for Congressional and Intergovernmental Affairs
DLGS60041 Staff Assistant to the Deputy Chief of Staff
DLGS60042 Special Assistant to the Assistant Secretary for Public Affairs
DLGS60043 Special Assistant to the Assistant Secretary for Occupational Safety and Health
DLGS60044 Special Assistant to the Director, Office of Faith Based and Community Initiatives
DLGS60066 Staff Assistant to the Deputy Assistant Secretary for Federal Contract Compliance
DLGS60074 Special Assistant to the Assistant Secretary for Public Affairs
DLGS60076 Special Assistant to the Assistant Secretary for Employment Standards
DLGS60079 Staff Assistant to the Assistant Secretary for Policy
DLGS60081 Legislative Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs
DLGS60086 Senior Advisor to the Wage and Hour Administrator
DLGS60092 Senior Attorney Adviser to the Solicitor of Labor
DLGS60093 Staff Assistant to the Director of Scheduling
DLGS60096 Chief of Staff to the Deputy Assistant Secretary for Labor-Management Programs
DLGS60097 Special Assistant to the Assistant Secretary for Administration and Management
DLGS60099 Special Assistant to the Deputy Assistant Secretary for Employment and Training
DLGS60101 Chief of Staff to the Assistant Secretary for Public Affairs
DLGS60104 Regional Representative to the Assistant Secretary for Congressional and Intergovernmental Affairs
DLGS60105 Regional Representative to the Assistant Secretary for Congressional and Intergovernmental Affairs
DLGS60107 Regional Representative to the Assistant Secretary for Congressional and Intergovernmental Affairs
DLGS60109 Regional Representative to the Assistant Secretary for Congressional and Intergovernmental Affairs
DLGS60110 Regional Representative to the Assistant Secretary for Congressional and Intergovernmental Affairs

DLGS60111 Regional Representative to the Assistant Secretary for Congressional and Intergovernmental Affairs
DLGS60112 Regional Representative to the Assistant Secretary for Congressional and Intergovernmental Affairs
DLGS60113 Special Assistant to the Deputy Assistant Secretary, Office of Disability Employment Policy
DLGS60117 Special Assistant to the Assistant Secretary for Employment Standards
DLGS60118 Staff Assistant to the Deputy Chief of Staff
DLGS60119 Staff Assistant to the Associate Counselor to the Secretary
DLGS60121 Special Assistant to the Deputy Chief of Staff
DLGS60122 Senior Advisor to the Wage and Hour Administrator
DLGS60123 Special Assistant to the Deputy Assistant Secretary
DLGS60130 Legislative Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs
DLGS60131 Special Assistant to the Assistant Secretary for Employment and Training
DLGS60132 Senior Advisor to the Associate Deputy Secretary
DLGS60133 Chief of Staff to the Director of the Women's Bureau
DLGS60135 Agency Liaison Officer to the Executive Secretary
DLGS60137 Staff Assistant to the Assistant Secretary for Public Affairs
DLGS60138 Chief of Staff to the Assistant Secretary for Mine Safety and Health
DLGS60141 Special Assistant to the Deputy Assistant Secretary for Labor-Management Programs
DLGS60144 Special Assistant to the Director of Scheduling
DLGS60145 Intergovernmental Officer to the Assistant Secretary for Congressional and Intergovernmental Affairs
DLGS60146 Attorney Advisor to the Solicitor of Labor
DLGS60147 Attorney Adviser to the Solicitor of Labor
DLGS60153 Special Assistant to the Deputy Under Secretary for International Affairs
DLGS60160 Speechwriter to the Assistant Secretary for Public Affairs
DLGS60161 Attorney Advisor to the Solicitor of Labor
DLGS60169 Deputy Director, Executive Secretariat to the Executive Secretary
DLGS60170 Special Assistant to the Director, Office of Faith Based and Community Initiatives
DLGS60172 Special Assistant to the Associate Deputy Secretary
DLGS60175 Senior Advisor to the Deputy Assistant Secretary for Policy
DLGS60176 Special Assistant to the Associate Deputy Secretary
DLGS60178 Staff Assistant to the Executive Secretary
DLGS60179 Special Assistant to the Deputy Wage and Hour Administrator
DLGS60180 Senior Legislative Officer to the Assistant Secretary for Congressional and Intergovernmental Affairs
DLGS60181 Special Assistant to the Assistant Secretary for Public Affairs
DLGS60182 Special Assistant to the White House Liaison
DLGS60187 Special Assistant to the Assistant Secretary for Employment and Training
DLGS60189 Special Assistant to the Chief Financial Officer
DLGS60192 Chief of Staff to the Assistant Secretary for Employee Benefits Security
DLGS60194 Special Assistant to the Associate Deputy Secretary
DLGS60195 Special Assistant to the Deputy Assistant Secretary for Labor-Management Programs
DLGS60196 Special Assistant to the Assistant Secretary for Veterans Employment and Training
DLGS60197 Legislative Officer to the Assistant Secretary for Congressional and Intergovernmental Affairs
DLGS60198 Special Assistant to the Assistant Secretary for Administration and Management
DLGS60199 Special Assistant to the Assistant Secretary for Public Affairs
DLGS60204 Special Assistant to the Assistant Secretary for Veterans Employment and Training
DLGS60205 Deputy Director, 21st Century Workforce to the Director, 21st Century Workforce
DLGS60209 Chief of Staff to the Assistant Secretary for Veterans Employment and Training
DLGS60210 Deputy Director to the Director, Office of Faith Based and Community Initiatives
DLGS60211 Special Assistant to the Director of Scheduling
DLGS60212 Special Assistant to the Director, Office of Faith Based and Community Initiatives
DLGS60214 Special Assistant to the Director, Office of Faith Based and Community Initiatives
DLGS60215 Special Assistant to the Assistant Secretary for Occupational Safety and Health
DLGS60217 Senior Legislative Officer to the Assistant Secretary for Congressional and Intergovernmental Affairs
DLGS60218 Special Assistant to the Assistant Secretary for Public Affairs
DLGS60219 Staff Assistant to the Director, 21st Century Office and Deputy Assistant Secretary for Intergovernmental Affairs
DLGS60220 Special Assistant to the Assistant Secretary for Public Affairs
DLGS60222 Special Assistant to the Assistant Secretary for Disability Employment Policy
DLGS60224 Special Assistant to the Assistant Secretary for Mine Safety and Health
DLGS60225 Special Assistant to the Assistant Secretary for Public Affairs
DLGS60228 Chief of Staff to the Assistant Secretary for Occupational Safety and Health
DLGS60230 Staff Assistant to the Associate Deputy Secretary
DLGS60232 Special Assistant to the Assistant Secretary for Administration and Management
DLGS60233 Senior Advisor to the Assistant Secretary for Employment Standards
DLGS60234 Chief of Staff to the Assistant Secretary for Policy
DLGS60236 Legislative Officer to the Assistant Secretary for Congressional and Intergovernmental Affairs
DLGS60237 Special Assistant to the Secretary of Labor
DLGS60239 Special Assistant to the Director of Scheduling
DLGS60240 Legislative Officer to the Assistant Secretary for Congressional and Intergovernmental Affairs
DLGS60244 Special Assistant to the Executive Assistant to the Secretary
DLGS60246 Director of Events to the Director of Scheduling
DLGS60247 Legislative Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs
DLGS60248 Special Assistant to the Director of Public Liaison
DLGS60249 Attorney Adviser to the Deputy Solicitor of Labor
DLGS60250 Deputy Director of Scheduling to the Director of Scheduling
DLGS60253 Special Assistant to the Deputy Secretary of Labor
DLGS60255 Counselor to the Deputy Secretary of Labor
DLGS60256 Special Assistant to the Deputy Assistant Secretary for Labor-Management Programs
DLGS60260 Staff Assistant to the Director, 21st Century Office and Deputy Assistant Secretary for Intergovernmental Affairs
DLGS60261 Special Assistant to the Deputy Assistant Secretary
DLGS60262 Special Assistant to the Assistant Secretary for Employment Standards

DLGS60263 Special Assistant to the Deputy Assistant Secretary for Labor-Management Programs
DLGS60266 Chief of Staff to the Assistant Secretary for Mine Safety and Health
DLGS60269 Special Assistant to the Deputy Secretary of Labor
DLGS60272 Special Assistant to the Deputy Chief of Staff
DLGS60273 Special Assistant to the Chief Information Officer to the Assistant Secretary for Administration and Management
DLGS60277 Special Assistant to the Assistant Secretary for Administration and Management

Department of Health and Human Services

DHGS00269 Chief Acquisitions Officer to the Assistant Secretary for Administration and Management
DHGS60005 Special Assistant to the Assistant Secretary for Aging to the Assistant Secretary for Aging (Commissioner for Aging)
DHGS60007 Special Assistant to the Associate Commissioner for External Relations
DHGS60009 Special Assistant to the Assistant Secretary for Preparedness and Response to the Assistant Secretary for Public Health Emergency Preparedness
DHGS60010 Confidential Assistant (Faith-Based) to the Director, Center for Faith Based and Community Initiatives
DHGS60011 Special Assistant to the Commissioner to the Commissioner of Food and Drugs
DHGS60014 Director (Office of Documents and Regulations Management) to the Executive Secretary to the Department
DHGS60015 Deputy Director, Center for Faith Based and Community Initiatives to the Director, Center for Faith Based and Community Initiatives
DHGS60016 Confidential Assistant to the Director, Center for Faith Based and Community Initiatives
DHGS60017 Director of Scheduling to the Chief of Staff
DHGS60018 Deputy Director for Advance to the Director of Scheduling
DHGS60021 Special Assistant to the Director, Office of Community Services to the Director Office of Community Services
DHGS60027 Deputy Director for Scheduling to the Director of Scheduling
DHGS60028 Special Assistant to the Chief of Staff
DHGS60029 Special Assistant to the Assistant Secretary for Public Affairs
DHGS60030 Special Assistant to the General Counsel
DHGS60033 Special Assistant to the Assistant Secretary for Administration and Management
DHGS60035 Confidential Assistant to the Administrator to the Administrator Centers for Medicare and Medicaid Services
DHGS60036 Confidential Assistant to the Director to the Director of Intergovernmental Affairs
DHGS60037 Associate Director to the Director Office of Refugee Resettlement
DHGS60041 Special Assistant to the Deputy Commissioner for Policy
DHGS60044 Special Assistant to the Assistant Secretary for Legislation to the Assistant Secretary for Legislation
DHGS60046 Senior Speech Writer to the Assistant Secretary for Public Affairs
DHGS60054 Special Assistant to the Assistant Secretary for Administration and Management
DHGS60060 Special Assistant to the Deputy Assistant Secretary for Policy and External Affairs
DHGS60063 Confidential Assistant to the Director of Public Affairs
DHGS60065 Confidential Assistant to the Chief of Staff to the Chief of Staff
DHGS60066 Confidential Assistant to the Chief of Staff to the Chief of Staff
DHGS60070 Special Assistant to the Assistant Secretary for Planning and Evaluation to the Assistant Secretary for Planning and Evaluation
DHGS60071 Special Assistant to the Assistant Secretary for Planning and Evaluation to the Assistant Secretary for Planning and Evaluation
DHGS60072 Confidential Assistant to the Assistant Secretary for Planning and Evaluation to the Assistant Secretary for Planning and Evaluation
DHGS60073 Special Assistant (Center for Faith-Based and Community Initiatives) to the Director, Center for Faith Based and Community Initiatives
DHGS60127 Confidential Assistant to the Administrator Centers for Medicare and Medicaid Services
DHGS60129 Special Assistant to the Administrator Centers for Medicare and Medicaid Services
DHGS60130 Special Assistant to the Assistant Secretary for Health to the Assistant Secretary, Health
DHGS60133 Special Assistant to the Assistant Secretary for Budget, Technology and Finance to the Assistant Secretary for Resources and Technology
DHGS60168 Confidential Assistant to the Deputy Assistant Secretary for Legislation (Planning and Budget)
DHGS60169 Special Assistant to the Assistant Secretary for Public Affairs to the Assistant Secretary for Public Affairs
DHGS60180 Special Assistant to the Principal Deputy Assistant Secretary for Planning and Evaluation
DHGS60237 Regional Director, New York, New York, Region II to the Director of Intergovernmental Affairs
DHGS60238 Regional Director, Boston, Massachusetts, Region I to the Director of Intergovernmental Affairs
DHGS60240 Regional Director, Dallas, Texas, Region VI to the Director of Intergovernmental Affairs
DHGS60244 Regional Director, Seattle, Washington, Region X to the Director of Intergovernmental Affairs
DHGS60247 Regional Director Philadelphia Region III to the Director of Intergovernmental Affairs
DHGS60252 Regional Director, Denver, Colorado, Region VIII to the Director of Intergovernmental Affairs
DHGS60255 Regional Director, Chicago, Illinois-Region V to the Director of Intergovernmental Affairs
DHGS60256 Confidential Assistant to the Director Iga to the Director of Intergovernmental Affairs
DHGS60293 Special Assistant to the Commissioner Administration for Children Youth and Families
DHGS60336 Confidential Assistant to the Deputy Assistant Secretary for Legislation (Human Services) to the Deputy Assistant Secretary for Legislation (Human Services)
DHGS60347 Congressional Liaison Specialist to the Deputy Assistant Secretary for Legislation (Congressional Liaison)
DHGS60374 Confidential Assistant to the Executive Secretary to the Department
DHGS60399 Special Assistant to the Assistant Secretary for Children and Families
DHGS60412 Regional Director, San Francisco, California, Region IX to the Director of Intergovernmental Affairs
DHGS60417 Regional Director, Kansas City, Missouri, Region VII to the Director of Intergovernmental Affairs
DHGS60427 Executive Director, President's Committee for People With Intellectual Disabilities to the Assistant Secretary for Children and Families
DHGS60513 Confidential Assistant to the Deputy Director of Child Support Enforcement
DHGS60523 Executive Director, President's Council on Physical Fitness and Sports to the Assistant Secretary, Health
DHGS60526 Confidential Assistant to the Deputy Secretary to the Deputy Secretary, Health and Human Services

DHGS60527 Confidential Assistant (Scheduling) to the Director of Scheduling
DHGS60539 Special Assistant to the General Counsel
DHGS60542 Confidential Assistant to the Administrator to the Administrator Centers for Medicare and Medicaid Services
DHGS60545 Special Assistant to the Assistant Secretary, Health
DHGS60570 Confidential Assistant (Advance) to the Deputy Director for Advance
DHGS60627 Confidential Assistant to the Administrator, Substance Abuse and Mental Health Services Administration to the Administrator, Substance Abuse and Mental Health Service
DHGS60636 Senior Advisor to the Director, Indian Health Service to the Director, Indian Health Service
DHGS60675 Special Assistant to the Assistant Secretary for Aging (Commissioner for Aging)
DHGS60681 Special Assistant to the Director Media Affairs to the Director of Media Affairs
DHGS60689 Director of Media Affairs to the Director, Office of External Affairs

Department of Education

DBGS00211 Special Assistant to the Deputy Under Secretary for Safe and Drug-Free Schools
DBGS00222 Confidential Assistant to the Director, Scheduling and Advance Staff
DBGS00226 Confidential Assistant to the Special Assistant
DBGS00249 Special Assistant to the Assistant Secretary for Postsecondary Education
DBGS00262 Confidential Assistant to the Special Assistant
DBGS00270 Confidential Assistant (White House Liaison) to the White House Liaison
DBGS00283 Special Assistant to the Deputy Assistant Secretary for External Affairs
DBGS00284 Confidential Assistant (Protocol) to the Deputy Chief of Staff for Operations
DBGS00285 Special Assistant (Education Attache to the United States Mission to the United Nations Educational, Scientific and Cultural Organization) to the Secretary
DBGS00290 Special Assistant to the Assistant Secretary for Vocational and Adult Education
DBGS00298 Confidential Assistant to the Deputy Chief of Staff for Policy and Programs
DBGS00299 Special Assistant to the Assistant Secretary for Elementary and Secondary Education
DBGS00303 Director, White House Initiative on Hispanic Education to the Chief of Staff
DBGS00306 Deputy Assistant Secretary to the Assistant Secretary for Legislation and Congressional Affairs
DBGS00344 Special Assistant to the Deputy Assistant Secretary
DBGS00355 Confidential Assistant to the Deputy Secretary of Education
DBGS00359 Special Assistant to the Assistant Secretary for Civil Rights
DBGS00368 Confidential Assistant to the Special Assistant
DBGS00375 Confidential Assistant to the Assistant Secretary for Special Education and Rehabilitative Services
DBGS00376 Director, Scheduling and Advance Staff to the Chief of Staff
DBGS00379 Confidential Assistant to the Assistant Secretary for Postsecondary Education
DBGS00394 Confidential Assistant to the Special Assistant
DBGS00396 Special Assistant to the Director, Faith-Based and Community Initiatives Center
DBGS00404 Special Assistant to the Deputy General Counsel for Departmental and Legislative Service
DBGS00421 Confidential Assistant to the Special Assistant
DBGS00423 Secretary's Regional Representative to the Director, Regional Services
DBGS00424 Secretary's Regional Representative to the Director, Regional Services
DBGS00425 Secretary's Regional Representative to the Director, Regional Services
DBGS00427 Secretary's Regional Representative to the Director, Regional Services
DBGS00428 Confidential Assistant to the Director, Regional Services
DBGS00435 Special Assistant to the Deputy Assistant Secretary for External Affairs
DBGS00436 Special Assistant to the Deputy Assistant Secretary for Media Relations and Strategic Communications
DBGS00446 Deputy Secretary's Regional Representative to the Secretary's Regional Representative, Region 3
DBGS00447 Secretary's Regional Representative, Region 3 to the Deputy Assistant Secretary for External Affairs
DBGS00449 Deputy Secretary's Regional Representative, Region VI to the Secretary
DBGS00451 Secretary's Regional Representative, Region 5 to the Director, Regional Services
DBGS00452 Secretary's Regional Representative, Region 7 to the Director, Regional Services
DBGS00453 Secretary's Regional Representative, Region 8 to the Director, Regional Services
DBGS00454 Deputy Secretary's Regional Representative, Region 8 to the Director, Regional Services
DBGS00455 Deputy Secretary's Regional Representative—Region X to the Director, Regional Services
DBGS00462 Special Assistant to the Assistant Secretary, Office of Communications and Outreach
DBGS00467 Director, Faith-Based and Community Initiatives Center to the Chief of Staff
DBGS00474 Deputy Secretary's Regional Representative, Region 5 to the Director, Regional Services
DBGS00477 Deputy Secretary's Regional Representative, Region 4 to the Director, Regional Services
DBGS00478 Confidential Assistant to the Assistant Secretary for Legislation and Congressional Affairs
DBGS00481 Special Assistant to the Assistant Secretary for Elementary and Secondary Education
DBGS00490 Deputy Assistant Secretary for Media Relations and Strategic Communications to the Assistant Secretary, Office of Communications and Outreach
DBGS00495 Special Assistant to the Chief of Staff
DBGS00496 Deputy Assistant Secretary for Performance Improvement to the Deputy Assistant Secretary for Process Improvement
DBGS00499 Director, Intergovernmental Affairs to the Deputy Assistant Secretary for External Affairs and Outreach Services
DBGS00503 Deputy Secretary's Regional Representative, Region 1 to the Director, Regional Services
DBGS00505 Secretary's Regional Representative, Region VI to the Director, Regional Services
DBGS00507 Confidential Assistant to the General Counsel
DBGS00511 Special Assistant to the Director, International Affairs Office
DBGS00518 Special Assistant to the Director, Regional Services
DBGS00531 Press Secretary to the Assistant Secretary, Office of Communications and Outreach
DBGS00532 Special Assistant to the Director, Office of Educational Technology
DBGS00533 Special Assistant to the Director, White House Liaison
DBGS00536 Confidential Assistant to the Special Assistant
DBGS00537 Special Assistant to the Chief of Staff

DBGS00541 Special Assistant to the Assistant Deputy Secretary for Safe and Drug-Free Schools
DBGS00542 Special Assistant to the Executive Assistant
DBGS00543 Special Assistant to the Deputy Assistant Secretary (Senate)
DBGS00547 Special Assistant to the Assistant Secretary for Civil Rights
DBGS00549 Special Assistant to the Assistant Secretary for Special Education and Rehabilitative Services
DBGS00551 Confidential Assistant to the Chief of Staff
DBGS00554 Confidential Assistant to the Deputy Chief of Staff for Policy and Programs
DBGS00555 Confidential Assistant to the Assistant Secretary for Management
DBGS00559 Special Assistant to the Secretary's Regional Representative, Region 8
DBGS00560 Chief of Staff to the Assistant Secretary for Planning, Evaluation, and Policy Development
DBGS00564 Special Assistant to the Secretary's Regional Representative, Region IX
DBGS00569 Special Assistant to the Assistant Secretary for Elementary and Secondary Education
DBGS00574 Deputy Assistant Secretary for Community Colleges to the Assistant Secretary for Vocational and Adult Education
DBGS00576 Special Assistant to the Director, Scheduling and Advance Staff
DBGS00578 Confidential Assistant to the Assistant Secretary for Elementary and Secondary Education
DBGS00586 Special Assistant to the Deputy Assistant Secretary for Media Relations and Strategic Communications
DBGS00589 Confidential Assistant to the Director, Scheduling and Advance Staff
DBGS00597 Confidential Assistant to the Assistant Deputy Secretary
DBGS00598 Confidential Assistant to the Assistant Secretary for Legislation and Congressional Affairs
DBGS00604 Director, Office of International Affairs to the Director, International Affairs Office
DBGS00605 Deputy Secretary's Regional Representative to the Director, Regional Services
DBGS00607 Confidential Assistant to the Assistant Secretary for Special Education and Rehabilitative Services
DBGS00609 Special Assistant to the Under Secretary
DBGS00612 Special Assistant to the General Counsel
DBGS00614 Confidential Assistant to the Assistant Secretary, Office of Communications and Outreach
DBGS00615 Special Assistant to the Assistant Secretary for Elementary and Secondary Education
DBGS00616 Special Assistant to the Assistant Secretary for Elementary and Secondary Education
DBGS00617 Confidential Assistant to the Chief of Staff
DBGS00621 Confidential Assistant to the Senior Advisor to the Under Secretary
DBGS00623 Confidential Assistant to the Assistant Secretary for Elementary and Secondary Education
DBGS00624 Confidential Assistant to the Assistant Secretary for Postsecondary Education
DBGS00628 Confidential Assistant to the Chief of Staff
DBGS00629 Confidential Assistant to the Special Assistant
DBGS00630 Special Assistant to the Chief of Staff
DBGS00634 Confidential Assistant to the General Counsel
DBGS00635 Special Assistant to the Chief of Staff
DBGS00640 Deputy Secretary's Regional Representative to the Deputy Secretary's Regional Representative
DBGS00641 Chief of Staff to the Chief Financial Officer
DBGS00642 Confidential Assistant to the Assistant Deputy Secretary for Safe and Drug-Free Schools
DBGS00644 Chief of Staff for the Office of Communications and Outreach to the Assistant Secretary, Office of Communications and Outreach
DBGS00648 Confidential Assistant to the Assistant Secretary for Civil Rights
DBGS00649 Confidential Assistant to the Director, Scheduling and Advance Staff
DBGS00652 Special Assistant to the Assistant Secretary for Management
DBGS00655 Special Assistant to the Director, Office of Educational Technology
DBGS00657 Confidential Assistant to the Chief of Staff to the Deputy Secretary
DBGS00658 Deputy Assistant Secretary for External Affairs to the Assistant Secretary, Office of Communications and Outreach
DBGS00661 Special Assistant to the Director, Scheduling and Advance Staff
DBGS00662 Deputy Assistant Secretary to the Assistant Secretary, Office of Communications and Outreach
DBGS00663 Special Assistant to the Deputy Assistant Secretary for Media Relations and Strategic Communications
DBGS00664 Chief of Staff to the Assistant Secretary for Vocational and Adult Education
DBGS00665 Confidential Assistant to the Deputy Assistant Secretary
DBGS00666 Executive Director, White House Initiative on Tribal Colleges and Universities to the Assistant Secretary for Postsecondary Education
DBGS00667 Special Assistant to the Assistant Deputy Secretary for Innovation and Improvement
DBGS00668 Associate Assistant Deputy Secretary for Parental Rights to the Assistant Deputy Secretary for Innovation and Improvement
DBGS00669 Senior Advisor to the Assistant Secretary to the Assistant Secretary, Office of Communications and Outreach
DBGS60112 Confidential Assistant to the Special Assistant
DBGS60143 Special Assistant to the Director, Faith-Based and Community Initiatives Center
DBGS60164 Confidential Assistant to the Senior Advisor to the Under Secretary

Environmental Protection Agency

EPGS03500 Senior Policy Advisor to the Deputy Assistant Administrator for Water
EPGS05006 Speech Writer to the Associate Administrator for Public Affairs
EPGS05031 Program Specialist to the Assistant Administrator for Administration and Resources Management
EPGS06000 Senior Policy Advisor to the Regional Administrator
EPGS06008 Advance Specialist to the Deputy Chief of Staff (Operations)
EPGS06015 Staff Secretary to the Chief of Staff
EPGS06028 Deputy Associate Administrator to the Associate Administrator for Congressional and Intergovernmental Relations
EPGS06033 Assistant to the Deputy Administrator
EPGS06036 Supervisory Public Affairs Specialist to the Associate Administrator for Public Affairs
EPGS07007 Audio Visual Producer to the Deputy Chief of Staff (Operations)
EPGS07017 Program Manager (Operations) to the Deputy Chief of Staff (Operations)
EPGS07021 Special Assistant to the Administrator/Executive Assistant to the Assistant Administrator to the Assistant Administrator for International Activities
EPGS07022 Program Manager (Scheduling) to the Deputy Chief of Staff (Operations)
EPGS07023 Advance Specialist to the Deputy Chief of Staff (Operations)

EPGS07025 Advance Specialist to the Deputy Chief of Staff (Operations)
EPGS07027 Strategic Scheduler to the Deputy Chief of Staff (Operations)
EPGS07029 Director of Advance to the Deputy Chief of Staff (Operations)
EPGS07030 Deputy to the Scheduler to the Deputy Chief of Staff (Operations)
EPGS08002 Deputy Associate Administrator to the Associate Administrator for Public Affairs
EPGS08003 Press Secretary to the Associate Administrator for Public Affairs
EPGS08004 Deputy Press Secretary to the Associate Administrator for Public Affairs
EPGS08006 Special Assistant to the Associate Administrator for Public Affairs
EPGS08010 Special Assistant to the Associate Administrator for Congressional and Intergovernmental Relations
EPGS60069 Special Assistant for Communications to the Assistant Administrator for Water
EPGS60071 Senior Advisor to the Assistant Administrator for International Activities
EPGS60074 Policy Analyst to the Assistant Administrator for Air and Radiation
EPGS60076 Senior Counsel to the Associate Administrator for Congressional and Intergovernmental Relations

Overseas Private Investment Corporation

PQGS06002 Confidential Assistant to the Chief of Staff
PQGS08015 Research Specialist to the Chief of Staff
PQGS60018 Executive Assistant to the President
PQGS60020 Executive Assistant to the Executive Vice President

United States Tax Court

JCGS60040 00301 Chambers Administrator to the Chief Judge
JCGS60041 00301 Chambers Administrator to the Chief Judge
JCGS60042 00301 Chambers Administrator to the Chief Judge
JCGS60043 00301 Chambers Administrator to the Chief Judge
JCGS60044 00301 Chambers Administrator to the Chief Judge
JCGS60045 00301 Chambers Administrator to the Chief Judge
JCGS60047 00301 Chambers Administrator to the Chief Judge
JCGS60048 00301 Chambers Administrator to the Chief Judge
JCGS60049 00301 Chambers Administrator to the Chief Judge
JCGS60050 00301 Chambers Administrator to the Chief Judge
JCGS60052 00301 Chambers Administrator to the Chief Judge
JCGS60053 00301 Chambers Administrator to the Chief Judge
JCGS60054 00301 Chambers Administrator to the Chief Judge
JCGS60057 00301 Chambers Administrator to the Chief Judge
JCGS60058 Chambers Administrator to the Chief Judge
JCGS60059 00301 Chambers Administrator to the Chief Judge
JCGS60060 00301 Chambers Administrator to the Chief Judge
JCGS60061 00301 Chambers Administrator to the Chief Judge
JCGS60063 00301 Chambers Administrator to the Chief Judge
JCGS60064 00301 Chambers Administrator to the Chief Judge
JCGS60065 0301 Chambers Administrator to the Chief Judge
JCGS60067 Trial Clerk to the Chief Judge
JCGS60068 Trial Clerk to the Chief Judge
JCGS60069 Trial Clerk to the Chief Judge
JCGS60070 Trial Clerk to the Chief Judge
JCGS60071 Trial Clerk to the Chief Judge
JCGS60072 Trial Clerk to the Chief Judge
JCGS60073 Trial Clerk to the Chief Judge
JCGS60074 Trial Clerk to the Chief Judge
JCGS60075 Trial Clerk to the Chief Judge
JCGS60077 Trial Clerk to the Chief Judge
JCGS60078 Trial Clerk to the Chief Judge
JCGS60079 Trial Clerk to the Chief Judge
JCGS60083 Chambers Administrator to the Chief Judge
JCGS60084 Trial Clerk to the Chief Judge
JCGS60085 Trial Clerk to the Chief Judge
JCGS60086 Trial Clerk to the Chief Judge

Department of Veterans Affairs

DVGS60014 Special Assistant to the Assistant Secretary for Public and Intergovernmental Affairs
DVGS60015 Special Assistant to the Special Assistant (Supervisory Regional Veterans Service Liaison Officer)
DVGS60032 Director, Center for Faith Based Community Initiatives to the Secretary of Veterans Affairs
DVGS60036 Protocol Liaison Officer to the Secretary of Veterans Affairs
DVGS60056 Special Assistant to the Senior Advisor
DVGS60080 Special Assistant to the Secretary of Veterans Affairs
DVGS60104 Special Assistant to the Secretary of Veterans Affairs

Broadcasting Board of Governors

IBGS00013 Chief of Staff to the Director Office of Cuba Broadcasting

Securities and Exchange Commission

SEOT60002 Confidential Assistant to a Commissioner
SEOT60004 Director of Legislative Affairs to the Chairman
SEOT60008 Secretary (Office Automation) to the Chief Accountant
SEOT60016 Secretary to the Director Division of Enforcement
SEOT60029 Secretary to the Director Division of Market Regulation
SEOT60052 Chief of Staff to the Chairman
SEOT60054 Secretary to the Director, Division of Market Regulation
SEOT60056 Legislative Affairs Specialist to the Director of Communications
SEOT60103 Legislative and Intergovernmental Affairs Specialist to the Director of Legislative Affairs
SEOT90001 Senior Advisor to the Chairman to the Chairman
SEOT90006 Confidential Assistant to a Commissioner
SEOT90007 Confidential Assistant to the Chairman

Department of Energy

DEGS00395 Special Assistant to the Chief of Staff
DEGS00439 Senior Policy Advisor to the Assistant Secretary for Fossil Energy
DEGS00443 Senior Policy Advisor to the Principal Deputy Assistant Secretary for Fossil Energy
DEGS00476 Policy Advisor to the Director, Office of Legacy Management
DEGS00485 Director, Office of Scheduling and Advance to the Chief of Staff
DEGS00503 Speechwriter to the Director, Public Affairs
DEGS00510 Lead Advance Representative to the Director, Office of Scheduling and Advance
DEGS00531 Senior Advisor to the Chief Operating Officer for Energy Efficiency and Renewable Energy
DEGS00535 Web Content Manager to the Senior Policy Advisor
DEGS00540 Special Assistant to the Director, Office of Electricity Delivery and Energy Reliability
DEGS00544 Senior Communications Advisor to the Assistant Secretary of Energy (Environmental Management)
DEGS00548 Staff Assistant to the General Counsel

DEGS00549 Senior Advisor to the Chief Operating Officer for Energy Efficiency and Renewable Energy
DEGS00556 Congressional Affairs Officer to the Director, Congressional Affairs
DEGS00562 Senior Policy Advisor to the Associate Director for System Operations and External Relations
DEGS00563 Legislative Advisor to the Assistant Secretary for Congressional and Intergovernmental Affairs
DEGS00564 Special Assistant to the Principal Deputy Assistant Secretary
DEGS00565 Special Assistant, Deputy Director of Scheduling and Advance to the Director, Office of Scheduling and Advance
DEGS00570 Senior Policy Advisor to the Assistant Secretary of Energy (Environmental Management)
DEGS00573 Senior Counsel to the General Counsel
DEGS00574 Deputy Assistant Secretary for Energy Policy to the Assistant Secretary for Congressional and Intergovernmental Affairs
DEGS00575 Director of Intergovernmental and Tribal Affairs to the Deputy Assistant Secretary for Intergovernmental and External Affairs
DEGS00579 Senior Policy Advisor to the Deputy Administrator for Defense Nuclear Nonproliferation
DEGS00585 Special Assistant to the Associate Director
DEGS00592 Small Business Specialist to the Associate Director
DEGS00593 Congressional Affairs Specialist to the Director, Congressional Affairs
DEGS00594 Senior Advisor for Public Affairs to the Director, Public Affairs (National Nuclear Security Administration)
DEGS00597 Special Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs
DEGS00599 Assistant Press Secretary to the Director, Public Affairs
DEGS00601 Policy Advisor to the Deputy Assistant Secretary
DEGS00607 Special Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs
DEGS00608 Special Assistant to the Chief Financial Officer
DEGS00611 Policy Advisor to the Deputy Assistant Secretary
DEGS00613 Senior Advisor to the Director, Office of Scheduling and Advance
DEGS00615 Special Assistant to the Deputy Director, Permitting, Siting and Analysis Division
DEGS00616 Special Assistant to the Assistant Secretary for Policy and International Affairs
DEGS00617 Special Assistant to the Director, Office of Scheduling and Advance
DEGS00618 Energy Operations Coordinator to the Assistant Secretary (Electricity Delivery and Energy Reliability)
DEGS00619 Director of International Activities to the Principal Deputy Assistant Secretary
DEGS00622 Special Advisor to the Chief of Staff
DEGS00623 Special Assistant to the Director, Public Affairs
DEGS00626 Special Advisor to the White House Liaison
DEGS00627 Special Assistant for Communications to the Assistant Secretary (Electricity Delivery and Energy Reliability)
DEGS00628 Assistant Press Secretary to the Director, Public Affairs
DEGS00630 Senior Advisor for Communications to the Director, Office of Technology Advancement and Outreach
DEGS00631 Special Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs
DEGS00632 Special Assistant to the Chief of Staff to the Chief of Staff
DEGS00636 Special Assistant to the Director, Public Affairs
DEGS00637 Assistant Press Secretary to the Director, Public Affairs
DEGS00638 Public Affairs Specialist to the Director of Congressional Intergovernmental and Public Affairs
DEGS00639 Case Analyst to the Director, Investment Security
DEGS00640 Trip Coordinator to the Director, Office of Scheduling and Advance
DEGS00641 Special Assistant to the Assistant Secretary (Electricity Delivery and Energy Reliability)
DEGS00642 Special Assistant to the Assistant Secretary (Electricity Delivery and Energy Reliability)
DEGS00645 Deputy Press Secretary to the Director, Public Affairs
DEGS00648 Special Assistant and Scheduler to the Secretary to the Director, Office of Scheduling and Advance
DEGS00649 Special Assistant to the Director, Office of Scheduling and Advance
DEGS00651 Special Assistant to the White House Liaison to the White House Liaison
DEGS00652 Deputy Chief of Staff to the Chief of Staff
DEGS00653 Policy Advisor to the Assistant Secretary for Fossil Energy
DEGS00654 Policy Advisor to the Assistant Secretary for Policy and International Affairs
DEGS00656 Senior Policy Advisor to the Deputy Secretary to the Deputy Secretary of Energy
DEGS00657 Senior Advisor to the Secretary, Department of Energy
DEGS00658 Policy Advisor to the Assistant Secretary for Policy and International Affairs
DEGS00659 Special Assistant to the Deputy Assistant Secretary
DEGS00660 Special Assistant to the Assistant Secretary of Energy (Nuclear Energy)
DEGS00661 Special Assistant to the Senior Advisor
DEGS00662 Deputy Assistant Secretary for Environmental Management and National Security to the Assistant Secretary for Congressional and Intergovernmental Affairs
DEGS00663 Senior Advisor to the Assistant Secretary for Fossil Energy
DEGS00664 Deputy Director to the Director, Office of Scheduling and Advance
DEGS00667 Energy Operations Coordinator to the Assistant Secretary (Electricity Delivery and Energy Reliability)
DEGS60233 Special Assistant to the Assistant Secretary for Policy and International Affairs
DEGS60276 Senior Policy Advisor to the Director, Office of Science

Federal Energy Regulatory Commission

DRGS17039 Confidential Assistant to the Member—Federal Energy Regulatory Commission
DRGS17040 Congressional, Intergovernmental and Public Affairs Specialist to the Director, Office of External Affairs
DRGS60003 Confidential Assistant to the Member—Federal Energy Regulatory Commission
DRGS60007 Confidential Assistant to the Member—Federal Energy Regulatory Commission

Small Business Administration

SBGS00190 Deputy Chief of Staff to the Chief of Staff
SBGS00540 Director of SBA's Center for Faith-Based and Community Initiatives to the Chief of Staff and Chief Operating Officer
SBGS00576 Deputy Associate Administrator for Office of Communications to the Assistant Administrator for Communications and Public Liaison
SBGS00592 Regional Administrator, Region Iii, Philadelphia, Pa to the Associate Administrator for Field Operations
SBGS00594 Press Secretary to the Assistant Administrator for Communications and Public Liaison

SBGS00612 Deputy Assistant Administrator for Faith-Based Community Initiatives to the Director of SBA's Center for Faith-Based and Community Initiatives
SBGS00617 Special Assistant to the Associate Administrator for Government Contracting and Business Development to the Associate Administrator for Government Contracting and Business Development
SBGS00618 Special Assistant to the National Ombudsman to the National Ombudsman and Assistant Administrator for Regulatory Enforcement Fairness
SBGS00619 Senior Policy Analyst to the Assistant Administrator for Policy and Strategic Planning
SBGS00632 Speechwriter to the Assistant Administrator for Communications and Public Liaison
SBGS00633 Congressional Liaison to the Assistant Administrator for Congressional and Legislative Affairs
SBGS00634 Regional Administrator (Region I) to the Associate Administrator for Field Operations
SBGS00639 Congressional Liaison to the Assistant Administrator for Congressional and Legislative Affairs
SBGS00640 Regional Administrator (Region II) to the Administrator
SBGS00641 Director, Office of Strategic Alliance to the Assistant Administrator for Communications and Public Liaison
SBGS00642 Assistant Administrator for Intergovernmental Affairs to the Chief of Staff
SBGS00643 Deputy Associate Administrator for Field Operations to the Associate Administrator for Field Operations
SBGS00648 White House Liaison to the Administrator
SBGS00649 Senior Advisor to the Associate Administrator for Capital Access to the Associate Deputy Administrator for Capital Access
SBGS00650 Senior Advisor to the Deputy Administrator to the Deputy Administrator
SBGS00653 Deputy General Counsel to the General Counsel
SBGS00655 Director of Scheduling to the Chief of Staff
SBGS00656 Congressional Liaison to the Assistant Administrator for Congressional and Legislative Affairs
SBGS00657 Counselor to the Deputy Administrator to the Deputy Administrator
SBGS00659 Special Assistant to the Associate Administrator for Field Operations to the Associate Administrator for the Office of Field Operations
SBGS00660 Research Analyst to the Deputy Assistant Administrator for the Office of Communications and Public Liaison
SBGS00661 Policy Analyst to the Assistant Administrator for Policy and Strategic Planning
SBGS00662 Deputy Assistant Administrator for Congressional and Legislative Affairs to the Assistant Administrator for Congressional and Legislative Affairs
SBGS00663 Assistant Administrator for Policy and Strategic Planning to the Chief of Staff
SBGS00664 Senior Advisor to the Administrator to the Chief of Staff
SBGS00665 Congressional Liaison to the Assistant Administrator for Congressional and Legislative Affairs
SBGS02646 Senior Advisor to the Associate Administrator for Entrepreneurial Development to the Associate Administrator for Entrepreneurial Development
SBGS60003 National Director for Native American Affairs to the Associate Administrator for Entrepreneurial Development
SBGS60170 Regional Administrator, Region VIII, Denver, Colorado to the Associate Administrator for the Office of Field Operations
SBGS60171 Regional Administrator, Region VII, Kansas City, Missouri to the District Director
SBGS60173 Regional Administrator, Region VI, Dallas, Texas to the District Director
SBGS60174 Regional Administrator to the Associate Administrator for Field Operations
SBGS60175 Regional Administrator to the District Director
SBGS60188 Regional Administrator, Region IX, San Francisco to the Administrator
SBGS60189 Regional Administrator, Region 10, Seattle, Washington to the Associate Administrator for the Office of Field Operations

Federal Deposit Insurance Corporation

FDOT00010 Chief of Staff to the Chairman of the Board of Directors (Director)
FDOT00012 Director for Public Affairs to the Chairman of the Board of Directors (Director)

Federal Trade Commission

FTGS60001 Director, Office of Public Affairs to the Chairman
FTGS60006 Congressional Liaison Specialist to the Chairman
FTGS60027 Confidential Assistant to a Commissioner

General Services Administration

GSGS00063 Senior Communications Advisor to the Deputy Associate Administrator for Communications
GSGS00079 Special Assistant to the Regional Administrator, Region 2, New York
GSGS00084 Special Assistant to the Regional Administrator, Region VI Kansas City
GSGS00087 Senior Advisor to the Regional Administrator, (Region IX-San Francisco)
GSGS00099 Senior Advisor to the Regional Administrator, Region 3, Philadelphia, Pennsylvania
GSGS00130 Senior Advisor to the Regional Administrator-Region 7 Fort Worth, Texas
GSGS00132 Special Assistant to the Regional Administrator to the Regional Administrator, Region 10, Auburn, Washington
GSGS00150 Senior Advisor to the Regional Administrator, National Capital Region
GSGS00159 Deputy Director for Communications to the Deputy Associate Administrator for Communications
GSGS00161 Public Affairs Specialist to the Deputy Associate Administrator for Communications
GSGS00163 Special Assistant to the Associate Administrator for Performance Improvement
GSGS00166 Deputy Associate Administrator for Small Business Utilization to the Associate Administrator for Small Business Utilization
GSGS00167 Confidential Assistant to the Chief of Staff
GSGS00172 Senior Advisor to the Commissioner, Public Buildings Service
GSGS00173 Senior Advisor to the Chief Acquisition Officer
GSGS00174 Principal Deputy Associate Administrator for Congressional and Intergovernmental Affairs to the Associate Administrator for Congressional and Intergovernmental Affairs
GSGS00176 Senior Advisor to the Associate Administrator for Congressional and Intergovernmental Affairs
GSGS00177 Deputy Chief of Staff to the Chief of Staff
GSGS00179 Small Business Specialist to the Associate Administrator for Small Business Utilization
GSGS00184 Deputy Associate Administrator for Congressional and Intergovernmental Affairs to the Associate Administrator for Congressional and Intergovernmental Affairs

GSGS00185 Deputy Associate Administrator for Congressional and Intergovernmental Affairs to the Associate Administrator for Congressional and Intergovernmental Affairs
GSGS00187 Deputy Associate Administrator for Congressional and Intergovernmental Affairs to the Principal Deputy Associate Administrator for Congressional and Intergovernmental Affairs
GSGS00188 Senior Advisor to the Regional Administrator (Region Viii-Denver)
GSGS60069 Events Management Specialist to the Deputy Associate Administrator for Communications
GSGS60095 White House Liaison to the Chief of Staff
GSGS60100 Deputy Associate Administrator for Performance Improvement to the Associate Administrator for Performance Improvement
GSGS60113 Special Assistant to the Regional Administrator Region 1 Boston
GSGS60119 Senior Advisor to the Deputy Regional Administrator
GSGS60120 Public Affairs Specialist to the Associate Administrator for Citizen Services and Communications
GSGS60126 Deputy Associate Administrator for Communications to the Associate Administrator for Citizen Services and Communications
GSGS60127 Associate Administrator for Small Business Utilization to the Administrator

United States International Trade Commission

TCGS00007 Staff Assistant (Legal) to a Commissioner
TCGS00010 Staff Assistant (Legal) to a Commissioner
TCGS00012 Staff Assistant (Legal) to a Commissioner
TCGS00025 Confidential Assistant to a Commissioner
TCGS00031 Executive Assistant to a Commissioner
TCGS00033 Staff Assistant to a Commissioner
TCGS00037 Staff Assistant (Legal) to the Chairman
TCGS60005 Staff Assistant (Legal) to a Commissioner
TCGS60006 Staff Assistant (Legal) to a Commissioner
TCGS60007 Staff Assistant (Economics) to a Commissioner
TCGS60015 Executive Assistant to the Vice Chairman
TCGS60018 Staff Assistant (Legal) to a Commissioner
TCGS60019 Staff Assistant (Legal) to a Commissioner
TCGS60022 Staff Assistant (Legal) to a Commissioner
TCGS60025 Staff Assistant (Legal) to a Commissioner
TCGS60030 Confidential Assistant to a Commissioner
TCGS60100 Senior Economist to a Commissioner
TCGS60101 Executive Assistant to the Vice Chairman

Farm Credit Administration

FLOT00028 Director, Congressional and Public Affairs to the Chairman, Farm Credit Administration Board
FLOT00054 Chief of Staff to the Chairman, Farm Credit Administration Board
FLOT60013 Executive Assistant to the Member, Farm Credit Administration Board

Occupational Safety and Health Review Commission

SHGS00003 Confidential Assistant to the Commission Member
SHGS60008 Counsel to a Commissioner to the Commission Member

Selective Service System

SSGS03389 Executive Officer/Chief of Staff to the Director Selective Service System
SSGS03464 Management Analyst to the Director Selective Service System

National Aeronautics and Space Administration

NNGS00045 Congressional Outreach Program Manager to the Assistant Administrator for Legislative Affairs and Intergovernmental Affairs
NNGS00155 Special Assistant to the Chief of Strategic Communications
NNGS00168 Editor to the Assistant Administrator for Public Affairs
NNGS00170 Program Specialist to the Deputy Administrator
NNGS00173 Legislative Intergovernmental Program Manager to the Assistant Administrator for Legislative Affairs and Intergovernmental Affairs
NNGS00183 Deputy Press Secretary/ Public Affairs Specialist to the Public Affairs Specialist
NNGS00200 Executive Assistant to the Chief of Staff
NNGS15001 Special Assistant to the Chief Financial Officer
NNGS30116 White House Liaison to the Administrator
NNGS60020 Writer-Editor to the Assistant Administrator for Public Affairs

Federal Mine Safety and Health Review Commission

FRGS60024 Confidential Assistant to the Chairman
FRGS90504 Attorney Advisor (General) to a Member

Merit Systems Protection Board

MPGS00003 Confidential Assistant to the Member to a Board Member
MPGS60010 Confidential Assistant to the Chairman
MPGS60014 Counsel to the Chairman to the Chairman

Social Security Administration

SZGS00017 Associate Commissioner for External Affairs to the Deputy Commissioner for Communications
SZGS00019 Senior Advisor to the Deputy Commissioner for Legislation and Congressional Affairs to the Deputy Commissioner for Legislation and Congressional Affairs

Commission on Civil Rights

CCGS00017 Special Assistant to the Commissioner to a Commissioner
CCGS60013 Special Assistant to the Vice Chairman
CCGS60020 Special Assistant to the Commissioner to the Chairman
CCGS60029 Special Assistant to the Commissioner to a Commissioner
CCGS60031 General Counsel to the Staff Director

National Credit Union Administration

CUOT00025 Staff Assistant to a Board Member
CUOT00026 Staff Assistant to the Vice Chair
CUOT01008 Senior Policy Advisor to a Board Member
CUOT01009 Senior Policy Advisor to a Board Member
CUOT01317 Senior Policy Advisor to the Chairman to the Chairman

Consumer Product Safety Commission

PSGS00066 Supervisory Public Affairs Specialist to the Executive Director
PSGS60007 Director, Office of Congressional Relations to the Chairman, Consumer Product Safety Commission
PSGS60010 Executive Assistant to a Commissioner
PSGS60014 General Counsel to the Chairman, Consumer Product Safety Commission
PSGS60049 Special Assistant (Legal) to a Commissioner
PSGS60061 Executive Assistant to a Commissioner
PSGS60062 Special Assistant (Legal) to a Commissioner
PSGS60063 Special Assistant (Legal) to a Commissioner

Federal Maritime Commission

MCGS60003 Counsel to the Commissioner to a Member
MCGS60042 Counsel to a Member

Millennium Challenge Corporation

CMOT00001 Executive Assistant to the Chief Executive Officer

Trade and Development Agency

TDGS00004 Public Affairs Specialist to the Director
TDGS60001 Executive Assistant to the Director
TDGS60002 Congressional Liaison to the Director

Appalachian Regional Commission

APGS00005 Confidential Policy Advisor to the Federal Co-Chairman

Commodity Futures Trading Commission

CTOT00056 Special Assistant to the Commissioner to a Commissioner
CTOT00058 Special Assistant to the Commissioner to a Commissioner
CTOT00082 Chief of Staff to the Chairperson
CTOT00089 Administrative Assistant to the Commissioner to a Commissioner
CTOT00091 Chief Economist to the Chairperson
CTOT00094 Attorney Advisor (General) to the Chairperson
CTOT00097 Administrative Assistant to the Commissioner to a Commissioner
CTOT00788 Attorney-Advisor (General) to a Commissioner
CTOT09768 Director, Office of External Affairs to the Chairperson
CTOT60002 Administrative Assistant to the Chairperson

National Endowment for the Arts

NAGS60049 Congressional Liaison to the Director, Office of Government Affairs
NASL00001 Executive Director, Presidents Committee on the Arts and Humanities to the Chairman National Endowment for the Arts

National Endowment for the Humanities

NHGS00078 Associate Director of Communications and Chief Speechwriter to the Director of Communications
NHGS00081 Special Assistant to the Chairman to the Deputy Chairman
NHGS60075 Director of Communications to the Deputy Chairman
NHGS60077 Senior Advisor to the Chairman to the Chairman

Department of Housing and Urban Development

DUGS00041 Advance Coordinator to the Assistant Secretary for Administration/Chief Human Capital Officer
DUGS00044 Special Assistant to the Deputy Secretary, Housing and Urban Development
DUGS00900 Staff Assistant to the Assistant Secretary for Public Affairs
DUGS60138 Special Assistant to the Assistant Secretary for Community Planning and Development
DUGS60174 Congressional Relations Officer to the Deputy Assistant Secretary for Congressional Relations
DUGS60176 Staff Assistant to the Deputy Assistant Secretary for Congressional Relations
DUGS60179 Advance Coordinator to the Director of Executive Scheduling
DUGS60195 Staff Assistant to the Deputy Assistant Secretary for Economic Development
DUGS60224 Regional Director, Seattle, Washington to the Deputy Secretary, Housing and Urban Development
DUGS60232 Staff Assistant to the Assistant Deputy Secretary for Field Policy and Management
DUGS60238 Special Assistant to the Regional Director to the Regional Director
DUGS60249 Congressional Relations Assistant to the Assistant Secretary for Congressional and Intergovernmental Relations
DUGS60255 Special Assistant to the Assistant Secretary for Policy Development and Research
DUGS60263 Advisor to the Secretary to the Secretary, Housing and Urban Development
DUGS60270 Staff Assistant to the Assistant to the Secretary and White House Liaison
DUGS60276 Staff Assistant to the Assistant Secretary for Housing, Federal Housing Commissioner
DUGS60281 Special Projects Officer to the Assistant Secretary for Housing, Federal Housing Commissioner
DUGS60286 Staff Assistant to the Assistant Secretary for Housing, Federal Housing Commissioner
DUGS60288 Congressional Relations Officer to the Assistant Secretary for Congressional and Intergovernmental Relations
DUGS60319 Regional Director to the Assistant Deputy Secretary for Field Policy and Management
DUGS60326 Staff Assistant to the White House Liaison
DUGS60330 Deputy Assistant Secretary for Economic Development to the Assistant Secretary for Community Planning and Development
DUGS60336 Special Assistant to the Secretary to the Deputy Secretary, Housing and Urban Development
DUGS60338 Special Policy Advisor to the Assistant Secretary for Housing, Federal Housing Commissioner
DUGS60352 Regional Director to the Assistant Deputy Secretary for Field Policy and Management
DUGS60354 Special Assistant to the Assistant Secretary for Public and Indian Housing
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DUGS60373 Media Outreach Specialist to the Assistant Secretary for Public Affairs
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DUGS60394 Staff Assistant to the Assistant Secretary for Community Planning and Development
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DUGS60449 Associate Deputy Assistant Secretary for Congressional Relations to the General Deputy Assistant Secretary for Congressional and Intergovernmental Relations
DUGS60458 Legislative Specialist to the Deputy Assistant Secretary for Intergovernmental Relations
DUGS60460 Assistant to the Secretary and White House Liaison to the Chief of Staff
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DUGS60470 Staff Assistant to the General Counsel
DUGS60472 Deputy Assistant Secretary for Legislative Relations to the Assistant Secretary for Congressional and Intergovernmental Relations

DUGS60489 Director, Office of Receivership Oversight to the Assistant Secretary for Public and Indian Housing
DUGS60490 Special Policy Advisor to the Chief of Staff
DUGS60502 Special Policy Advisor to the Assistant Secretary for Public and Indian Housing
DUGS60517 Regional Director to the Assistant Deputy Secretary for Field Policy and Management
DUGS60522 Deputy Assistant Secretary for Grant Programs to the Assistant Secretary for Community Planning and Development
DUGS60534 Deputy Director to the Director, Center for Faith Based and Community Initiatives
DUGS60588 Staff Assistant to the Assistant Secretary for Administration/Chief Human Capital Officer
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DUGS60596 Staff Assistant to the General Deputy Assistant Secretary for Public Affairs
DUGS60601 Legislative Specialist to the Assistant Secretary for Congressional and Intergovernmental Relations

National Mediation Board

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Pension Benefit Guaranty Corporation

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Department of Transportation

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DTGS60117 Special Assistant to the Secretary
DTGS60129 Counselor to the General Counsel to the General Counsel
DTGS60139 Special Assistant to the Deputy Secretary
DTGS60173 Director of Congressional Affairs to the Administrator
DTGS60192 Special Assistant to the Assistant to the Secretary and Director of Public Affairs
DTGS60197 Confidential Assistant to the Chief of Staff to the Chief of Staff
DTGS60199 Special Assistant to the Associate Administrator for Communications and Legislative Affairs
DTGS60202 Special Assistant to the Administrator to the Administrator
DTGS60229 Special Assistant to the Administrator
DTGS60237 Press Secretary to the Assistant to the Secretary and Director of Public Affairs
DTGS60239 Director, Office of Congressional and Public Affairs to the Administrator
DTGS60243 Speechwriter to the Associate Director for Speechwriting
DTGS60257 Deputy Director for Public Affairs to the Assistant to the Secretary and Director of Public Affairs
DTGS60279 Associate Director for Speechwriting to the Assistant to the Secretary and Director of Public Affairs
DTGS60287 Special Assistant for Scheduling and Advance to the Director for Scheduling and Advance
DTGS60292 Associate Director for Governmental Affairs to the Assistant Secretary for Governmental Affairs
DTGS60301 Associate Director for Governmental Affairs to the Deputy Assistant Secretary for Governmental Affairs
DTGS60311 Special Assistant to the Chief of Staff
DTGS60313 Director of Governmental Affairs to the Administrator
DTGS60317 Deputy Assistant Administrator for Government and Industry Affairs to the Assistant Administrator for Government and Industry Affairs
DTGS60324 Director for Scheduling and Advance to the Chief of Staff
DTGS60341 Associate Director for Governmental Affairs to the Deputy Assistant Secretary for Governmental Affairs
DTGS60342 Special Assistant for Scheduling and Advance to the Director for Scheduling and Advance
DTGS60351 Counselor to the Deputy Secretary to the Deputy Secretary
DTGS60357 Special Assistant to the White House Liaison and Scheduling and Advance to the Director for Scheduling and Advance
DTGS60365 Counselor to the Assistant Secretary for Transportation Policy to the Assistant Secretary for Transportation Policy
DTGS60369 Deputy Assistant Secretary for Governmental Affairs to the Assistant Secretary for Governmental Affairs
DTGS60371 Deputy Assistant Secretary for Governmental Affairs to the Assistant Secretary for Governmental Affairs
DTGS60372 Deputy Assistant Secretary for Governmental Affairs to the Assistant Secretary for Governmental Affairs
DTGS60373 Director of Governmental Affairs to the Administrator
DTGS60375 White House Liaison to the Chief of Staff
DTGS60379 Confidential Assistant to the Assistant to the Secretary and Director of Public Affairs
DTGS60380 Associate Administrator for Governmental, International, and Public Affairs to the Administrator
DTGS60383 Assistant to the Secretary for Policy to the Chief of Staff
DTGS60451 Director of Communications to the Administrator
DTGS60460 Director of Public Affairs to the Administrator
DTOT00240 Deputy Assistant Administrator for Communications to the Assistant Administrator for Communications

National Transportation Safety Board

TBGS60025 Special Assistant to a Member
TBGS61518 Special Assistant to a Member
TBGS71538 Special Assistant to a Member
TBGS81116 Confidential Assistant to the Vice Chairman

Federal Housing Finance Board

FBOT00004 Counsel to the Chairman to the Chairman
FBOT00005 Staff Assistant to the Chairman
FBOT00010 Special Assistant to the Board Director to the Board Director
FBOT60009 Special Assistant to the Board Director to the Board Director

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p.218.
Office of Personnel Management.

John Berry,

Director.

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Federal Register

Friday,
July 17, 2009

Part IV

Department of Education

34 CFR Parts 655, 656, 657, et al.
International Education Programs; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 655, 656, 657, 658, 660, and 661

[Docket ID ED–2009–OPE–0002]

RIN 1840–AC97

International Education Programs

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations for the National Resource Centers Program for Foreign Language and Area Studies or Foreign Language and International Studies (NRC Program), Foreign Language and Area Studies Fellowships (FLAS) Program, Undergraduate International Studies and Foreign Language (UISFL) Program, International Research and Studies (IRS) Program, and the Business and International Education (BIE) Program to ensure that these regulations reflect the changes made to title VI of the Higher Education Act of 1965, as amended (HEA) by the Higher Education Opportunity Act of 2008 (HEOA).

DATES: *Effective Date:* These regulations are effective on August 17, 2009.

FOR FURTHER INFORMATION CONTACT: Jessica Finkel, U.S. Department of Education, 1990 K Street, NW., Room 8031, Washington, DC 20006–8502. Telephone: (202) 502–7647 or via the Internet at: *Jessica.Finkel@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

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SUPPLEMENTARY INFORMATION: These final regulations incorporate changes made to the HEA by the HEOA. These changes align the program regulations with the changes made to the programs by the HEOA, including revised program descriptions, eligibility criteria, and activities.

The following discussion describes each of the changes made to the regulations and the specific statutory change in the HEA on which the regulatory change is based.

General

Statute: The HEOA amended numerous sections of the HEA to refer to ''consortia'' of institutions of higher education rather than ''combinations'' of institutions of higher education. Specifically, section 610 of the HEOA amended sections 603(a) and 604(a)(5) of the HEA by replacing the word ''combination'' with the word ''consortium'' each time it appears. Similarly, section 602(1) of the HEOA amended section 602(a)(1) of the HEA by replacing the word ''combination'' with the word ''consortium.'' Finally, section 604(1) of the HEOA amended section 604(a)(1) of the HEA by replacing references to the words ''combination'' and ''combinations'' with the words ''consortium'' and ''consortia,'' respectively.

Regulatory Change: To better reflect the language in the statute, we have revised the following regulatory sections to refer to ''consortium'' and ''consortia'' (as appropriate) rather than ''combination'' and ''combinations'': 34 CFR 655.4(b), 34 CFR 656.1 and 656.2, 34 CFR 657.2, and 34 CFR 658.1, 658.2, 658.10, 658.30, 658.32, and 658.35.

International Education Programs—General Provisions

Statute: None.

Regulatory Change: We have corrected two errors in part 655. First, in § 655.4(b), we have replaced the words ''definition applies'' with the words ''definitions apply'' because that paragraph provides definitions for multiple terms. Second, we have corrected the language in § 655.10 to identify the appropriate subparts of 34 CFR parts 656, 657, 658, 660, 661 and 669 that describe the kinds of projects that the Secretary assists under the International Education Programs.

NRC Program

Statute: Section 602(1)(B)(iii) of the HEOA amended section 602(a)(2) of the HEA by expanding the types of activities for which grantees may use funds under the National Language and Area Centers and Programs authority. The Department operates the NRC Program under this authority.

Regulatory Change: In the NRC Program regulations, we have expanded § 656.3 to include the activities added to section 602(a)(2) of the HEA by the HEOA. As amended, § 656.3 now states that a comprehensive or undergraduate National Resource Center (i) supports instructors of the less commonly taught languages, and (ii) encourages projects that support students in the science, technology, engineering, and mathematics fields to achieve foreign language proficiency.

Statute: Section 602(1)(C) of the HEOA expanded section 602(a)(4) of the HEA, which describes the outreach and summer institute grants that the Secretary may make to centers and programs under the NRC Program.

Regulatory Change: We have amended § 656.5 to incorporate the new activities that may be funded by an outreach or summer institute grant under section 602(a)(4) of the HEA. Consistent with the statutory changes made, we have added a new § 656.5(b)(3) to clarify that the Secretary may support a center for the purpose of linkage or outreach between or among postsecondary programs or departments in foreign language, area studies, or other international fields, and State educational agencies and local educational agencies.

Statute: Section 607(2) of the HEOA amended section 607(b) of the HEA to add two factors to be considered by the Secretary when awarding grants under section 602 of the HEA, governing the NRC and FLAS programs. Specifically, section 607(2) directs the Secretary to (1) take into account the degree to which activities of centers, programs, and fellowships at institutions of higher education address national needs, and generate information for and disseminate information to the public and (2) consider an applicant's record of placing students into post-graduate employment, education, or training in areas of national need and an applicant's stated efforts to increase the number of such students that go into such placements.

Regulatory Change: In the NRC Program regulations, we have added the two new selection criteria as paragraphs (3) and (4) in §§ 656.21(c) and 656.22(c). We have also added the two new criteria as paragraphs (3) and (4) in § 657.21(c) in the FLAS Program regulations.

FLAS Program

Statute: Section 602(2)(B) of the HEOA amended section 602(b)(2) of the HEA to provide that undergraduate students, in addition to graduate students, may be eligible for fellowships under the FLAS Program.

Regulatory Change: Consistent with the statutory changes made to section 602(b)(2) of the HEA, we have amended §§ 657.1(a), 657.3, and 657.21 to clarify that both graduate students and undergraduate students are eligible for fellowships under the FLAS Program. The changes made to § 657.3 (Who is eligible to receive a fellowship?) incorporate the statutory language reflected in section 602(b)(2) of the HEA and describe the respective activities in which an undergraduate student and graduate student must engage in order to be eligible for a FLAS fellowship.

Statute: Section 602(3) of the HEOA amended section 602(d) of the HEA,

which describes the allowances that may be included in a fellowship to an undergraduate or graduate student under the FLAS Program.

Regulatory Change: We have revised § 657.31(a)(4) to better align the regulatory language regarding allowances for stipends awarded to graduate level recipients with the statutory language describing these allowances. We also have added a new § 657.31(a)(5) to provide, consistent with section 602(d)(2) of the HEA, that a stipend awarded to an undergraduate level recipient may include an allowance for educational programs in the United States or educational programs abroad that meet certain criteria.

UISFL Program

Statute: Section 604(2) of the HEOA amended section 604(a)(2) of the HEA by adding a new allowed use of funds under the (UISFL) Program and by amending an existing allowed use of funds.

Regulatory Change: We have amended § 658.11 to reflect the additional activities for which funds may be used under the Undergraduate International Studies and Foreign Language Program. Specifically, we have revised the language in § 658.11(b)(5) to better align with the statutory language describing the pre-service teacher training and in-service teacher professional development that can be conducted under the program. Also, in new § 658.11(j), consistent with the additions made to section 604(a)(2) of the HEA, we have added as an allowable activity the provision of grants for educational programs abroad that are closely linked to the UISFL Program's goals and that promote foreign language fluency and knowledge of world regions.

Statute: Section 604(6) of the HEOA amended section 604 of the HEA by adding a new paragraph (c)(2) to specify that UISFL Program grantees may not use more than ten percent of the funds received under a UISFL Program grant for the purpose described in section 604(a)(2)(I) of the HEA (*i.e.,* providing grants for educational programs abroad that are closely linked to the UISFL Program's goals and that promote foreign language fluency and knowledge of world regions).

Regulatory Change: We have amended § 658.40 by adding a new paragraph (b) to incorporate this restriction on the use of funds.

Statute: Section 604(3) of the HEOA amended section 604(a)(4)(B) of the HEA to require institutions seeking a waiver or reduction of their non-Federal share to demonstrate, in their grant applications, their need for a waiver or reduction.

Regulatory Change: We have revised § 658.41(d)(2) to clarify that the Secretary may waive or reduce a UISFL Program grantee's non-Federal share for the project, but that the grantee's application must demonstrate a need for a waiver or reduction.

IRS Program

Statute: Section 605 of the HEOA amended section 605(a) of the HEA by expanding the activities authorized under the IRS Program. Research and studies supported under the IRS Program now include: (i) Evaluations of the extent to which programs assisted under title VI of the HEA reflect diverse perspectives and a wide range of views and generate debate on world regions and international affairs, as described in the grantee's application; (ii) the systematic collection, analysis, and dissemination of data that contribute to achieving the purposes of title VI, part A of the HEA; and (iii) support for programs or activities to make data collected, analyzed, or disseminated under this part publicly available and easy to understand.

Regulatory Change: We have amended §§ 660.1 and 660.10 to include these newly authorized activities. The new activities are listed in paragraphs (j), (k), and (l) of § 660.1 (What is the International Research and Studies Program?) and in paragraphs (k), (l), and (m) of § 660.10 (What activities does the Secretary assist?).

BIE Program

Statute: Section 611(b) of the HEOA amended section 613(c) of the HEA to require applicants to provide an assurance that, where applicable, the activities funded by a grant made under the BIE Program will reflect diverse perspectives and a wide range of views on world regions and international affairs.

Regulatory Change: We have amended § 661.20 by adding a new paragraph (c) to require applicants to make this assurance in their applications for funding under the BIE Program.

Executive Order 12866

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and therefore subject to the requirements of the Executive order and review by 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) create novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive order. The Secretary has determined that this regulatory action is not significant under the Executive order.

Potential Costs and Benefits

Under Executive Order 12866, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with these final regulations are those resulting from statutory requirements for these discretionary grant programs. However, because the Secretary has chosen to regulate only to the extent necessary to reflect changes made to the HEA by the HEOA, the potential costs associated with the regulations are minimal. The benefits of these final regulations will be clarification of the requirements governing these programs that will facilitate future competitions for awards under these programs. In assessing these costs and benefits we have determined that the benefits justify the costs.

We also have determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Waiver of Proposed Rulemaking

Under the Administrative Procedure Act (APA) (5 U.S.C. 553), the Department is generally required to publish a notice of proposed rulemaking and provide the public with an opportunity to comment on proposed regulations prior to issuing final regulations. However, the APA provides that an agency is not required to conduct notice-and-comment rulemaking when the agency for good cause finds that notice and comment are impracticable, unnecessary or contrary to the public interest. These regulations reflect statutory changes made to the HEA by the HEOA that are already effective and do not establish or affect existing policy. Therefore, under 5 U.S.C. 553(b)(B), the Secretary has determined that a notice of proposed rulemaking is unnecessary and contrary

to the public interest and thus not required with regard to these regulations.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. The regulations impose minimal requirements to ensure the proper expenditure of program funds.

Paperwork Reduction Act of 1995

These regulations do not contain any information collection requirements.

Intergovernmental Review

The National Resource Centers Program, Foreign Language and Area Studies Fellowships Program, Undergraduate International Studies and Foreign Language Program, and Business and International Education Program are subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism. The Executive Order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

Assessment of Educational Impact

In accordance with section 411 of the General Education Provisions Act, 20 U.S.C. 1221e–4, and based on our own review, we have determined that these 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: 84.015 National Resource Centers Program for Foreign Language and Area Studies or Foreign Language and International Studies Program and Foreign Language and Area Studies Fellowships Program; 84.016 Undergraduate International Studies and Foreign Language Program; 84.017 The International Research and Studies Program; 84.153 Business and International Education Program)

List of Subjects

34 CFR Part 655

Colleges and universities, Cultural exchange programs, Educational research, Educational study programs, Grant programs—education, Scholarships and fellowships.

34 CFR Part 656

Colleges and universities, Cultural exchange programs, Educational study programs, Grant programs—education, Reporting and recordkeeping requirements.

34 CFR Part 657

Colleges and universities, Cultural exchange programs, Educational study programs, Grant programs—education, Reporting and recordkeeping requirements, Scholarships and fellowships.

34 CFR Part 658

Colleges and universities, Cultural exchange programs, Educational study programs, Grant programs—education.

34 CFR Part 660

Colleges and universities, Cultural exchange programs, Educational research, Educational study programs, Grant programs—education.

34 CFR Part 661

Business and industry, Colleges and universities, Educational study programs, Grant programs—education, Student aid.

Dated: July 13, 2009.

Arne Duncan,

Secretary of Education.

■ For the reasons discussed in the preamble, the Secretary amends parts 655, 656, 657, 658, 660, and 661 of title 34 of the Code of Federal Regulations as follows:

PART 655—INTERNATIONAL EDUCATION PROGRAMS—GENERAL PROVISIONS

■ 1. The authority citation for part 655 continues to read as follows:

Authority: 20 U.S.C. 1121–1130b, unless otherwise noted.

§ 655.4 [Amended]

■ 2. Section 655.4(b) is amended by:

■ A. In the introductory text, removing the words ''definition applies'' and adding, in their place, the words ''definitions apply''.

■ B. In the definition for ''Combination of institutions,'' removing the word ''Combination'' and adding, in its place, the word ''Consortium''.

■ 3. Section 655.10 is revised to read as follows:

§ 655.10 What kinds of projects does the Secretary assist?

Subpart A of 34 CFR parts 656, 657, and 669 and subpart B of 34 CFR parts 658, 660, 661 describe the kinds of projects that the Secretary assists under the International Education Programs.

(Authority: 20 U.S.C. 1121–1127)

PART 656—NATIONAL RESOURCE CENTERS PROGRAM FOR FOREIGN LANGUAGE AND AREA STUDIES OR FOREIGN LANGUAGE AND INTERNATIONAL STUDIES

■ 4. The authority citation for part 656 continues to read as follows:

Authority: 20 U.S.C. 1122, unless otherwise noted.

§ 656.1 [Amended]

■ 5. Section 656.1 is amended in the introductory text by removing the word ''combinations'' and adding, in its place, the word ''consortia''.

§ 656.2 [Amended]

■ 6. Section 656.2 is amended by removing the word ''combination'' and adding, in its place, the word ''consortium''.

■ 7. Section 656.3 is amended by:

■ A. Removing the word ''and'' at the end of paragraph (g).

■ B. Removing the punctuation ''.'' at the end of paragraph (h) and adding, in its place, the punctuation '';''.

■ C. Adding new paragraphs (i) and (j).

The additions read as follows:

§ 656.3 What activities define a comprehensive or undergraduate National Resource Center?

* * * * *

(i) Supports instructors of the less commonly taught languages; and

(j) Encourages projects that support students in the science, technology, engineering, and mathematics fields to achieve foreign language proficiency.

* * * * *

■ 8. Section 656.5 is amended by:

■ A. Redesignating paragraphs (b)(3), (b)(4), and (b)(5) as paragraphs (b)(4), (b)(5), and (b)(6), respectively.

■ B. Adding a new paragraph (b)(3).

■ C. Revising newly redesignated paragraph (b)(4).

■ D. Revising newly redesignated paragraph (b)(6).

The revisions and additions read as follows:

§ 656.5 What activities may be carried out?

* * * * *

(b) * * *

(3) Linkage or outreach between or among—

(i) Postsecondary programs or departments in foreign language, area studies, or other international fields; and

(ii) State educational agencies or local educational agencies.

(4) Partnerships or programs of linkage and outreach with departments or agencies of Federal and State governments, including Federal or State scholarship programs for students in related areas.

* * * * *

(6) Summer institutes in area studies, foreign Language, and other international fields designed to carry out the activities in paragraphs (b)(1) through (b)(5) of this section.

■ 9. Section 656.21 is amended by:

■ A. Removing the word ''and'' at the end of paragraph (c)(1).

■ B. Removing the punctuation ''.'' at the end of paragraph (c)(2) and adding, in its place, the punctuation ''; ''.

■ C. Adding new paragraphs (c)(3) and (c)(4).

The additions read as follows:

§ 656.21 What selection criteria does the Secretary use to evaluate an application for a comprehensive Center?

* * * * *

(c) * * *

(3) The degree to which activities of the Center address national needs, and generate information for and disseminate information to the public; and

(4) The applicant's record of placing students into post-graduate employment, education, or training in areas of national need and the applicant's stated efforts to increase the number of such students that go into such placements.

* * * * *

■ 10. Section 656.22 is amended by:

■ A. Removing the word ''and'' at the end of paragraph (c)(1).

■ B. Removing the punctuation ''.'' at the end of paragraph (c)(2), and adding, in its place, the punctuation ''; ''.

■ C. Adding new paragraphs (c)(3) and (c)(4).

The additions read as follows:

§ 656.22 What selection criteria does the Secretary use to evaluate an application for an undergraduate Center?

* * * * *

(c) * * *

(3) The degree to which activities of the Center address national needs, and generate information for and disseminate information to the public; and

(4) The applicant's record of placing students into post-graduate employment, education, or training in areas of national need and the applicant's stated efforts to increase the number of such students that go into such placements.

* * * * *

PART 657—FOREIGN LANGUAGE AND AREA STUDIES FELLOWSHIPS PROGRAM

■ 11. The authority citation for part 657 continues to read as follows:

Authority: 20 U.S.C. 1122, unless otherwise noted.

§ 657.1 [Amended]

■ 12. Section 657.1 is amended by adding the words ''undergraduate or'' before the word ''graduate'' in paragraph (a).

§ 657.2 [Amended]

■ 13. Section 657.2 is amended by removing the word ''combination'' in paragraph (a) introductory text and adding, in its place, the word ''consortium''.

■ 14. Section 657.3 is amended by:

■ A. Removing the word ''and'' at the end of paragraph (c).

■ B. Removing the punctuation ''.'' at the end of paragraph (d) and adding, in its place, the punctuation ''; ''.

■ C. Adding new paragraphs (e) and (f).

The additions read as follows:

§ 657.3 Who is eligible to receive a fellowship?

* * * * *

(e) In the case of an undergraduate student, is in the intermediate or advanced study of a less commonly taught language; or

(f) In the case of a graduate student, is engaged in—

(1) Predissertation level study;

(2) Preparation for dissertation research;

(3) Dissertation research abroad; or

(4) Dissertation writing.

* * * * *

■ 15. Section 657.21 is amended by:

■ A. Adding the words ''undergraduate and'' before the word ''graduate'' in paragraph (c)(1).

■ B. Removing the word ''and'' at the end of paragraph (c)(1).

■ C. Removing the punctuation ''.'' at the end of paragraph (c)(2), and adding, in its place, the punctuation ''; ''.

■ D. Adding new paragraphs (c)(3) and (c)(4).

■ E. Removing the word ''graduate'' from paragraphs (d)(2), (e)(1), (f)(4) and (h)(1).

The additions read as follows:

§ 657.21 What criteria does the Secretary use in selecting institutions for an allocation of fellowships?

* * * * *

(c) * * *

(3) The degree to which fellowships awarded by the applicant address national needs; and

(4) The applicant's record of placing students into post-graduate employment, education, or training in areas of national need and the applicant's stated efforts to increase the number of such students that go into such placements.

* * * * *

■ 16. Section 657.31 is amended by:

■ A. Revising paragraph (a)(4).

■ B. Adding a new paragraph (a)(5).

The revisions and addition read as follows:

§ 657.31 What is the amount of a fellowship?

(a) * * *

(4) If permitted by the Secretary, a stipend awarded to a graduate level recipient may include allowances for dependents and travel for research and study in the United States and abroad.

(5) A stipend awarded to an undergraduate level recipient may include an allowance for educational programs in the United States or educational programs abroad that—

(i) Are closely linked to the overall goals of the recipient's course of study; and

(ii) Have the purpose of promoting foreign language fluency and knowledge of foreign cultures.

* * * * *

PART 658—UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAM

■ 17. The authority citation for part 658 continues to read as follows:

Authority: 20 U.S.C. 1124, unless otherwise noted.

§ 658.1 [Amended]

■ 18. Section 658.1 is amended by removing the word ''combinations'' each time it appears and adding, in its place, the word ''consortia''.

§ 658.2 [Amended]

■ 19. Section 658.2(b) is amended by removing the word ''combinations'' and adding, in its place, the word ''consortia''.

§ 658.10 [Amended]

■ 20. Section 658.10(a) is amended by:
■ A. Removing the word ''combination'' and adding, in its place, the word ''consortium''.
■ B. Removing the word ''combinations'' and adding, in its place, the word ''consortia''.

■ 21. Section 658.11 is amended by:
■ A. Revising paragraph (b)(5).
■ B. Redesignating paragraphs (j), (k), (l), and (m) as paragraphs (k), (l), (m), and (n), respectively.
■ C. Adding a new paragraph (j).

The additions and revisions read as follows:

§ 658.11 What projects and activities may a grantee conduct under this program?

* * * * *

(b) * * *

(5) Conducting pre-service teacher training and in-service teacher professional development;

* * * * *

(j) Providing grants for educational programs abroad that—

(1) Are closely linked to the program's overall goals; and

(2) Have the purpose of promoting foreign language fluency and knowledge of world regions;

* * * * *

§ 658.30 [Amended]

■ 22. Section 658.30(a) is amended by removing the word ''combination'' and adding, in its place, the word ''consortium''.

§ 658.32 [Amended]

■ 23. Section 658.32, introductory text, is amended by removing the word ''combination'' and adding, in its place, the word ''consortium''.

§ 658.35 [Amended]

■ 24. Section 658.35(a) is amended by removing the word ''combinations'' and adding, in its place, the word ''consortia''.

■ 25. Section 658.40 is revised to read as follows:

§ 658.40 What are the limitations on allowable costs?

(a) Equipment costs may not exceed five percent of the grant amount; and

(b) No more than ten percent of the total amount of grant funds awarded to a grantee under this part may be used for the activity described in § 658.11(j).

(Authority: 20 U.S.C. 1124)

■ 26. Section 658.41(d)(2) is revised to read as follows:

§ 658.41 What are the cost-sharing requirements?

* * * * *

(d) * * *

(2) Have submitted a grant application under this part that demonstrates a need for a waiver or reduction.

* * * * *

PART 660—THE INTERNATIONAL RESEARCH AND STUDIES PROGRAM

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

Authority: 20 U.S.C. 1125, unless otherwise noted.

■ 28. Section 660.1 is amended by:
■ A. Removing the word ''and'' at the end of paragraph (h).
■ B. Removing the punctuation''.'' at the end of paragraph (i) and adding, in its place, the punctuation '';''.
■ C. Adding new paragraphs (j), (k), and (l).

The additions read as follows:

§ 660.1 What is the International Research and Studies Program?

* * * * *

(j) Evaluations of the extent to which programs assisted under title VI of the HEA reflect diverse perspectives and a wide range of views and generate debate on world regions and international affairs, as described in the grantee's application;

(k) Systematic collection, analysis, and dissemination of data that contribute to achieving the purposes of title VI, part A of the HEA; and

(l) Support for programs or activities to make data collected, analyzed, or disseminated under this part publicly available and easy to understand.

* * * * *

■ 29. Section 660.10 is amended by adding new paragraphs (k), (l) and (m) to read as follows:

§ 660.10 What activities does the Secretary assist?

* * * * *

(k) Evaluations of the extent to which programs assisted under title VI of the HEA reflect diverse perspectives and a wide range of views and generate debate on world regions and international affairs, as described in the grantee's application.

(l) Systematic collection, analysis, and dissemination of data that contribute to achieving the purposes of title VI, part A of the HEA.

(m) Support for programs or activities to make data collected, analyzed, or disseminated under this part publicly available and easy to understand.

* * * * *

PART 661—BUSINESS AND INTERNATIONAL EDUCATION PROGRAM

■ 30. The authority citation for part 661 continues to read as follows:

Authority: 20 U.S.C. 1130a, unless otherwise noted.

■ 31. Section 661.20 is amended by adding a new paragraph (c).

The addition reads as follows:

§ 661.20 What must an application include?

* * * * *

(c) An assurance that, where applicable, the activities funded by the grant will reflect diverse perspectives and a wide range of views on world regions and international affairs.

* * * * *

[FR Doc. E9–16953 Filed 7–16–09; 8:45 am]
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July 17, 2009

Part V

Securities and Exchange Commission

17 CFR Parts 229, 239, 240, 249, 270 and 274

Proxy Disclosure and Solicitation Enhancements; Proposed Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 229, 239, 240, 249, 270 and 274

[Release Nos. 33–9052; 34–60280; IC–28817; File No. S7–13–09]

RIN 3235–AK28

Proxy Disclosure and Solicitation Enhancements

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: We are proposing amendments to our rules to enhance the compensation and corporate governance disclosures registrants are required to make about: Their overall compensation policies and their impact on risk taking; stock and option awards of executives and directors; director and nominee qualifications and legal proceedings; company leadership structure; the board's role in the risk management process; and potential conflicts of interest of compensation consultants that advise companies. The proposed amendments to our disclosure rules would be applicable to proxy and information statements, annual reports and registration statements under the Securities Exchange Act of 1934, and registration statements under the Securities Act of 1933 as well as the Investment Company Act of 1940. We are also proposing amendments to transfer from Forms 10–Q and 10–K to Form 8–K the requirement to disclose shareholder voting results. In addition, we are proposing amendments to our proxy rules to clarify the manner in which they operate and address issues that have arisen in the proxy solicitation process.

DATES: Comments should be received on or before September 15, 2009.

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

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/proposed.shtml*);
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number S7–13–09 on the subject line; or
- Use the Federal Rulemaking ePortal (*http://www.regulations.gov*). Follow the instructions for submitting comments.

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 S7–13–09. This file number should be included on the subject line if e-mail is used. To help us 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/proposed.shtml*). Comments are also available for public inspection and copying 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. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: N. Sean Harrison, Special Counsel, at (202) 551–3430 or Anne Krauskopf, Senior Special Counsel, at (202) 551–3500, in the Division of Corporation Finance; or with respect to questions regarding the proposed proxy solicitation amendments, Mark W. Green, Senior Special Counsel, or Nicholas P. Panos, Senior Special Counsel at (202) 551–3440, in the Division of Corporation Finance; or with respect to questions regarding investment companies, Marc Oorloff Sharma, Senior Counsel, Division of Investment Management, at (202) 551–6784, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: We are proposing amendments to Items 401,[1] 402,[2] and 407[3] of Regulation S–K;[4] Rules 14a–2,[5] 14a–4,[6] and 14a–12;[7] Schedule 14A[8] and Forms 8–K,[9] 10–Q,[10] and 10–K[11] under the Securities Exchange Act of 1934 (''Exchange Act'');[12] and Forms N–1A,[13] N–2,[14] and N–3,[15] registration forms used by management investment companies to register under the Investment Company Act of 1940 (''Investment Company Act'')[16] and to offer their securities under the Securities Act of 1933 (''Securities Act'').[17]

I. Background and Summary

We are proposing a number of revisions to our rules that would improve the disclosure shareholders of public companies receive regarding compensation and corporate governance, and facilitate communications relating to voting decisions. During the past few years, shareholders have increasingly focused on corporate accountability, and have expressed the desire for additional information that would enhance their ability to make informed voting and investment decisions. Several rulemaking initiatives in recent years have focused on these themes. In addition to proposals that are largely focused on disclosure enhancements, we also are proposing some revisions to the rules governing the proxy solicitation process that would clarify the manner in which soliciting parties communicate with shareholders.

First, we are proposing revisions to our rules governing disclosure of executive and director compensation, director biographical information and qualifications, compensation consultants, and other matters. Over the past several years, we have engaged in a number of rulemaking initiatives designed to improve the presentation of information about executive officer and director compensation and relationships with the company, and thereby assist investors' ability to make more informed voting and investment decisions.[18] The turmoil in the markets during the past 18 months has reinforced the importance of enhancing transparency, especially with regard to activities that materially contribute to a company's risk profile. We have decided to re-examine our disclosure rules to provide investors with important and relevant information upon which to base their proxy voting and investment decisions.

The amendments proposed today would add new disclosure requirements on several topics that are designed to enhance the information included in

[1] 17 CFR 229.401.
[2] 17 CFR 229.402.
[3] 17 CFR 229.407.
[4] 17 CFR 229.10 *et al.*
[5] 17 CFR 240.14a–2.
[6] 17 CFR 240.14a–4.
[7] 17 CFR 240.14a–12.
[8] 17 CFR 240.14a–101.
[9] 17 CFR 249.308.
[10] 17 CFR 249.308a.
[11] 17 CFR 249.310.
[12] 15 U.S.C. 78a *et seq.*
[13] 17 CFR 239.15A and 274.11A.
[14] 17 CFR 239.14 and 274.11a–1.
[15] 17 CFR 239.17a and 274.11b.
[16] 15 U.S.C. 80a–1 *et seq.*
[17] 15 U.S.C. 77a *et seq.*
[18] *See* Release No. 33–8340 (Nov. 24, 2003) [68 FR 69204] (adopting rule amendments to improve the disclosure regarding the nominating committee process of public companies and the ways by which security holders may communicate with boards at the companies in which they invest); Release No. 33–8732A (Aug. 29, 2006) [71 FR 53518] (adopting rule amendments that significantly revised the disclosure of executive officer and director compensation, related party transactions, director independence and the security ownership of officers and directors).

proxy and information statements,[19] including information about the relationship of a company's overall compensation policies to risk, director and nominee qualifications, company leadership structure, and the potential conflicts of interests of compensation consultants. We believe that some of our current disclosure requirements on these topics could be improved to elicit more informative disclosure for investors. In addition, the proposals would improve Summary Compensation Table reporting of stock and option awards. We are proposing to change the manner in which stock and option awards are reported both in the Summary Compensation Table[20] and Director Compensation Table.[21] We believe the current method for presenting this information may have inadvertently resulted in investor confusion. The proposed amendments would require disclosure in these tables of the aggregate grant date fair value of awards computed in accordance with Financial Accounting Standards Board (FASB) Statement of Financial Accounting Standards No. 123 (revised 2004) *Share-Based Payment* (FAS 123R), instead of the dollar amount recognized for financial statement reporting purposes. We also propose to accelerate the timing of the reporting of information regarding voting results, so that investors have access to this important information on a more timely basis.

Finally, we are proposing amendments to Exchange Act Rules 14a–2, 14a–4 and 14a–12 to clarify certain issues relating to the solicitation of proxies and the granting of proxy authority.[22] In 1992, we adopted significant amendments to the proxy rules intended to remove unnecessary impediments to the solicitation of proxy authority and to allow management and other persons seeking proxy authority more efficiently and effectively to communicate with shareholders.[23] Since that time, we have become aware of a few interpretive issues regarding the rules governing proxy solicitations, particularly solicitations by shareholders and other non-management parties. We believe the proposed revisions will provide certainty in how the rules operate and facilitate the proxy solicitation process.

If the amendments proposed in this release are adopted, we anticipate that they would be effective for the 2010 proxy season.

II. Discussion of the Proposed Amendments

A. Enhanced Compensation Disclosure

1. Compensation Discussion and Analysis Disclosure

In 2006, we amended our executive compensation disclosure rules to require a new principles-based, narrative discussion that provides an overview of a company's compensation program for its principal executive officer, principal financial officer and the three most highly compensated executive officers, other than the principal executive officer and principal financial officer, and that provides an analysis of the material elements of the company's compensation for these named executive officers.[24] This Compensation Discussion and Analysis (''CD&A'') requirement is designed to elicit disclosure about the material elements of the company's compensation for the named executive officers, and is intended to put into perspective for investors the tabular compensation data required by our rules.[25]

In addition to the compensation policies for the named executive officers, a company's broader compensation policies and arrangements for other employees may also be important. It has been suggested that, at some companies, compensation policies have become disconnected from long-term company performance because the interests of management and some employees, in the form of incentive compensation arrangements, and the long-term well-being of the company are not sufficiently aligned.[26] Critics have argued that, in some cases, the structure and the particular application of incentive compensation policies can create inadvertent incentives for management and employees to make decisions that significantly, and inappropriately, increase the company's risk, without adequate recognition of the risks to the company.[27] Companies, and in turn investors, may be negatively impacted where the design or operation of their

[19] The proposed amendments to Regulation S–K would also be applicable to registration statements under the Securities Act, and in some cases also Form 10–K under the Exchange Act.

[20] Item 402(c) and 402(n) of Regulation S–K [17 CFR 229.402(c) and 229.402(n)].

[21] Item 402(k) and 402(r) of Regulation S–K [17 CFR 229.402(k) and 229.402(r)].

[22] The Commission has taken action in recent years in regard to proxy materials. For example, in 2007 we provided for the use of electronic proxy solicitations, and recently we proposed to revise our rules to facilitate inclusion of shareholder nominations in company proxy materials. *See* Release No. 34–56135 (July 26, 2007) [72 FR 42222] (shareholder choice regarding proxy materials); Release No. 33–9046 (June 10, 2009) [74 FR 29024] (proposed amendments to facilitate rights of shareholders to nominate directors).

[23] Release No. 34–31326 (Oct. 16, 1992) [52 FR 48276] (''1992 adopting release'').

[24] *See* Release No. 33–8732A (Aug. 29, 2006) [71 FR 53518]; Release No. 33–8765 (Dec. 22, 2006) [71 FR 78338].

[25] Shortly after implementation of the CD&A requirements, in the spring of 2007, the Commission staff undertook a review of the proxy statements of 350 public companies in an effort to both evaluate compliance with the revised rules and provide guidance on how companies could enhance their disclosures in this area. The staff prepared a report of its observations of the CD&A disclosures of these companies. In the report, the staff described the principal comments they had issued to the companies that were subject to the review. Overall, the staff noted at the time that companies appeared to have generally made a good faith effort to comply with the new rules, and investors had benefited from the new disclosures. At the same time, the staff's comments highlighted areas where it believed companies may need to provide additional or clearer disclosure in future filings. Furthermore, the staff emphasized in its report that companies should provide security holders and investors with a more robust discussion of the basis and the context for granting different types and amounts of executive compensation, and that companies should continue thinking about how the CD&A can be better organized and presented for both the lay reader and the professional, in order to make the disclosure as useful and meaningful to security holders and investors as possible. U.S. Securities and Exchange Commission, Division of Corporation Finance, *Staff Observations in the Review of Executive Compensation Disclosure,* (2007) *at http://www.sec.gov/divisions/corpfin/guidance/execcompdisclosure.htm.*

[26] *See, for example,* Financial Stability Forum, *FSF Principles of Sound Compensation Practices 1* (Apr. 2, 2009) (noting that ''[h]igh short-term profits led to generous bonus payments to employees without adequate regard to the longer-term risks they imposed on their firms''), *at http://www.financialstabilityboard.org/publications/r_0904b.pdf.* The report also noted that ''below the level of the executive suite, most employees view the performance of the firm as a whole as being almost independent of their own actions. Actions by other employees or business units are seen as determining the firm's fate. Similarly, stock performance might be driven by various exogenous factors. Thus, employees heavily discount the value of the stock and act to bring the cash component of bonus up.'' *Id.* at 11.

[27] *See, for example,* Calvin H. Johnson, *The Disloyalty of Stock and Stock Option Compensation,* 11 CONN. INS. L.J. 133 (2004–2005); Michael C. Jensen, *et al., Remuneration: Where we've been, how we got here, what are the problems, and how to fix them* (2004) (unpublished manuscript on file), *available at http://www.ssrn.com/abstract=561305.* The relationship between compensation incentives and risk also has been recognized in the legislation authorizing the Troubled Asset Relief Program (''TARP''). Specifically, Section 111(b) of the Emergency Economic Stabilization Act of 2008, as amended by Section 7001 of the American Recovery and Reinvestment Act of 2009, requires the Secretary of the Treasury to require each TARP recipient to meet appropriate standards for executive compensation and corporate governance that shall include ''limits on compensation that exclude incentives for senior executive officers of the TARP recipient to take unnecessary and excessive risks that threaten the value of such recipient during the period in which any obligation arising from financial assistance provided under the TARP remains outstanding.'' *See* Pub. L. 111–5, § 7001, 123 Stat. 115, 517 (2009).

compensation programs creates incentives that influence behavior inconsistent with the overall interests of the company. Indeed, one of the many contributing factors cited as a basis for the current market turmoil is that at a number of large financial institutions the short-term incentives created by their compensation policies were misaligned with the long-term well-being of the companies.[28] By contrast, well-designed compensation policies may enhance a company's business interests by encouraging innovation and appropriate levels of risk taking.[29]

We are proposing to amend our CD&A requirements to broaden their scope to include a new section that will provide information about how the company's overall compensation policies for employees create incentives that can affect the company's risk and management of that risk. We believe investors would benefit from an expanded discussion and analysis about how the company rewards and incentivizes its employees to the extent it creates risk to the company. The proposed amendments would require a company to discuss and analyze its broader compensation policies and overall actual compensation practices for employees generally, including non-executive officers, if risks arising from those compensation policies or practices may have a material effect on the company.[30] In preparing this disclosure, we anticipate that companies will need to consider the level of risk that employees might be encouraged to take to meet their incentive compensation elements.[31] We believe that disclosure of a company's overall compensation policies in certain circumstances can help investors identify whether the company has established a system of incentives that can lead to excessive or inappropriate risk taking by employees.

Under the proposed amendments, the situations that would require disclosure will vary depending on the particular company and its compensation programs. We believe situations that potentially could trigger discussion and analysis include, among others, compensation policies and practices:

- At a business unit of the company that carries a significant portion of the company's risk profile;
- At a business unit with compensation structured significantly differently than other units within the company;
- At business units that are significantly more profitable than others within the company;
- At business units where the compensation expense is a significant percentage of the unit's revenues; or
- That vary significantly from the overall risk and reward structure of the company, such as when bonuses are awarded upon accomplishment of a task, while the income and risk to the company from the task extend over a significantly longer period of time.

This is a non-exclusive list of situations where compensation programs may have the potential to raise material risks to the company. These are only examples; disclosure under the proposed rule amendment would only be required if the materiality threshold is triggered.

We believe that discussion and analysis of a company's broader compensation policies may be appropriate in these situations because the policies may create risk to the company that is not otherwise apparent from a discussion solely focused on executive compensation policies. For example, if a particular business unit that carries a significant portion of the company's overall risk is significantly more profitable than others within the company, compensation policies relevant to employees of that unit could be just as essential to the company's overall financial condition and performance as those of its senior executives. Similarly, in situations where particular business units compensate their employees significantly differently from other units or carry an overall risk and reward structure that varies significantly from the rest of the company, provided the effects of the compensation policies may be material to the company, those differences should be disclosed and explained so that investors can more readily assess their significance and appropriateness.

Consistent with the principles-based approach of the CD&A, the proposed amendments provide several examples of the types of issues that would be appropriate for a company to discuss and analyze. We wish to emphasize, however, that the application of a particular example must be tailored to the facts and circumstances of the company and that the examples are non-exclusive. We believe that using illustrative examples will help to identify the types of disclosure that may be appropriate. A company must assess the importance to investors of the information that is identified by the example in light of the particular situation of the company. Examples of the issues that companies may need to address regarding the compensation policies or practices that may give rise to risks that may have a material effect on the company would include the following:

- The general design philosophy of the company's compensation policies for employees whose behavior would be most affected by the incentives established by the policies, as such policies relate to or affect risk taking by those employees on behalf of the company, and the manner of its implementation;
- The company's risk assessment or incentive considerations, if any, in structuring its compensation policies or in awarding and paying compensation;
- How the company's compensation policies relate to the realization of risks resulting from the actions of employees in both the short term and the long term, such as through policies requiring claw backs or imposing holding periods;
- The company's policies regarding adjustments to its compensation policies to address changes in its risk profile;
- Material adjustments the company has made to its compensation policies or practices as a result of changes in its risk profile; and
- The extent to which the company monitors its compensation policies to determine whether its risk management objectives are being met with respect to incentivizing its employees.
- The level of detail required will necessarily depend on the particular facts at a company and within various business units of a company.

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[28] *See, for example,* Financial Stability Forum, FSF Report on Enhancing Market and Institutional Resilience 8 (Apr. 2008) (noting that ''[c]ompensation schemes in financial institutions encouraged disproportionate risk-taking with insufficient regard to longer-term risks''), *at http://www.financialstabilityboard.org/publications/r_0804.pdf* L. Story, *On Wall Street, Bonuses, Not Profits, Were Real,* N.Y. TIMES, Dec. 18, 2008.

[29] *See, for example,* U.S. Chamber of Commerce, *Letter to the Treasury Secretary,* (Feb. 9, 2009) (suggesting that ''corporate governance policies must promote long-term shareholder value and profitability but should not constrain reasonable risk-taking and innovation''), *at http://www.uschamber.com/NR/rdonlyres/ej2mxgcl4qbguyozahqba4xzsiht7wyqxcdcjhsyfbvl4jwcurjanaslkfm4up6xgxuf5c57ogpkxt44shucmryo3ja/ExecutiveCompensationSecretaryGeithnerFeb62009.pdf.*

[30] *See* proposed Item 402(b)(2) of Regulation S–K. If a company had a policy against providing compensation that encouraged imprudent risk-taking, but actually provided compensation that encouraged such behavior and the effect may be material on the company, disclosure under the new provision would be required.

[31] To the extent that such risk considerations are a material aspect of the company's compensation policies or decisions for named executive officers, the company is required to discuss them as part of its CD&A under the current rules.

Request for Comment

• Would expanding the scope of the CD&A to require disclosure concerning a company's overall compensation program as it relates to risk management and or risk-taking incentives provide meaningful disclosures to investors? Should the scope of the amendments be limited in application to specific groups of employees, such as executive officers? Should it be limited to companies of a particular size, like large accelerated filers? Should it be limited to particular industries like financial services, including companies that have segments in such industries? Is the cost of tracking and disclosing the nature of the risk different at different types of companies or company segments and if so, should that be reflected in our rules?

• In light of the complexity of the issue and compensation programs generally, we recognize that it may be difficult to identify and describe which compensation structures may expose a company to material risks. We believe the listed examples are situations where compensation policies may induce risk taking behavior, and therefore, potentially have a material impact on the company. Are the listed examples appropriate issues for companies to consider discussing and analyzing? Are there any other specific items we should list as possibly material information? Are there any items that are listed that should not be? If so, why?

• Should other elements of compensation that may encourage excessive risk taking be highlighted in the CD&A?

• We have included a list of examples of the types of issues that would be appropriate for a company to discuss and analyze. Is that list appropriate? Rather than treat the list as examples, should we require discussion of each item?

• Are there other disclosure requirements that would provide more meaningful information about the effect of the registrant's compensation policies on its risk profile or risk management?

• Are there certain risks that are more clearly aligned with compensation practices the disclosure of which would be important to investors?

• If a company determines that disclosure under the proposed amendments is not required, should we require the company to affirmatively state in its CD&A that it has determined that the risks arising from its broader compensation policies are not reasonably expected to have a material effect on the company?

• Should smaller reporting companies, who are currently not required to provide CD&A disclosure, be required to provide disclosure about their overall compensation policies as they relate to risk management?

2. Revisions to the Summary Compensation Table

The Item 402 amendments proposed today also would revise Summary Compensation Table and Director Compensation Table disclosure of stock awards and option awards to require disclosure of the aggregate grant date fair value of awards computed in accordance with FAS 123R.[32] The proposed revised disclosure would replace currently mandated disclosure of the dollar amount recognized for financial statement reporting purposes for the fiscal year in accordance with FAS 123R.[33]

A significant objective of the broad executive compensation disclosure amendments we adopted in 2006 was to provide investors a single total figure that includes all compensation and is comparable across fiscal years and companies.[34] To accomplish this, we needed to include a dollar amount for option awards, which previously had been reported in the Summary Compensation Table as the number of securities underlying stock options granted.[35] When we initially adopted the 2006 amendments, we required Summary Compensation Table and Director Compensation Table disclosure of the aggregate grant date fair value of stock awards and option awards computed in accordance with FAS 123R, the same as we propose today.[36] Before those amendments became effective, however, we reconsidered the issue based on concerns that the actual amounts ultimately paid out could differ from the amounts initially reported in the tables. In December 2006, we adopted the current disclosure requirements for the stock award and option award columns as Interim Final Rules and solicited comment.[37] In the same rulemaking, we amended the Grants of Plan-Based Awards Table to require disclosure of the FAS 123R grant date fair value of the individual equity awards granted to named executive officers in the last completed fiscal year.[38]

Since the adoption of these current disclosure requirements, we have received comments from a variety of sources that the information that investors would find most useful and informative in the Summary Compensation Table and Director Compensation Table is the full grant date fair value of equity awards made during the covered fiscal year.[39] This is because investors may consider compensation decisions made during the fiscal year—which usually are reflected in the full grant date fair value measure, but not the financial statement recognition measure—to be material to voting and investment decisions.[40] Disclosure of full grant date fair value permits investors to better evaluate the amount of equity compensation awarded. Investors have noted that disclosure in the Summary Compensation Table of how much equity compensation the company decides to award during a fiscal year is more informative to voting and

[32] Pursuant to FAS 168, the FASB Accounting Standards Codification has superseded all references to previous FASB standards for interim or annual periods ending on or after September 15, 2009. For purposes of facilitating comments, our proposals retain the well-known FAS 123R nomenclature. However, if we adopt the Summary Compensation Table and Director Compensation Table proposals, we expect in the final rules to update references accordingly.

[33] In proposing these changes to the Summary Compensation Table and Director Compensation Table, we do not suggest that recognizing share-based compensation costs over the periods during which employees perform the related services is an inappropriate measure for financial statement reporting. Instead, we simply acknowledge that the aggregate grant date fair value measure is more useful to the users of executive compensation disclosure and would facilitate CD&A disclosure.

[34] *See* Release No. 33–8732A in note 24 above at 53170. We recognized that the timing for disclosing different elements of compensation in the Summary Compensation Table disclosure varies depending on the form of the compensation.

[35] *See* Release No. 33–6962 (Oct. 16, 1992) [57 FR 48126].

[36] *See* Release No. 33–8732A in note 24 above at 53172. This approach was consistent with the timing of option and stock awards disclosure that had applied in the Summary Compensation Table since 1992.

[37] *See* Release No. 33–8765 in note 24 above.

[38] Item 402(d)(2)(viii) of Regulation S-K.

[39] *See, for example,* letters regarding File No. S7–03–06 from Ken Belcher (Dec. 28, 2006); Andrew H. Dral (Dec. 30, 2006); Council of Institutional Investors (Jan. 25, 2007); American Federation of Labor and Congress of Industrial Organizations (Jan. 29, 2007); Teachers Insurance and Annuity Association of America (Jan. 16, 2007); CALSTRS (Jan. 16, 2007); Leggett & Platt, Inc. (Apr. 23, 2007); and CFA Institute for Financial Market Integrity (Dec. 20, 2007). These comment letters are available at *http://www.sec.gov/rules/proposed/s70306.shtml.* In its May 5, 2009, meeting with the staff of the Division of Corporation Finance, the Joint Committee on Employee Benefits of the American Bar Association also recommended that we revise Summary Compensation Table disclosure of stock awards and option awards to report aggregate grant date fair value.

[40] *See* letter regarding File No. S7–03–06 from Council of Institutional Investors (Jan. 25, 2007) (stating that ''the Summary Compensation Table should disclose the decisions of the compensation committee in the applicable year * * * [This] methodology is consistent with the objective of providing investors with the tools needed to evaluate the annual decisions of the compensation committee[.]''). *See also* letter regarding File No. S7–03–06 from Leggett & Platt, Inc. (Apr. 23, 2007) (stating that ''[t]his is clearly the information most investors want'').

investment decisions than the dollar amount recognized for financial statement reporting purposes.[41] Investors have commented that because full grant date fair value is indicative of which executives the company intends to compensate most highly, it is a more useful measure to include in the Summary Compensation Table as a component of total compensation.[42] Because total compensation is also the basis for determining which executives, in addition to the principal executive officer and principal financial officer, are the named executive officers whose compensation is reported,[43] the full grant date fair value measure will better align the identification of named executive officers with company compensation decisions. Summary Compensation Table disclosure of the full grant date fair value measure also can facilitate companies'' ability to provide a CD&A that clearly and concisely explains and analyzes material compensation policies and decisions.[44]

Some companies have recognized the importance of full grant date fair value information to investors and have provided an ''alternative'' Summary Compensation Table—substituting full grant date fair value numbers in the Stock Awards and Option Awards columns—in addition to the Summary Compensation Table disclosure prescribed by the current rules.[45] Because companies generally consider the full grant date fair value of these awards in making compensation decisions, they may include such an ''alternative'' table in the CD&A to illuminate their decisionmaking process. Some users of executive compensation disclosure also independently substitute grant date fair value information from the Grants of Plan-Based Awards Table for the financial statement recognition-based numbers disclosed in the Summary Compensation Table.[46]

Further, correlating Stock Awards and Option Awards disclosure to financial statement recognition can result in the disclosure of a negative number in the relevant column.[47] Such a negative number currently flows through to the Total Compensation column, reducing the amount of total compensation reported. Because decreases in stock price affect the financial reporting of the value of stock options, using the financial statement recognition measure to disclose stock and option awards can result in disclosure of negative total compensation to principal executive officers or principal financial officers, confusing investors.[48]

Because total compensation also determines identification of some named executive officers, where a company experiences significant volatility in its stock price, such as the significant decreases during 2008, the current rules may also cause the list of named executive officers to change more frequently from year to year due to factors unrelated to the company's compensation decisions.[49] This can potentially exclude from executive compensation disclosure executives that the company considers the most highly compensated based on its compensation decisions, including its decisions with respect to equity awards.[50] One reason for the adoption of the financial statement recognition model was the potential to distort identification of named executive officers when a single large grant, to be earned for services to be performed over multiple years, affects the list of named executive officers in the Summary Compensation Table, even though the executive may earn a consistent level of compensation over the award's term.[51] Our experience with the current rules, however, leads us to believe that it is more meaningful to shareholders if company compensation decisions—including the decision to grant such a large award—

[41] *See* letter regarding File No. S7–03–06 from Teachers Insurance and Annuity Association of America (Jan. 16, 2007) (''Our view is that executive compensation disclosure and financial reporting are separate and distinct. We believe that reporting the aggregate fair value of awards in the Summary Compensation Table is important to give an accurate representation of the compensation committee's actions and intentions in any given reporting period''). *See also* letter from American Federation of Labor and Congress of Industrial Organizations in note above (''By spreading out the disclosure of the value of equity awards over a number of years, the total impact of executive compensation decisions will be concealed from shareholders and the public'').

[42] *See* letter from American Federation of Labor and Congress of Industrial Organizations in note 39 above (''The methodology used to calculate total compensation in the Summary Compensation Table is extremely important to shaping behavior by compensation committees and investors. Shareholders will evaluate the disclosed total compensation figure when voting in director elections and when asked to ratify equity award plans. Directors will shape their executive compensation decisions to reflect these shareholder views. For this reason, the total compensation figure should represent the current decisions made regarding executive compensation in the most recent fiscal year.'').

[43] Pursuant to Instruction 1 to Items 402(a)(3) and Instruction 1 to Item 402(m)(2), this determination is made by reference to total compensation for the last completed fiscal year.

[44] Summary Compensation Table disclosure of the dollar amount recognized for financial statement reporting purposes can frustrate this objective because it can result in lengthy, complex CD&A explanations of the FAS 123R recognition model. *See The Corporate Counsel*, Mar.–Apr. 2009, at 3–4.

[45] Some compensation experts have also suggested adding an alternative Summary Compensation Table if the mandated Summary Compensation Table ''distorts'' the compensation of an executive. *See* Frederick D. Lipman & Steven E. Hall, *Executive Compensation Best Practices* 50–52 (2008).

[46] *See* Moody's Investors Service, *A User's Guide to the SEC's New Rules for Reporting Executive Pay* (Apr. 2007), *available at http://www.law.yale.edu/documents/pdf/CBL/AUsersGuidetotheSECPay Disclosures102762.pdf,* and (*http://papers.ssrn.com/sol3/papers.cfm?abstract_id=987914*) (''Moody's uses the full Statement 123(R) grant date fair value of stock awarded and options granted, as disclosed in the grants of plan-based awards table, instead of the figures disclosed in the SCT stock awards and options awards columns.'').

[47] Correlating Stock Awards and Option Awards reporting to financial statement recognition often can involve negative adjustments to the numbers reported. In particular:

◦ Awards classified as ''liability awards'' under FAS 123R (such as an award that is cash settled) are initially measured at grant date fair value, but for purposes of financial statement recognition are re-measured at each financial statement reporting date through the date the awards are settled.

◦ Under FAS 123R, compensation cost for awards containing a performance-based vesting condition is disclosed only if it is probable that the performance condition will be achieved. If achievement of the performance condition subsequently is no longer considered probable, the amount of compensation cost previously disclosed in the Summary Compensation Table is reversed in the period when it is determined that achievement of the condition is no longer probable.

In addition, pursuant to the Instruction to Item 402(c)(2)(v) and (vi) and the Instruction to Item 402(n)(2)(v) and (vi), the compensation cost reported for stock and option awards in the Summary Compensation Table does not include the estimate of forfeitures related to service-based vesting conditions used for FAS 123R financial statement recognition because this estimate is not considered meaningful in reporting the compensation of individual named executive officers. Instead, compensation cost for awards with service-based vesting is disclosed assuming that a named executive officer will perform the service required for the award to vest. If the named executive officer fails to do so and forfeits the award, the amount of compensation cost previously disclosed in the Summary Compensation Table is deducted in the period when the award is forfeited.

[48] *See* G. Morgenson, *Weird and Weirder Numbers on Pay Reports,* N.Y. TIMES, Mar. 11, 2007.

[49] *See* letter regarding File No. S7–03–06 from the HR Policy Association (Jan. 29, 2007) (''The Amended Rules also will increase the annual variability of the composition of the NEOs based on accounting rules rather than compensation programs. * * * Consistency with financial accounting does not justify re-introducing such variability into the table, especially with respect to a core element of compensation such as equity compensation that cannot be excluded in determining total compensation.'').

[50] *See* letter regarding File No. S7–03–06 from Ernst & Young (Jan. 29, 2007) (generally supporting the current rules yet stating that ''[w]e recommend that the SEC adopt an approach that also excludes the effects of any negative amounts, regardless of their source in the determination of the NEOs. We believe that such an approach would result in more consistency from year to year in the identity of the NEOs included in the SCT. Further, the NEOs determined in this fashion would more likely be those executives that the compensation committee regards as the most highly compensated.'').

[51] *See* Release No. 33–8765 in note 24 above at 78340 (citing letter from Fenwick & West LLP).

rather than factors unrelated to those decisions, cause the named executive officers to change.

A further significant reason for adopting the current rules was concern that disclosing the full grant date fair value would overstate compensation earned related to service rendered for the year, and that actual amounts earned later could be substantially different.[52] However, companies have recognized that the current rules also have the potential to over-report compensation for a given year.[53] To the extent that both methods possess this potential, we believe that reporting based on the full grant date fair value method is more informative because it better reflects compensation decisions. If a company does not believe that full grant date fair value reflects a named executive officer's compensation, it can provide appropriate explanatory narrative disclosure.

While we continue to recognize that no one approach to disclosure of stock and option awards addresses all the issues regarding disclosure of equity compensation, our experience and the comment letters received since adoption of the current requirements lead us to believe that the goals of clear, concise and meaningful executive compensation disclosure would be better served by amending the Summary Compensation Table and Director Compensation Table to report stock awards and option awards based on aggregate grant date fair value. Among other things, because presentation of aggregate grant date fair value would include the incremental fair value of options repriced during the fiscal year, the effect of option repricings on total compensation would be clearer. Further, because smaller reporting companies do not provide a Grants of Plan-Based Awards Table, the current rules do not require them to provide any disclosure of the grant date fair value of awards made in the fiscal year (although they are currently required to provide the Summary Compensation Table). The proposals thus would make this information available to smaller reporting company investors.

The amendments we propose also would:

- Rescind the requirement to report the full grant date fair value of each individual equity award in the Grants of Plan-Based Awards Table [54] and corresponding footnote disclosure [55] to the Director Compensation Table because these disclosures may be considered duplicative of the aggregate grant date fair value disclosure to be provided in the Summary Compensation Table under the proposals; and
- Amend Instruction 2 to the salary and bonus columns of the Summary Compensation Table to provide that registrants will not be required to report in those columns the amount of salary or bonus forgone at a named executive officer's election, and that non-cash awards received instead are reportable in the column applicable to the form of award elected. With this amendment, the Summary Compensation Table disclosure would reflect the form of compensation ultimately received by the named executive officer.[56]

Request for Comment

- Is the proposed Summary Compensation Table reporting of equity awards a better approach for providing investors clear, meaningful, and comparable executive compensation disclosure consistent with the objectives of providing concise analysis in CD&A and a clear understanding of total compensation for the year? Would the proposals facilitate better informed investment and voting decisions?
- The proposal contemplates that the Summary Compensation Table would report the aggregate grant date fair value of stock awards and option awards granted *during* the relevant fiscal year, just as the Grants of Plan-Based Awards Table reports each grant of an award made to a named executive officer in the last completed fiscal year. Should the Summary Compensation Table instead report the aggregate grant date fair value of equity awards granted for services in the relevant fiscal year, even if the awards were granted *after* fiscal year end? Explain why or why not. For example, could such an approach be applied in a manner inconsistent with the purposes of our compensation disclosure rules, for example by distorting the determination of named executive officers? If we change our approach with respect to the Summary Compensation Table, should the Grants of Plan-Based Awards Table be amended correspondingly to conform to the scope of awards reported in that table?
- If the Summary Compensation Table is amended as proposed, should the Grants of Plan-Based Awards Table disclosure of the full grant date fair value of each individual award be retained, rather than rescinded as proposed? Should the Grants of Plan Based Awards Table continue to disclose the incremental fair value with respect to individual awards that were repriced or otherwise materially modified during the last completed fiscal year? If so, why? If disclosure of grant date fair value of individual awards is retained, should it also be made applicable to smaller reporting companies?
- As described above, one reason for adopting the financial statement recognition model was the potential for distortion in identifying named executive officers when a single large grant, to be earned by services to be performed over multiple years, affects the list of named executive officers in the Summary Compensation Table, even though the executive earns a consistent level of compensation over the award's term. Are multi-year grants a common practice, so that they would introduce significant year-to-year variability in the list of named executive officers if the proposed amendments are adopted relative to the variability under the current rules? If so, how should our rules address this variability?
- Under the proposal, all stock and option awards would be reported in the Summary Compensation Table at full grant date fair value, including awards with performance conditions. Would the proposal discourage companies from tying stock awards to performance conditions, since the full grant date fair value would be reported without regard to the likelihood of achieving the performance objective? If the proposal is adopted, is any disclosure other than that already currently required (*e.g.*, in the Compensation Discussion and Analysis, the Grants of Plan-Based Awards Table, and the Outstanding

[52] *See* Release No. 33–8765 in note 24 above. *See also* Release No. 33–8765, in note 24 above at 78340 (citing letters of U.S. Chamber of Commerce (Apr. 7, 2006); Ernst & Young LLP (Apr. 10, 2006)).

[53] *See* Frederick D. Lipman & Steven E. Hall in note 45 above (stating that ''[w]hen shareholders look at the 'Total' column for a 2007 or a subsequent year proxy statement, the executive's compensation would include the allocable share of the 2005 option grant under FAS 123R. This figure could substantially inflate the 'Total' column for 2007 or subsequent years, leading unsophisticated shareholders or financial writers to the conclusion that this amount was received in 2007, when in fact the option grants were received in 2005. If 2007 were a particularly bad year financially for the company or for shareholders' stock values, there could be a hue and cry that this was another example of excessive CEO compensation'').

[54] *See* Item 402(d)(2)(viii) of Regulation S–K and Instruction 7 to Item 402(d).

[55] Current Instruction to Item 402(k)(2)(iii) and (iv) of Regulation S–K.

[56] This proposed amendment would apply to General Instruction 2 to Item 402(c)(2)(iii) and (iv) and General Instruction 2 to Item 402(n)(2)(iii) and (iv). The current versions of these Instructions, which require such forgone salary or bonus to be reported in the Salary or Bonus column, as applicable, were adopted in Release No. 33–8765 to reflect that the original terms of the award, which would have compensated the named executive officer in cash, are not within the scope of FAS 123R.

Equity Awards at Fiscal Year-End Table) needed to clarify that the amount of compensation ultimately realized under a performance-based equity award may be different?

• As proposed, Instruction 2 to the salary and bonus columns would be revised to provide that any amount of salary or bonus forgone at the election of a named executive officer pursuant to a program under which a different, non-cash form of compensation may be received need not be included in the salary or bonus column, but instead would need to be reported in the appropriate other column of the Summary Compensation Table. Should this approach cover elections to receive salary or bonus in the form of equity compensation only if the opportunity to elect equity settlement is within the terms of the original compensatory arrangement, so that the original arrangement is within the scope of FAS 123R? Why or why not?

• The Commission also has received a rulemaking petition requesting that we revise Summary Compensation Table disclosure of stock and option awards a different way.[57] Instead of reporting the aggregate grant date fair value of awards granted during the year, as we propose, the petition's suggested approach would report the annual change in value of awards, which could be a negative number if market values decline. For restricted stock, restricted stock units and performance shares, the reported amount would be the change in stock price from year-end to year-end. For stock options, it would be the change in the in-the-money value over the same period. Would the approach suggested by the rulemaking petition be easy to understand or difficult to understand? Would the information provided under the suggested approach be useful to investors? In particular, would investors be able to evaluate the decision making of directors with respect to executive compensation if the value of equity compensation on the date of the compensation decision is not disclosed, but instead investors are provided information regarding changes in value of the compensation, which changes occur after the compensation decision is made? Would it enhance or diminish the ability of companies to explain in CD&A the relationship between pay and company performance? Would it be more or less informative to voting and investment decisions than the aggregate grant date fair value approach we propose? Would it be a better measure for computing total compensation, including for purposes of identifying named executive officers? Are there any other ways of reporting stock and option awards that would better reflect their compensatory value? If so, please explain. For example, are there any potential amendments to the Grants of Plan-Based Awards Table or the Outstanding Equity Awards at Fiscal Year-End Table that we should consider to better illustrate the relationship between pay and company performance?

• The Summary Compensation Table requires disclosure for each of the registrant's last three completed fiscal years,[58] and with respect to smaller reporting companies, for each of the registrant's last two completed fiscal years.[59] Regarding transition, our goal is to facilitate year-to-year comparisons in a cost-effective way. To this end, we are considering whether to require companies providing Item 402 disclosure for a fiscal year ending on or after December 15, 2009 to present recomputed disclosure for each preceding fiscal year required to be included in the Summary Compensation Table, so that the Stock Awards and Option Awards columns would present the applicable full grant date fair values,[60] and Total Compensation would be recomputed correspondingly. If a person who would be a named executive officer for the most recent fiscal year (2009) also was disclosed as a named executive officer for 2007, but not for 2008, we expect to require the named executive officer's compensation for each of those three fiscal years to be reported pursuant to the proposed amendments.[61] However, we would not require companies to include different named executive officers for any preceding fiscal year based on recomputing total compensation for those years pursuant to the proposed amendments or to amend prior years'' Item 402 disclosure in previously filed Forms 10–K or other filings. Would recomputation of prior years included in the 2009 Summary Compensation Table to substitute aggregate grant date fair value numbers for the financial statement recognition numbers previously reported for those years cause companies practical difficulties? Is there a better approach that would preserve the objective of year-to-year comparability on a cost-effective basis as a transitional matter?

B. Enhanced Director and Nominee Disclosure

We are proposing amendments to Item 401 of Regulation S–K to expand the disclosure requirements regarding the qualifications of directors and nominees, past directorships held by directors and nominees, and the time frame for disclosure of legal proceedings involving directors, nominees and executive officers. Specifically, we are proposing to require disclosure detailing for each director and nominee for director the particular experience, qualifications, attributes or skills that qualify that person to serve as a director of the company as of the time that a filing containing this disclosure is made with the Commission, and as a member of any committee that the person serves on or is chosen to serve on (if known), in light of the company's business and structure.[62]

Item 401 currently requires only brief biographical information about directors and nominees for the past five years, and Item 407 requires general disclosure about director qualification requirements at a company. The proposed amendments to Item 401 would expand the information required about individual directors and supplement the current director qualification disclosures in Item 407 of Regulation S–K. These revisions are aimed at helping investors determine whether a particular director and the entire board composition is an appropriate choice for a given company as of the time that a filing containing this disclosure is made with the Commission.[63]

Companies today face ever-increasing challenges from the business and social environments in which they operate. As recent market events have demonstrated, the capacity to assess risk and respond to complex financial and

[57] *See* May 26, 2009, rulemaking petition submitted by Ira T. Kay and Steven Seelig, Watson Wyatt Worldwide, File No. 4–585, at *http://www.sec.gov/rules/petitions/2009/petn4-585.pdf.*

[58] *See* Item 402(c)(1) of Regulation S–K.

[59] *See* Item 402(n)(1) of Regulation S–K.

[60] This amount would be computed based on the individual award grant date fair values reported in that year's Grants of Plan Based Award Table.

[61] However, a smaller reporting company, which is required to provide disclosure only for the two most recent fiscal years, could provide Summary Compensation Table disclosure only for 2009 if the person was a named executive officer for 2009 but not for 2008.

[62] We last adopted substantive revisions to the disclosure concerning the background of directors, executive officers and control persons in 1984, when we amended Item 401 of Regulation S–K to require disclosure of legal proceedings involving Federal commodities laws and applied the disclosure requirements to promoters and control persons of newly public companies. *See* Release No. 33–6545 (Aug. 9, 1984) [49 FR 32762].

[63] *See, for example,* Richard Leblanc & James Gillies, *Inside the boardroom: How boards really work and the coming revolution in corporate governance,* (2005) (noting that an effective board ''must have a set of directors who collectively have all the competencies required by the board to fulfill its duties.'').

operational challenges can be important attributes for directors of public companies. Moreover, developments such as the enactment of the Sarbanes-Oxley Act of 2002 [64] and corporate-governance related listing standards of the major stock exchanges [65] also have brought about significant changes in the structure and composition of corporate boards, such as requiring directors to have particular knowledge in areas such as finance and accounting. We believe that the director qualification disclosure requirements in Item 407 have resulted in more general information being provided about the qualifications of the board as a whole, but not more specific discussions of the background and skills of individual directors.

The proposed amendments are designed to provide investors with more meaningful disclosure to help them in their voting decisions by better enabling them to determine whether and why a director or nominee is a good fit for a particular company, and to allow companies flexibility in disclosing material information on the background and specific qualifications of each director and nominee, including information that goes beyond the five-year biographical requirement of Item 401. We are proposing that, for each director or nominee, disclosure be included that discusses the specific experience, qualifications or skills that qualify that person to serve as a director and committee member. The types of information that may be disclosed include, for example, information about a director's or nominee's risk assessment skills and any specific past experience that would be useful to the company, as well as information about a director's or nominee's particular area of expertise and why the director's or nominee's service as a director would benefit the company at the time at which the relevant filing with the Commission is made. This expanded disclosure would apply to incumbent directors, to nominees for director who are selected by a company's nominating committee, and to any nominees put forward by other proponents. Regardless of who has nominated the director, we believe a discussion of why the particular person is qualified to serve on the company's board would be useful to investors.

In addition to the expanded narrative disclosure regarding director and nominee qualifications, we are proposing two additional changes to our director and nominee biographical disclosure requirements. First, we are proposing to require disclosure of any directorships held by each director and nominee at any time during the past five years at public companies, and second, we are proposing to lengthen the time during which disclosure of legal proceedings is required from five to 10 years. With respect to other directorships held by directors or nominees, Item 401 requires disclosure of any current director positions held by each director and nominee in any company with a class of securities registered pursuant to Section 12 of the Exchange Act,[66] or subject to the requirements of Section 15(d) of that Act,[67] or any company registered as an investment company under the Investment Company Act. We believe that expanding this disclosure to include membership on corporate boards of those companies for the past five years (even if the director or nominee no longer serves on that board) would allow investors to better evaluate the relevance of a director's or nominee's past board memberships, or professional or financial relationships that might pose potential conflicts of interest (such as membership on boards of major suppliers, customers, or competitors).

Item 401 requires disclosure of specified legal proceedings over the past five years involving directors, executive officers, and persons nominated to become directors that are material to an evaluation of the ability or integrity of any director, director nominee or executive officer.[68] In 1994, we proposed rules that would have increased the reporting period for legal proceedings from five to ten years.[69] Because the legal proceedings listed in Item 401 reflect upon an individual's competence and character to serve as a public company official, we believe it is appropriate to extend the required reporting period from five to ten years in order to give investors more extensive information regarding an individual's competence and character.[70]

The disclosures that would be required under the proposed amendments to Item 401 would appear in proxy and information statements on Schedules 14A and 14C, annual reports on Form 10–K and the registration

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[64] Pub. L. 107–204, 116 Stat. 745 (2002).

[65] In 2003, we approved revisions to the listing standards of the New York Stock Exchange (''NYSE'') and the National Association of Securities Dealers (''NASD'') that, among other things, imposed new independent director requirements and enhanced independence standards. *See* Self-Regulatory Organizations; NYSE and NASD; Order Approving Proposed Rule Changes Relating to Corporate Governance, Release No. 34–48445 (Nov. 12, 2003) [68 FR 64154].

[66] 15 U.S.C. 78*l*.

[67] 15 U.S.C. 78*o*(d).

[68] Under Item 401(f), the registrant must disclose any of the following events that occurred during the past five years and that are material to an evaluation of the director, director nominee or executive officer:

(1) A petition under Federal bankruptcy laws or any State insolvency law. A petition under the Federal bankruptcy laws or any State insolvency law was filed by or against, or a receiver, fiscal agent or similar officer was appointed by a court for the business or property of such person, or any partnership in which he was a general partner at or within two years before the time of such filing, or any corporation or business association of which he was an executive officer at or within two years before the time of such filing;

(2) Such person was convicted in a criminal proceeding or is a named subject of a pending criminal proceeding (excluding traffic violations and other minor offenses);

(3) Such person was the subject of any order, judgment, or decree, not subsequently reversed, suspended or vacated, of any court of competent jurisdiction, permanently or temporarily enjoining him from, or otherwise limiting, the following activities: (i) Acting as a futures commission merchant, introducing broker, commodity trading advisor, commodity pool operator, floor broker, leverage transaction merchant, any other person regulated by the Commodity Futures Trading Commission, or an associated person of any of the foregoing, or as an investment adviser, underwriter, broker or dealer in securities, or as an affiliated person, director or employee of any investment company, bank, savings and loan association or insurance company, or engaging in or continuing any conduct or practice in connection with such activity; (ii) Engaging in any type of business practice; or (iii) Engaging in any activity in connection with the purchase or sale of any security or commodity or in connection with any violation of Federal or State securities laws or Federal commodities laws;

(4) Such person was the subject of any order, judgment or decree, not subsequently reversed, suspended or vacated, of any Federal or State authority barring, suspending or otherwise limiting for more than 60 days the right of such person to engage in any activity described in paragraph (f)(3)(i) of this section, or to be associated with persons engaged in any such activity;

(5) Such person was found by a court of competent jurisdiction in a civil action or by the Commission to have violated any Federal or State securities law, and the judgment in such civil action or finding by the Commission has not been subsequently reversed, suspended, or vacated; or

(6) Such person was found by a court of competent jurisdiction in a civil action or by the Commodity Futures Trading Commission to have violated any Federal commodities law, and the judgment in such civil action or finding by the Commodity Futures Trading Commission has not been subsequently reversed, suspended or vacated.

The instruction to Item 401(f) indicates that if any event specified in Item 401(f) has occurred and information in a filing is omitted on the grounds that it is not material, the registrant may furnish to the Commission, at the time of filing, as supplemental information and not as part of the registration statement, report, or proxy or information statement, materials to which the omission relates, a description of the event and a statement of the reasons for the omission of the information.

[69] Release No. 33–7106 (Nov. 1, 1994) [59 FR 55385].

[70] Consistent with the current disclosure requirement regarding legal proceedings, the proceedings required to be disclosed under the proposal would not need to be disclosed if they are not material to an evaluation of the director or director nominee. *See* 17 CFR 229.401(f).

statement on Form 10 under the Exchange Act, as well as in registration statements under the Securities Act.

Currently, Item 407(c)(2)(v) of Regulation S–K requires disclosure of any specific minimum qualifications that a nominating committee believes must be met by a nominee for a position on the board.[71] We are interested in understanding whether investors and other market participants believe that diversity in the boardroom is a significant issue. As indicated below, we are requesting comment on whether additional disclosure in this area should be required.

We also are proposing to apply the expanded disclosure requirements regarding director and nominee qualifications, past directorships held by directors and nominees, and the time frame for disclosure of legal proceedings involving directors, nominees, and executive officers to management investment companies that are registered under the Investment Company Act (''funds''). We believe investors in funds would, for the same reasons as investors in operating companies, find this information useful. The proposal would amend the disclosures in Schedules 14A and 14C to apply these expanded requirements to fund proxy and information statements where action is to be taken with respect to the election of directors.[72] We are also proposing to amend Forms N–1A, N–2, and N–3 to require that funds include the expanded disclosures regarding director qualifications and past directorships in their statements of additional information.[73]

[71] Management investment companies that are registered under the Investment Company Act are subject to the disclosure requirements of Item 407(c)(2)(v) of Regulation S–K pursuant to Item 22(b)(15)(ii)(A) of Schedule 14A. *See* 17 CFR 240.14a–101, Item 22(b)(15)(ii)(A). Management investment companies typically issue shares representing an interest in a changing pool of securities, and include open-end and closed-end companies. An open-end company is a management company that is offering for sale or has outstanding any redeemable securities of which it is the issuer. A closed-end company is any management company other than an open-end company. *See* Section 5 of the Investment Company Act [15 U.S.C. 80a–5].

[72] *See* proposed Item 22(b)(3)(i) of Schedule 14A (qualifications); proposed Item 22(b)(4)(ii) of Schedule 14A (directorships); proposed Item 22(b)(11) of Schedule 14A (legal proceedings).

[73] *See* proposed Items 17(b)(3)(ii) & 17(b)(10) of Form N–1A; proposed Items 18.6(b) & 18.17 of Form N–2; proposed Items 20(e)(ii) & 20(o) of Form N–3. Form N–1A is used by open-end management investment companies. Form N–2 is used by closed-end management investment companies. Form N–3 is used by separate accounts, organized as management investment companies, which offer variable annuity contracts.

Request for Comment

- Would the proposed amendments provide investors with important information regarding directors and nominees for director? Are there any additional changes that we should make to further improve the disclosures about director and nominee qualifications?
- If Item 401 is amended as proposed, should the disclosure currently required by Item 407(c)(2)(v) of Regulation S–K regarding disclosure of any minimum qualifications that a nominating committee believes must be met by someone nominated by the committee for a position on the board, be retained? Does the disclosure elicited by Item 407(c)(2)(v) provide useful information that would supplement the information provided pursuant to the proposed amendment to Item 401?
- Should we amend Item 407(c)(2)(v) to require disclosure of any additional factors that a nominating committee considers when selecting someone for a position on the board, such as diversity? Should we amend our rules to require additional or different disclosure related to board diversity?
- Would director qualification disclosure for all of a company's board committees be useful to investors, or should the disclosures be focused on membership of certain key committees, such as the audit, compensation and nominating/governance committees?
- Should we require the proposed director qualification disclosure less frequently than annually? Even though the overall composition of a board may change, is it sufficient to require this disclosure only when a director is first nominated or periodically, such as every three years? Should the disclosure be required only when the director is standing for election, or should it be required each year, as proposed, in order to facilitate shareholders' assessments of the quality of the board as a whole?
- Would it be helpful to investors if we required companies to list and describe all committees of the board similar to the current disclosure requirements for audit, compensation and nominating/governance committees? Would it also be helpful if we required disclosure of whether the board (or a committee) periodically conducts an evaluation of the performance of the board as a whole, the committees of the board and/or each individual director?
- Should we require disclosure of other directorships for more than the past five years? If so, for how long?
- Could requiring more director and nominee qualification disclosure in any way hinder a company's ability to find potential candidates for the board? If so, explain how.
- Should the current five-year disclosure period for legal proceedings be maintained? Should it be longer than proposed, for example for fifteen or twenty years? Should there be no time limit? Would it be more appropriate to require disclosure of legal proceedings for longer periods with respect to certain types of legal proceedings—for example, criminal fraud convictions, civil or administrative actions based on fraud involving securities, commodities, financial institutions, insurance companies or other businesses? If so, for what period or periods and why?
- Are there additional legal proceeding disclosures that reflect on a director's, executive officer's, or nominee's character and fitness to serve as a public company official that should be required to be disclosed? For example, should we expand the current requirements to require disclosure of:
  - Any civil or administrative proceedings resulting from involvement in mail fraud, or wire fraud;
  - Any judicial or administrative findings, orders or sanctions based on violations of Federal or State securities, commodities, banking or insurance laws and regulations or any settlement to such actions;
  - Any disciplinary sanctions imposed by a stock, commodities or derivatives exchange or other self-regulatory organization; or
  - Situations where the director, nominee, or executive officer was a general partner of any partnership or served as a director or executive officer of any corporation subject to any Federal or State agency receivership?
- Should we continue, as proposed, to permit companies to exclude disclosure of director, director nominee or executive officer legal proceedings, when the registrant concludes that the information would not be material to an evaluation of the ability or integrity of the director, director nominee or executive officer, or should this disclosure be required in all cases?
- Should we make any special accommodations in the proposed amendments to Item 401 for smaller reporting companies? If so, what accommodations should be made and why?
- Should the proposed amendments regarding director and nominee qualifications, past directorships held by directors and nominees, and the time frame for disclosure of legal proceedings apply to registered management investment companies? If so, where should each of the disclosures be

required (*e.g.*, proxy statements, statements of additional information, and/or shareholder reports)? Does the disclosure requirement need to be modified in any way to make it more appropriate for registered management investment companies?

C. New Disclosure About Company Leadership Structure and the Board's Role in the Risk Management Process

We are proposing a new disclosure requirement to Item 407 of Regulation S–K and a corresponding amendment to Item 7 of Schedule 14A that would require disclosure of the company's leadership structure and why the company believes it is the best structure for it at the time of the filing. This proposed disclosure would appear in proxy and information statements. Under the proposed amendments, companies also would be required to disclose whether and why they have chosen to combine or separate the principal executive officer and board chair positions. In some companies, the role of principal executive officer and board chairman are combined, and a lead independent director is designated to chair meetings of the independent directors. Those companies would also be required to disclose whether and why the company has a lead independent director, as well as the specific role the lead independent director plays in the leadership of the company. In proposing this requirement, we note that different leadership structures may be suitable for different companies depending on factors such as the size of a company, the nature of a company's business, or internal control considerations, among other things. Regardless of the type of leadership structure selected by a company, the disclosure would provide investors with insights about why the company has chosen that particular leadership structure.

In making voting and investment decisions, investors should be provided with meaningful information about the corporate governance practices of companies.[74] One important aspect of a company's corporate governance practices is its board's leadership structure. Our proposed amendments to Item 407 are not intended to influence a company's decision regarding its board leadership structure. Disclosure of board leadership structure and why the company believes this is the best structure will increase the transparency for investors into how boards function.

We also are proposing to require additional disclosure in proxy and information statements about the board's role in the company's risk management process. Companies face a variety of risks, including credit risk, liquidity risk, and operational risk. Similar to disclosure about the leadership structure of a board, disclosure about the board's involvement in the risk management process should provide important information to investors about how a company perceives the role of its board and the relationship between the board and senior management in managing the material risks facing the company. Given the role that risk and the adequacy of risk oversight have played in the recent market crisis, we believe it is important for investors to understand the board's, or board committee's role in this area. For example, how does the board implement and manage its risk management function, through the board as a whole or through a committee, such as the audit committee?[75] Such disclosure might address questions such as whether the persons who oversee risk management report directly to the board as whole, to a committee, such as the audit committee, or to one of the other standing committees of the board; and whether and how the board, or board committee, monitors risk. We believe that this disclosure will provide key insights into how a company's board perceives and manages a company's risks.

We also are proposing that registered management investment companies provide the new Item 407 disclosure about leadership structure and the board's role in the risk management process in proxy and information statements.[76] Similar to the transparency provided to investors in corporate issuers, we believe that providing this disclosure to investors in investment companies should enable them to consider their management structure preference, if any, when deciding where to invest.[77] We have, however, tailored the proposal to the management structure of funds. Accordingly, we propose to require that a fund disclose whether the board chair is an ''interested person'' of the fund, as defined in Section 2(a)(19) of the Investment Company Act.[78] If the board chair is an interested person, a fund would be required to disclose whether it has a lead independent director and what specific role the lead independent director plays in the leadership of the fund. We are also proposing to require similar disclosure in statements of additional information filed as part of registration statements on Forms N–1A, N–2, and N–3.[79]

Request for Comment

- Are the proposed amendments to Item 407 appropriate? Are there additional disclosure requirements that should also be included in these proposed requirements?
- Are there certain considerations that would affect the company's leadership structure that should be highlighted in the proposed amendment? If so, explain.
- Are there any additional disclosures about a company's leadership that would be helpful to investors?
- Should we require disclosure of the specific duties performed by the board's chair or independent lead director?

[74] *See, for example*, National Association of Corporate Directors, *Key Agreed Principles to Strengthen Corporate Governance for U.S. Publicly Traded Companies*, (Mar. 2009) (''Every board should explain, in proxy materials and other communications with shareholders, why the governance structures and practices it has developed are best suited to the company.'')

[75] Section 303A of the NYSE's Listed Company Manual provides that the audit committee of companies listed on the exchange must ''discuss guidelines and policies to govern the process by which risk assessment and management is undertaken.''

[76] *See* proposed Item 22(b)(11) of Schedule 14A.

[77] In the context of this rulemaking, we believe it is appropriate to propose to require disclosure about fund management that is similar to the disclosure requirement for corporate issuers. In another context and for other purposes, the Commission previously considered a number of issues, including disclosure, regarding fund governance that we are not addressing here. *See* Investment Company Governance, File No. S7–03–04.

[78] 15 U.S.C. 80a–2(a)(19).

[79] *See* proposed Item 17(b)(1) of Form N–1A; proposed Item 18.5(a) of Form N–2; proposed Item 20(d)(i) of Form N–3. We are proposing to require this disclosure in the statement of additional information because not all funds hold annual meetings for the election of directors.

A large number of funds are organized as entities in jurisdictions which do not require funds to hold an annual shareholder meeting to elect directors. *See, for example*, Md. Code Ann., Corps. & Ass'ns Code § 2–501(b) (2009) (law exempts funds from annual meeting requirement in any year that the fund is not required to act upon the election of directors under the Investment Company Act); Del. Code Ann. tit. 12, § 3806 (2009) (statutory trust law structure has the effect of generally not requiring shareholder meetings). *See also* Sheldon A. Jones *et al.*, *The Massachusetts Business Trust and Registered Investment Companies*, 13 DEL. J. CORP. L. 421 (1988) (noting that the organizational and operational requirements of Massachusetts business trusts are not specified by statute, and a fund's essential structure is contained in the trust agreement, which generally includes a provision eliminating the need for annual shareholder meetings to elect directors). Closed-end funds registered on national securities exchanges, however, are required to hold an annual meeting to elect directors under the rules of the exchanges. *See, for example*, AMEX Company Guide § 704; New York Stock Exchange Listed Company Manual § 302.00.

• Should we require disclosure of other board structure matters, such as how a company determines the number of independent directors to have on its board, and/or how a company determines the size of the board?

• Are there competitive or proprietary concerns about the level of detail about the company's risk management structure and function that the proposed rule should account for? If so, please identify these concerns and explain how they should be accounted for.

• Should we make any special accommodations in these proposed amendments for smaller reporting companies? If so, what accommodations should be made and why?

• The proposals address risk management oversight by the board of directors as a part of the corporate governance disclosures required in proxy and information statements. We are considering whether we should revise our existing disclosure requirements, such as in Items 303[80] and 305[81] of Regulation S–K, to require additional disclosure regarding a registrant's risk management practices in other registrant filings, such as annual and quarterly reports? Should we consider proposing additional requirements? If so, what additional or different disclosure requirements should we consider proposing?

• Should we, as proposed, require a registered management investment company to provide disclosure about its leadership structure and the board's role in the risk management process? Are there alternative disclosures relating to a fund's leadership structure and board involvement in the risk management process that would be more helpful to investors? If we require each of the disclosures, where should such disclosures appear (*e.g.*, proxy statements, statements of additional information, and/or shareholder reports)?

• As proposed, funds would be required to include the proposed disclosure in registration statements filed on Forms N–1A, N–2, and N–3. Should we differentiate between open-end and closed-end funds? For example, should we omit this requirement from Form N–2 because closed-end funds generally hold annual shareholder meetings pursuant to exchange requirements and their shareholders will receive this disclosure in annual proxy or information statements?

[80] 17 CFR 229.303.

[81] 17 CFR 229.305.

D. New Disclosure Regarding Compensation Consultants

In 2003, we amended Regulation S–K to require new disclosures regarding compensation committees similar to the disclosures required regarding audit and nominating committees of the board of directors.[82] In addition, in 2006, we amended Item 407 to require registrants to describe, among other things, any role played by compensation consultants in determining or recommending the amount or form of executive and director compensation, identifying such consultants, stating whether they are engaged directly by the compensation committee or any other person, describing the nature and scope of their assignment, and the material elements of the instructions or directions given to the consultants with respect to the performance of their duties under the engagement.[83]

Many companies engage compensation consultants to make recommendations on appropriate executive compensation levels, to design and implement incentive plans, and to provide information on industry and peer group pay practices.[84] These services can benefit companies, such as by providing management and the board current information about compensation trends or any regulatory requirements related to executive compensation.

The services offered by compensation consultants, however, are often not limited to recommending executive compensation plans or policies. Many compensation consultants, or their affiliates, provide a broad range of additional services, such as benefits administration, human resources consulting and actuarial services.[85] The fees generated by these additional services may be more significant than the fees earned by the consultants for their executive compensation services.[86] The provision of such additional services by compensation consultants or their affiliates may create the appearance, or risk, of a conflict of interest that may call into question the objectivity of the consultants' executive pay recommendations. Increasingly, some investors are becoming concerned that the executive compensation services provided by compensation consultants may be influenced by the provision of these additional services.[87]

Presently, companies are not required to disclose the fees paid to compensation consultants and their affiliates for executive compensation consulting or other services, or to describe services that are not related to executive or director compensation. We are proposing amendments to Item 407 of Regulation S–K to require disclosure about the fees paid to compensation consultants and their affiliates when they play any role in determining or recommending the amount or form of executive and director compensation, if they also provide other services to the company. In addition, the proposed amendments would require a description of any additional services provided to the company by the compensation consultants and any affiliates of the consultants. These disclosures are intended to enable investors to assess any incentives a compensation consultant may have in recommending executive compensation and better assess the compensation decisions made by the board.

Under the proposed amendments to Item 407, if a compensation consultant or its affiliates played a role in determining or recommending the amount or form of executive or director compensation, and also provided additional services, then the company would be required to disclose the following:[88]

• The nature and extent of all additional services provided to the company or its affiliates during the last fiscal year by the compensation

[82] *See* Release No. 33–8340 (Nov. 24, 2003) [68 FR 69204].

[83] CFR 229.407(e)(3)(iii).

[84] *See, for example*, J. Creswell, *Pressing for Independent Advice from Consultants*, N.Y. TIMES, Apr. 8 2007.

[85] *See, for example,* Rulemaking Petition No. 4–558 (May 12, 2008), *at http://www.sec.gov/rules/petitions.shtml.*

[86] In December 2007, the U.S. House of Representatives Committee on Oversight and Government Reform issued a report on the role played by compensation consultants at large, publicly-traded companies. The report found that the fees earned by compensation consultants for providing other services often far exceed those earned for advising on executive compensation, and that on average companies paid compensation consultants over $2.3 million for other services and less than $220,000 for executive compensation advice. *See* Staff of House Comm. on Oversight and Government Reform, 110th Cong., Report on Executive Pay: Conflicts of Interest Among Compensation Consultants (Comm. Print 2007).

[87] *See* Rulemaking Petition No. 4–558 in note 85 above. *See also* letters regarding File No. S7–03–06 from CalPERS, CalSTRS, New York State Common Retirement System, Florida State Board of Administration, New York City Pension Funds, PGGM, ABP, Hermes, Universities Superannuation Scheme, UniSuper, London Pensions Fund Authority, F&C Asset Management, Co-operative Insurance Society, Illinois State Board of Investment, Ontario Teachers Pension Plan, Public Sector and Commonwealth Super, and Railpen Investments (Apr. 10, 2006); CFA Institute for Financial Market Integrity (Apr. 13, 2006); and Denise Nappier, Connecticut State Treasurer (Apr. 10, 2006) *at http://www.sec.gov/rules/proposed/s70306.shtml.*

[88] *See* proposed Item 407(e)(3)(iii) of Regulation S–K.

consultant and any affiliates of the consultant;

- The aggregate fees paid for all additional services, and the aggregate fees paid for work related to determining or recommending the amount or form of executive and director compensation;
- Whether the decision to engage the compensation consultant or its affiliates for non-executive compensation services was made, recommended, subject to screening or reviewed by management; and
- Whether the board of directors or the compensation committee has approved all of these services in addition to executive compensation services.

These new requirements would apply to all services provided by a compensation consultant and its affiliates if the compensation consultant plays any role in determining or recommending the amount or form of executive or director compensation. The proposed amendments would not apply to those situations in which the compensation consultant's only role in recommending the amount or form of executive or director compensation is in connection with consulting on broad-based plans that do not discriminate in favor of executive officers or directors of the company, such as 401(k) plans or health insurance plans. For example, if a company retains a compensation consultant to assist it in developing a 401(k) plan in which all salaried employees, including executives, will be eligible to participate on the same terms, and the compensation consultant provides other services to the company that are not related to determining or recommending the level of executive or director compensation, the new disclosure requirements would not apply to the services provided by that compensation consultant.[89] When a compensation consultant's only services that touch on the form or amount of executive or director compensation are limited to broad-based, non-discriminatory plans, even though executives or directors may be eligible to participate in them, we do not believe that these services give rise to the type of potential conflict of interest intended to be addressed by our proposed revisions.[90]

Request for Comment

- Will this disclosure help investors better assess the role of compensation consultants and potential conflicts of interest, and thereby better assess the compensation decisions made by the board?
- Would the disclosure of additional consulting services and any related fees adversely affect the ability of a company to receive executive compensation consulting or non-executive compensation related services? If so, how might we achieve our goal while minimizing that impact?
- Are there competitive or proprietary concerns that the proposed disclosure requirements should account for? If so, how should the amendments account for them if the compensation consultant provides additional services?
- Are there additional disclosures regarding the potential conflicts of interest of compensation consultants that should be required? For example, would requiring disclosure of any ownership interest that an individual consultant may have in the compensation consultant or any affiliates of the compensation consultant that are providing the additional services to the company help provide information about potential conflicts? If so, why?
- The proposed disclosure requirement calls for disclosure of services during the prior year. Should we also require disclosure of any currently contemplated services in order to capture a situation where the compensation consultant provides services related to executive pay in one year and in the next year receives fees for other services? If so, should we require that fees for the currently contemplated services be estimated? Is there a better way to require that information, for instance through the date of the filing? Should we require disclosure for the prior three years?
- Is the proposed exclusion for consulting services that are limited to broad-based, non-discriminatory plans appropriate? Should we consider any other exclusions for services that do not give rise to potential conflicts of interest? If so, describe them.
- Should we establish a disclosure threshold based on the amount of the fees for the non-executive compensation related services, such as above a certain dollar amount or a percentage of income or revenues? If so, how should the threshold be computed?
- Would disclosure of the individual fees paid for non-executive compensation related services provided by the compensation consultants be more useful to investors than disclosure of the aggregate fees paid for non-compensation related service provided as proposed?
- Would disclosure about the fees paid to compensation consultants and their affiliates help highlight potential conflicts of interest on the part of these compensation consultants and their affiliates? Is fee disclosure necessary to achieve this goal, or would it be sufficient to require disclosure of the nature and extent of additional services provided by the compensation consultant and its affiliates? Should disclosure only be required for fees paid in connection with executive compensation related services?
- Should we make any special accommodations in the proposed amendments to Item 407(h) for smaller reporting companies? If so, what accommodations should be made and why?
- Are there other categories of consultants or advisors whose activities on behalf of companies should be disclosed to shareholders? If so, what kind of disclosure would be appropriate?

E. Reporting of Voting Results on Form 8–K

We are proposing to transfer the requirement to disclose vote results from Forms 10–Q and 10–K to Form 8–K. Currently, Item 4 in Part II of Form 10–Q and Item 4 in Form 10–K require the disclosure of vote results of any matter that was submitted to a vote of shareholders during the fiscal quarter covered by either the Form 10–Q or Form 10–K with respect to the fourth fiscal quarter. Under the proposals, we would add a new Item 5.07 to Form 8–K to require a company to disclose on the Form 8–K the results of a shareholder vote, and to have that information filed within four business days after the end of the meeting at which the vote was held. If the proposal is adopted, we would delete the requirement from Forms 10–Q and 10–K.

We believe that more timely disclosure of the voting result of an annual or special meeting would benefit investors and the markets. While quarterly and annual reports generally reflect historical information, we are concerned that the delay between the end of an annual or special meeting and when the voting result of the meeting is disclosed in a Form 10–Q or 10–K may make the information less useful to

[89] On the other hand, if a consultant provides other services involving executive or director compensation, and also provides services regarding broad-based, non-discriminatory plans, the new disclosure requirements would be applicable to all services provided by the consultant or its affiliates.

[90] We also propose to amend Item 407 along the same lines to clarify that the existing disclosure requirements are not triggered for a compensation consultant whose only services with regard to executive or director compensation are limited to these types of broad-based, non-discriminatory plans.

investors and the markets. Depending on the date of the shareholder meeting, it could take a few months before the vote is disclosed in a Form 10–Q or 10–K. Because matters submitted for a shareholder vote at an annual or special meeting often involve issues that directly impact shareholder interests—for example, the composition of the board, executive compensation policies, or changes in shareholder rights—we believe more timely disclosure of those voting results is appropriate. In short, we believe that if a matter is important enough to submit to a vote at a meeting of shareholders, it likely is important enough to warrant current reporting of the results on Form 8–K.

We understand that technological advances in shareholder communications and the growing use of third-party proxy services have increased the ability of companies to tabulate vote results and disseminate this information on a more expedited basis than is currently required. However, we recognize that in situations such as contested elections, companies may not have definitive vote results within four business days after the meeting. We have included an instruction to the proposed item that states that if the matter voted upon at the meeting relates to a contested election of directors and the voting results are not definitively determined at the end of the meeting, companies should disclose on Form 8–K the preliminary voting results within four business days after the preliminary voting results are determined, and file an amended report on Form 8–K within four business days after the final voting results are certified. We think it is important for investors to have at least preliminary voting results because the certification process may take a longer amount of time.

Request for Comment

- To what extent would requiring the reporting of voting results on Form 8–K provide more timely information to investors and the markets?
- Are there any possible adverse consequences to requiring the disclosure of preliminary voting results in a contested election when the outcome is not final? For example, could the preliminary disclosure affect the final outcome?
- Should the filing period under Form 8–K for the reporting of voting results be longer than four business days? Should we require the reporting of preliminary voting results? Are there unique difficulties or significant costs in finalizing voting results at smaller reporting companies that would warrant a longer filing period for those companies? What factors should we consider in deciding whether to make the filing period longer? Are there situations other than contested elections that might warrant a longer filing period?
- Are there alternative methods to disseminate this information to investors sooner or within a similar time frame that would be more effective or appropriate?
- We are moving and accelerating the disclosure requirement but not proposing any other revisions to the disclosures that are currently required by Item 4 of Form 10–Q and Form 10–K. Are there any changes to the requirements as to what should be disclosed that we should consider? For instance, since disclosure must be provided for all matters voted, on including a separate tabulation for the election of each director, should we eliminate the portion of Instruction 4 that provides when paragraph (b) need not be answered?
- Would the proposal impose any significant costs or difficulties on companies? If so, what type and amount of costs? Are these short-term or one-time costs to adjust a company's reporting procedures, or long-term, ongoing costs?
- Would the proposal create any special burdens for smaller reporting companies? If so, would scaled disclosure be appropriate for these companies and how should it be accomplished? Alternatively, should these requirements be phased in for smaller reporting companies?
- Would the accuracy of disclosure of voting results be affected as a result of a Form 8–K filing requirement?
- Section 13a–11(c) under the Exchange Act provides that ''[n]o failure to file a report on Form 8–K that is required solely pursuant to Item 1.01, 1.02, 2.03, 2.04, 2.05, 2.06, 4.02(a), 5.02(e) or 6.03 of Form 8–K shall be deemed to be a violation of'' Section 10(b) of the Exchange Act or Rule 10b–5 thereunder. Should we amend Section 13a–11(c) to include proposed Item 5.07 in this list of Items with respect to which the failure to file a report on Form 8–K will not be deemed to be a violation of Section 10(b) or Rule 10b–5? Similarly, should we amend General Instruction I.A.3(b) of Form S–3 to add proposed Item 5.07 to the corresponding list of Items on Form 8–K with respect to which a company's failure timely to file the Form 8–K will not result in the loss of S–3 eligibility? Why or why not?

F. Proxy Solicitation Process

We are proposing revisions to our rules governing the proxy solicitation process to provide clarity and address issues that have arisen. We believe these proposals, if adopted, would provide greater certainty to soliciting parties, help shareholders receive timely and complete information and facilitate shareholder voting.

Specifically, the amendments would provide that:

- An unmarked copy of management's proxy card that is requested to be returned directly to management is not a ''form of revocation'' under Exchange Act Rule 14a–2(b)(1) [91] so that a person who furnishes such a duplicate proxy card is not disqualified from relying on the exemption provided by that rule;
- A person need not be a security holder of the class of securities being solicited and a benefit need not be related to or derived from any security holdings in the class being solicited for Exchange Act Rule 14a–2(b)(1)(ix) [92] to disqualify the person from relying on the Exchange Act Rule 14a–2(b)(1) exemption;
- A person soliciting in support of nominees who, if elected, would constitute a minority of the board may seek authority to vote for another soliciting person's nominees in addition to or instead of the issuer's nominees to round out its short slate consistent with Exchange Act Rule 14a–4(d)(4)'s limitations on proxy authority; [93]
- The ''reasonable specified conditions'' under which the shares represented by a proxy will not be voted under Exchange Act Rule 14a–4(e) must be objectively determinable; [94] and
- The participant information required by Exchange Act Rule 14a–12(a)(1)(i) [95] must be filed under cover of Schedule 14A in a proxy statement or other soliciting materials no later than the time the first soliciting communication is made.

1. Exchange Act Rule 14a–2(b)(1) Introductory Text

Exchange Act Rule 14a–2(b)(1) exempts from the generally applicable disclosure, filing and most other requirements of the proxy rules solicitations by shareholders or other non-management parties who are not seeking proxy authority and do not have a substantial interest in the subject matter of the solicitation. When the

[91] 17 CFR 240.14a–2(b)(1).
[92] 17 CFR 240.14a–2(b)(1)(ix).
[93] 17 CFR 240.14a–4(d)(4).
[94] 17 CFR 240.14a–4(e).
[95] 17 CFR 240.14a–12(a)(1)(i).

Commission adopted this rule in 1992, we stated that the purpose of the rule was to remove obstacles to the free and unrestrained expression of views by disinterested shareholders who do not seek authority for themselves.[96] Accordingly, the exemption is unavailable to, among others, a person who ''furnish[es] or otherwise request[s], or act[s] on behalf of a person who furnishes or requests, a form of revocation.'' [97]

Over time, questions have arisen related to the scope of the term ''form of revocation,'' in particular, whether a person otherwise qualified to rely on the exemption would be providing a ''form of revocation'' and, therefore, be ineligible to rely on the exemption if the person provided a solicited shareholder with an unmarked copy of management's proxy card and asked that the card be returned directly to management. Consistent with the purpose underlying the exemption, we believe that a person providing a solicited shareholder with an unmarked copy of management's proxy card requested to be returned directly to management would not be seeking authority for itself.[98] As a result, this action would not be providing a ''form of revocation'' within the meaning of the rule even if a solicited shareholder's use of that proxy card resulted in a revocation of the shareholder's prior vote. We acknowledge that the U.S. Court of Appeals for the Second Circuit has concluded that in the case of a proxy vote to authorize a proposed merger under Delaware law, a duplicate of management's proxy card, when included in a mailing opposing a proposed merger, was a form of revocation under the rule.[99]

We propose to clarify the rule to align with our view by amending it to provide expressly that a ''form of revocation'' does not include an unmarked copy of management's proxy card that the soliciting shareholder requests be returned directly to management.[100] This amendment would aid efforts by persons not seeking proxy authority to facilitate voting by shareholders sharing their views on matters submitted for shareholder approval—such as in a ''just vote no'' campaign—without having to incur the costs and efforts of conducting a fully-regulated proxy solicitation and provide shareholders a convenient opportunity to indicate their votes after hearing those views without having to request another proxy card from management.[101]

Request for Comment

- Is the proposed amendment appropriate, or should a form of proxy provided in this setting be treated as a form of revocation, thereby disqualifying the soliciting person from relying upon the exemption?
- Should a soliciting person that provides an unmarked copy of management's proxy card be required to file a Notice of Exempt Solicitation [102] even if the person does not meet the thresholds for filing such notice under Exchange Act Rule 14a–6(g)? [103] Should such a soliciting person be required to file and provide to solicited persons any other information about itself, such as any relationships with the registrant or its affiliates, the amount of shares it holds, whether such person intends to hold its shares through the date of the meeting at which the vote will take place, or other information?
- Should the determination as to whether an unmarked management proxy card is a ''form of revocation'' depend on whether a non-management soliciting person requests that shareholders return the proxy card directly to management, as proposed, or should this treatment be available even if the card is returned to the soliciting person?
- Would the proposed amendment have an effect on shareholder communications in general or the practices of shareholders and companies with regard to unmarked proxy cards in particular?
- Would the proposed amendment raise concerns under applicable State law?

2. Exchange Act Rule 14a–2(b)(1)(ix)

Exchange Act Rule 14a–2(b)(1)(ix) provides that the Rule 14a–2(b)(1) exemption is not available to ''[a]ny person who, because of a substantial interest in the subject matter of the solicitation, is likely to receive a benefit from a successful solicitation that would not be shared pro rata by all other holders of the same class of securities, other than a benefit arising from the person's employment with the registrant.'' A question has arisen as to whether this limitation applies only when both the person is a security holder of the class being solicited and the benefit relates to or is derived from such holdings, or is generally applicable to any person with a substantial interest as described in the rule. We believe the nature of the ''substantial interest'' contemplated by the rule is broader, and propose to amend the rule to clarify this point.[104]

If a soliciting person has a substantial interest in the matter, we believe shareholders should have the benefit of the disclosure required by our rules when deciding how to vote. We do not believe it is appropriate to limit this disclosure obligation to cases when the soliciting party is a shareholder.[105] Otherwise, a solicited holder may not have sufficient information to make an informed voting decision if the holder is not aware of the soliciting person's substantial interest in the matter. Consistent with our intent to limit the exemption to disinterested persons and to provide clarity and certainty to those wishing to rely on the exemption, we propose to amend the rule to clarify that a person need not be a security holder of the class of securities being solicited and a benefit need not be related to or derived from any security holdings in the class being solicited for a person to be disqualified from relying on the exemption.

Request for Comment

- Does the proposed amendment clearly specify when the Rule 14a–2(b)(1) exemption would be unavailable? Is additional detail necessary to understand when the

[96] 1992 adopting release in note 23 above.

[97] Exchange Act Rule 14a–2(b)(1).

[98] Indeed, the soliciting person has not foreclosed any voting option available to the shareholder.

[99] *See Mony Group, Inc.* v. *Highfields Capital Mgmt. L.P.*, 368 F.3d 138 (May 13, 2004). The Second Circuit reversed the district court's decision that, consistent with the staff's views, the unmarked copy of management's proxy card was not a ''form of revocation'' within the meaning of Exchange Act Rule 14a–2(b)(1). *See Mony Group, Inc.* v. *Highfields Capital Mgmt. L.P.*, 2004 U.S. Dist. LEXIS 1840 (S.D.N.Y., Feb. 11, 2004).

[100] This clarification is consistent with advice the staff informally has provided in response to related inquiries since the rule was adopted.

[101] Providing shareholders with a marked copy of a proxy card would be inconsistent with the availability of the Rule 14a–2(b)(1) exemption because it would be an attempt to indirectly solicit proxy authority. Providing shareholders with a marked copy of a proxy card in a non-exempt solicitation would be impermissible because it would violate the requirement of Rule 14a–4(b) [17 CFR 240.14a–4(b)] to provide shareholders the opportunity to specify a choice.

[102] 17 CFR 240.14a–103.

[103] 17 CFR 240.14a–6(g).

[104] In adopting this provision, the Commission noted in the 1992 adopting release that the substantial interest ''standard is similar to that used in Item 5 of Schedule 14A, which requires specified persons conducting solicitations to describe briefly any substantial interest in the matter to be acted upon, other than an interest as a shareholder.'' Specifically, Item 5 required at the time of the 1992 adopting release and requires now a description of ''any substantial interest, direct or indirect, by security holdings or otherwise, * * * in any matter to be acted upon, other than elections to office.''

[105] For example, a soliciting party could have a significant financial interest in the subject matter of a solicitation without owning any shares of the company whose shareholders are solicited if the solicitation relates to a merger with a company that the soliciting party wishes to acquire.

exemption would be unavailable? If so, please provide examples of details that would be helpful.

• Would the proposed amendment inappropriately narrow or broaden the scope of the Rule 14a–2(b)(1) exemption and, if so, how?

3. Exchange Act Rule 14a–4(d)(4)

Exchange Act Rule 14a–4(d)(1) requires that, in order to solicit authority to vote for the election of a person to office, the person must be a bona fide nominee who consents to being named in the soliciting person's proxy statement and to serving if elected. Exchange Act Rule 14a–4(d)(4) is an exception to the bona fide nominee requirement. This exception permits a person soliciting support for nominees who, if elected, would constitute a minority of the board of directors (commonly referred to as a ''short slate''), to round out its short slate of nominees up to the total number of director positions then subject to election by seeking authority to vote for nominees named in the registrant's proxy statement.[106] We adopted the exception in 1992 to permit a form of proxy that allows persons soliciting in support of a short slate to exercise their State law right to nominate and run independently their own nominees and vote for both company and shareholder nominees.[107] The current form of the rule expressly permits rounding out a short slate by seeking authority to vote for nominees named in the registrant's proxy statement, but does not address nominees named in other soliciting persons' proxy statements.

Recently, however, questions have arisen regarding non-management groups that each sought to solicit support of a short slate and wished to round out its short slate with nominees named in the other group's and the registrant's proxy statement.[108] We propose to revise the rule so the short slate rounding exception to the bona fide nominee requirement is available whether a non-management soliciting person attempts to round out its short slate by seeking authority to vote for nominees named in the registrant's or any other persons' proxy statements.

Our intention in adopting the short slate exception was to eliminate unnecessary impediments to short slate elections and ameliorate ''the difficulty experienced by shareholders in gaining a voice in determining the composition of the board of directors,'' especially those seeking minority representation.[109] We recognized the need to address an unintended consequence of the ''bona fide nominee'' rule that effectively forced security holders to choose between voting for the management slate in order to exercise their full voting rights or voting for a less than full complement of directors.[110] Under the current rule, however, only the registrant's nominees may be used to fill out the non-management slate and, as a result, are effectively advantaged, as security holders may vote for them on two or more proxy cards where non-management nominees can only be voted for on one. To modify the rule as we propose is, therefore, consistent with our intention in adopting the rule.

The proposed exception would be available only when non-management parties are not acting together. Persons acting together may incur reporting obligations under Sections 13(d)[111] and 13(g)[112] of the Exchange Act. In this regard, a non-management person who actively recommends or whose proxy solicitor actively recommends nominees in addition to those for whom the non-management person expressly solicits support would be considered to be soliciting in support of both sets of nominees for purposes of determining whether the non-management person were soliciting in support of nominees who, if elected, would constitute more than a minority of the board.[113] Similarly, a non-management person would be considered to be soliciting in support of not only the nominees for whom it expressly solicits support but also the nominees for whom any other non-management person solicits support if the non-management persons are not acting independently of one another. Accordingly, a non-management soliciting person that seeks to round out its short slate with any nominee named in another non-management person's proxy statement would be required by the proposed rule to represent in its proxy statement that it has not agreed and will not agree to act, directly or indirectly, as a group or otherwise engage in any activities that would be deemed to cause the formation of a group as determined under Section 13(d)(3)[114] and in Regulation 13D-G[115] with the other non-management person.

When a non-management person actively recommends or solicits proxies in support of another person's nominees in addition to those for whom the person expressly solicits support and identifies by name in its proxy statement, that person may be a participant within the meaning of Instruction 3(a)(vi) to Item 4 of Schedule 14A in the other person's solicitation. Being a participant in the other person's solicitation potentially may result in the person soliciting in support of a total number of persons that would not constitute a minority of the board of directors if elected. Therefore, a non-management soliciting person that seeks to round out its short slate with any nominee named in another non-management person's proxy statement would also be required by the proposed rule to represent in its proxy statement that it is not a participant in the other non-management person's solicitation.

Request for Comment

• Are there different policy or practical concerns we should take into consideration when a short slate is rounded out with other persons' nominees rather than with the registrant's nominees alone? Would the proposed amendment increase the risk that a person would attempt to appear to be eligible for the short slate rounding exception even though the person, as a practical matter, was alone, or in combination with one or more other non-management persons, soliciting in support of more than a short slate? Are there appropriate safeguards in the rule to address this concern?

• As proposed, amended Exchange Act Rule 14a–4(d)(4) would only permit a soliciting person to round out a short slate with both a registrant's and other persons' nominees so long as the

[106] See Exchange Act Rule 14a–4(d)(4).

[107] 1992 adopting release in note 23 above at 48288.

[108] *See* Eastbourne Capital, L.L.C., SEC No-Action Letter (Mar. 30, 2009) and Icahn Associates Corp., SEC No-Action Letter (Mar. 30, 2009) at *http://www.sec.gov/divisions/corpfin/cf-noaction.shtml.* The Division issued a letter to each of two non-management groups stating that, based on the facts and representations presented, and conditioned on the two groups' acting and continuing to act independently of each other, the Division would not recommend enforcement action under Exchange Act Rule 14a–4(d)(4) and Section 14(a) of the Exchange Act [15 U.S.C. 78m(a)] if the group solicited votes for its own short slate and sought the authority to round out its short slate by voting for nominees of the other group as well as management's nominees. While the Division would continue to consider issuing such letters in the absence of the adoption of the proposed amendment, only the parties to whom the letters were addressed can rely upon them.

[109] 1992 adopting release in note 23 above at 48288.

[110] 1992 adopting release in note 23 above at 48287–48288.

[111] 15 U.S.C. 78m(d).

[112] 15 U.S.C. 78m(g).

[113] A non-management person and its proxy solicitor would not be actively recommending nominees in addition to those for whom the person expressly solicits support if the person and proxy solicitor only state the person's intention to vote for another person's nominees or expected nominees other than those specifically named on the person's proxy card.

[114] 15 U.S.C. 78m(d)(3).

[115] 17 CFR 240.13d–1 *et seq.*

soliciting person does not form a group with the other persons as determined under Section 13(d)(3) and in Regulation 13D–G and is not a participant in the other persons' solicitations. Are these restrictions appropriate? Should Rule 14a–4(d)(4) impose other conditions or limitations on the availability of the proposed amendment to the short slate exception? For example, should a soliciting person be permitted to seek authority to vote for the nominees of other non-management persons only if the other non-management persons are seeking minority representation on the board? Should the Commission limit use of the rule to situations where a soliciting person will need to use its proxy authority to vote for one or more of the registrant's nominees? For example, should it be limited to require a soliciting person to use its proxy authority to vote for at least a specified number of the registrant's nominees or at least the number of management nominees that would constitute a majority?

• It is possible that permitting a soliciting person to round out its short slate with other persons' nominees instead of or in addition to a registrant's nominees under amended Rule 14a–4(d)(4), as proposed, could lead to a change in a majority of a board. What are the concerns, if any, about the possible effects of a change in a majority of a board, including the triggering of takeover defensive measures, such as poison pills, and other change in control provisions, such as those found in loan agreements, leases and employment agreements? What are the issues, if any, associated with a change in a majority of a board where a company is subject to the standards of a national securities exchange or a national securities association, including exchange rules regarding director independence and board and committee composition standards?

• Would the proposed amendment encourage shareholders to run more short slates? In particular, is it likely that such shareholders will run more short slates, possibly targeting particular companies, knowing that other shareholders may also run short slates, with the intent that, where another shareholder targets the same company, each shareholder can then round out its own short slate with one or more nominees from the other shareholder's slate, and thus increase the likelihood of displacing management nominees and potentially increasing each shareholder's negotiating power with management? Does the proposed rule adequately prevent shareholders from relying upon the provision when they are acting in concert with other shareholders? While the current rule distinguishes between a person soliciting support for its nominees named in its proxy statement and seeking proxy authority to vote for a registrant's nominees, does a meaningful difference exist between these actions if a soliciting person is permitted, as proposed, to round out its slate with a non-management person's nominees?

• The amended rule, as proposed, would require a person to include in its proxy statement representations regarding the restrictions on forming a group and acting as a participant. Are these representations necessary, or should the amended rule merely include the restrictions as conditions to reliance on the rule?

• Rule 14a–4(d)(4) currently, and as proposed to be amended, would permit a non-management person to round out its short slate with one or more shareholder nominees named in the registrant's proxy statement regardless of whether the non-management person nominated such shareholder nominees and regardless of how the shareholder nominees came to be named in the registrant's proxy statement.[116] Should we amend Rule 14a–4(d)(4) to make it unavailable to some or all shareholder nominees named in the registrant's proxy statement and, if so, why and how? For example, should the rule be unavailable where such a shareholder nominee was nominated by the non-management person, a person with whom the non-management person has formed or intends to form a group under Section 13(d)(3) and Regulation 13D–G or a person in whose solicitation the non-management person is a participant?

• Should we amend Rule 14a–4(d)(4) so the exception it provides to the Rule 14a–4(d)(1) bona fide nominee requirement extends to non-management persons who do not have their own nominees for whom to solicit support but seek authority to vote for nominees named in the registrant's or other persons' proxy statements?

4. Exchange Act Rule 14a–4(e)

Exchange Act Rule 14a–4(e) requires that a proxy statement or form of proxy provide that the shares represented by the proxy be voted ''subject to reasonable specified conditions.'' When the Commission adopted the rule, it stated that it previously had taken the position that the solicitation of proxies constitutes an implied representation by the persons making the solicitation that the shares represented by the proxy will be voted and that the rule was amended in order to make this representation more explicit.[117]

As the Commission stated in 1992, ''[p]rior to a shareholder granting the legal power to someone else—whether management or an outsider—to vote his or her stock, the shareholder needs to know what matters will be voted on, and how the recipient of the proxy intends to vote the shareholder's shares.'' [118] Similarly, a shareholder needs to know whether the recipient of a proxy will only vote the shareholder's shares subject to some condition. We believe that in order for there to be ''reasonable specified conditions,'' the conditions must be objectively determinable to enable the shareholder to make an informed decision in regard to granting proxy authority and confirm that any later withholding of shares from voting is consistent with the authority granted.[119] In addition, if the conditions were not objectively determinable, the recipient of the proxy could seek to exercise a degree of discretion that would be inconsistent with Rule 14a–4(c)'s limits on when a proxy can confer discretionary authority.[120] Accordingly, we propose to amend Rule 14a–4(e) to clarify that the reasonable specified conditions must be objectively determinable.

Request for Comment

• Will specifying that reasonable specified conditions must be objectively

[116] We currently have pending rule proposals related to shareholder nominees that, if adopted, could result in a registrant being required to include shareholder nominees in its proxy statement under specified circumstances. *See* Release No. 33–9046 in note 22 above.

[117] Release No. 34–4185 (Nov. 5, 1948) [13 FR 6680].

[118] 1992 adopting release in note 23 above at 48277.

[119] In a related context, we have stressed that conditions must be objective for shareholders to be able to understand what they are being asked to do. In 2000, we published our views on the disclosure and dissemination of ''mini-tender'' offers that result in the bidder holding five percent or less of the outstanding securities of a company. There, we stated that ''[i]t is important for security holders to be able to evaluate the genuineness of the [tender] offer'' and ''[w]e believe therefore that a tender offer can be subject to conditions only where the conditions are based on objective criteria, and the conditions are not within the bidder's control.'' *See* Release No. 34–43069 (July 24, 2000) [65 FR 46581].

[120] 17 CFR 240.14a–4(c). The conditions would not be objectively determinable, for example, if voting the shares was subject to the proxy holder concluding in its sole discretion that it would not be advisable to vote the shares. The conditions would be objectively determinable, for example, if voting the shares was subject to a third party's filing with the Commission, within seven days before the scheduled date for the meeting for which proxies were solicited, a Schedule TO [17 CFR 240.14d–100] for a tender offer for over half of the issuer's shares.

determinable have any harmful effect on proxy solicitation practices?

• Does the phrase ''objectively determinable'' achieve the objective of clarifying the conditions shareholders should know about before giving their proxies or deciding to revoke their proxies?

5. Exchange Act Rule 14a–12(a)(1)(i)

Exchange Act Rule 14a–12 permits a solicitation to be made before furnishing security holders with a proxy statement meeting the requirements of Exchange Act Rule 14a–3(a) [121] if, among other requirements, each written communication that is part of the solicitation contains specified participant information. Rule 14a–12(a)(1)(i) requires such information to include the identity of the participants in the solicitation and a description of their direct or indirect interests or a legend advising security holders where they can obtain that information.

Questions have arisen regarding when and how the participant information to which the legend refers must be filed. The Commission amended Exchange Act Rule 14a–12 in 1999 to, among other things, provide that participant information could be provided directly in written materials as historically required or, as a new alternative, indirectly through the legend described above.[122] In affording the option to provide participant information indirectly through a legend, we intended to offer a convenience but did not intend to permit the participant information to be provided later than it would be if provided directly in the written materials. If the legend is to give meaningful information to shareholders, the information referenced in the legend must be available when the soliciting person uses the soliciting material with the legend. Accordingly, we propose to amend the rule to clarify that the required participant information must be filed under cover of Schedule 14A as part of a proxy statement or other soliciting materials no later than the time the first soliciting communication is made. It is not sufficient to provide the information in a document filed later.

Request for Comment

• Does the proposed amendment adequately clarify the need to have the participant information to which a legend refers on file no later than when the written material containing the legend is first sent or given to security holders?

• Does the proposed amendment adequately clarify how the participant information must be filed?

• Does the requirement to have the participant information on file no later than when the written material containing the legend is first sent or given to security holders create practical difficulties for parties soliciting proxies? If so, to what extent does the requirement impede the ability to solicit and how much of a delay in providing the participant information would be needed to avoid impeding that ability? If the requirement was revised to permit any such delay, what would be the effect of the delay on the ability of solicited shareholders to make a voting decision?

G. Transition

We anticipate that if the proposed amendments are adopted, compliance with the amendments would begin in the 2010 proxy season following their publication in the **Federal Register**.

Request for Comment

• Would this compliance schedule be workable?

• Are any special transition provisions necessary for any aspects of the proposed amendments? If so, please explain what would be needed and why.

• Would any of the proposed amendments to Regulation S–K present any particular difficulty or expense in preparing?

H. Other Requests for Comment

The Commission is exploring other ways in which we could improve proxy disclosures. We invite interested persons to submit comments on the advisability of pursuing any or all of the following possible reforms, as well as to provide other approaches that we might consider to achieve our goals. We expect to benefit from the comments we receive before deciding whether to propose changes.

• Are there any disclosures required in the proxy statement that we should consider proposing to eliminate in light of the proposed amendments?

• Are there other initiatives we should consider in order to improve the disclosure in proxy statements, particularly with regard to disclosure regarding executive compensation? For instance should we propose requiring disclosure of the compensation paid to each executive officer, not just the named executive officers? Should we consider proposing to eliminate the instruction that provides that performance targets can be excluded based on the potential adverse competitive effect on the company of their disclosure? Alternatively, should we consider proposing to revise the CD&A to require disclosure of performance targets on an after-the-fact basis, after the performance related to the award is measured, such as three or more fiscal years later, whether or not the disclosure may result in competitive harm?

• Under current Item 407(e)(5) of Regulation S–K, the Compensation Committee Report must state whether the committee: (1) Has reviewed and discussed the CD&A with management; and (2) recommended to the board of directors that the CD&A be included in the company's annual report and the proxy or information statement. Although the CD&A is considered ''filed'', the Compensation Committee Report is ''furnished.'' [123] Because it is furnished, the Compensation Committee Report does not have the same liability as the CD&A and other information that is ''filed.'' For example, it is not incorporated by reference or otherwise considered a part of the company's Form 10–K, registration statements and other filings, and is not covered by the principal executive officer and principal financial officer certifications required under Exchange Act Rules 13a–14 [124] and 15d–14.[125] Should we consider proposing to amend this rule to make the CD&A be a part of the Compensation Committee Report? Why or why not? If we make the CD&A part of the Compensation Committee Report, should the Compensation Committee Report be ''filed''? If we were to make the CD&A part of the Compensation Committee Report, are there any requirements to the CD&A that we should change?

• Should we consider requiring disclosure regarding whether a member of the compensation committee has expertise in compensation matters and whether the committee has the resources to hire its own independent legal counsel?

• Some investors may want more information regarding whether compensation arrangements are reasonably designed to create incentives among executives to increase long-term enterprise value. Should we consider supplementing any of the tabular and

[121] 17 CFR 240.14a–3(a).

[122] *See* Release No. 33–7760 (Oct. 22, 1999) [64 FR 61408].

[123] For a discussion of the differences between the Compensation Committee Report and the CD&A, *see* Section II.3. ''Filed'' status of Compensation Discussion and Analysis and the ''Furnished'' Compensation Committee Report in Release 33–8732A.

[124] 17 CFR 240.13a–14.

[125] 17 CFR 240.15d–14.

narrative disclosure requirements to require additional disclosure about whether or not a company has ''hold to retirement'' and/or claw back provisions and if not, why not?

• Are investors interested in disclosure of whether the amounts of executive compensation reflect any considerations of internal pay equity? For example, would investors find such disclosure relevant in considering the motivation and effectiveness of broad based compensation plans? Should we consider proposing additional requirements to address this? For instance, should we consider proposing required disclosure regarding internal pay ratios of a company, such as disclosure of the ratio of the total compensation of the named executive officers, or total compensation of each individual named executive officer, to the total compensation of the average non-executive employee of the company?

• In order to give investors a better understanding of the breadth and depth of a company's focus on compensation, should we require disclosure regarding the total number of compensation plans a company has and the total number of variables in all of its compensation plans? Are there other ways to convey the complexity and significance of all of a company's plans?

• Should we consider proposing to supplement the required disclosure of tax gross-up arrangements that the company has for the named executive officers to include a requirement to disclose and quantify the savings to each executive?

General Request for Comment

We request and encourage any interested person to submit comments on any aspect of our proposals, other matters that might have an impact on the amendments, and any suggestions for additional changes. With respect to any comments, we note that they are of greatest assistance to our rulemaking initiative if accompanied by supporting data and analysis of the issues addressed in those comments and by alternatives to our proposals where appropriate.

III. Paperwork Reduction Act

A. Background

Certain provisions of the proposed amendments contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995 (PRA).[126] We are submitting the proposed amendments to the Office of Management and Budget (OMB) for review in accordance with the PRA.[127] The titles for the collection of information are:

(1) ''Regulation 14A and Schedule 14A'' (OMB Control No. 3235–0059);
(2) ''Regulation 14C and Schedule 14C'' (OMB Control No. 3235–0057);
(3) ''Form 10–K'' (OMB Control No. 3235–0063);
(4) ''Form 10–Q'' (OMB Control No. 3235–0070);
(5) ''Form 10'' (OMB Control No. 3235–0064);
(6) ''Form S–1'' (OMB Control No. 3235–0065);
(7) ''Form S–4'' (OMB Control No. 3235–0324);
(8) ''Form S–11'' (OMB Control No. 3235–0067);
(9) ''Form 8–K'' (OMB Control No. 3235–0060);
(10) ''Rule 20a–1 under the Investment Company Act of 1940, Solicitations of Proxies, Consents, and Authorizations'' (OMB Control No. 3235–0158);
(11) ''Form N–1A'' (OMB Control No. 3235–0307);
(12) ''Form N–2'' (OMB Control No. 3235–0026);
(13) ''Form N–3'' (OMB Control No. 3235–0316); and
(14) ''Regulation S–K'' (OMB Control No. 3235–0071).

The regulations, schedules and forms were adopted under the Securities Act and the Exchange Act, except for Forms N–1A, N–2, and N–3, which we adopted pursuant to the Securities Act and the Investment Company Act, and Rule 20a–1, which we adopted pursuant to the Investment Company Act. The regulations, forms and schedules set forth the disclosure requirements for periodic reports; registration statements; and proxy and information statements filed by companies to help investors make informed investment and voting decisions. The hours and costs associated with preparing, filing and sending the form or schedule constitute reporting and cost burdens imposed by each collection of information. 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. Compliance with the proposed amendments would be mandatory. Responses to the information collections would not be kept confidential and there would be no mandatory retention period for the information disclosed.

As discussed in more detail above, the proposed amendments to Items 401, 402(b) and 407 of Regulation S–K would increase existing disclosure burdens for proxy and information statements, annual reports on Form 10–K, and registration statements on Forms 10, S–1, S–4, and S–11 by requiring:

• New disclosure and analysis of how a company's overall compensation policies for employees create incentives that can affect the company's risk and management of that risk if it may have a material effect on the company;

• New disclosure of the qualifications of directors and nominees for director, and the reason why a company or other proponent believes each director or nominee is qualified to serve as a director of the company at the time at which the relevant filing with the Commission is made, and as a member of any committee that the person serves on or is chosen to serve on, in light of the company's business and structure;

• Additional disclosure of any directorships held by each director and nominee at any time during the past five years at public companies;

• Lengthening the time during which disclosure of legal proceedings involving a company's directors, nominees for director and executive officers is required from five to 10 years;

• New disclosure about a company's board leadership structure and the board's role in the risk management process;

• New disclosure about the fees paid to compensation consultants and their affiliates when they play any role in determining or recommending the amount or form of executive and director compensation, if they also provide other services to the company. In addition, new disclosure of any additional services provided to the company by the compensation consultants and any affiliates of the consultants; and

• Transferring the requirement for companies to disclose the results of shareholder votes on Forms 10–Q or 10–K to Form 8–K.

The proposed amendments to Forms N–1A, N–2, and N–3 would increase existing disclosure burdens for such forms by requiring:

• New disclosure of the qualifications of directors and nominees for director, and the reason why a company or other proponent believes each director or nominee is qualified to serve as a director of the company at the time at which the relevant filing with the Commission is made, and as a member of any committee that the person serves on or is chosen to serve on, in light of the company's business and structure;

• Additional disclosure of any directorships held by each director and

[126] 44 U.S.C. 3501 *et seq.*

[127] 44 U.S.C. 3507(d) and 5 CFR 1320.11.

nominee at any time during the past five years at public companies; and

• New disclosure about a company's board leadership structure and the board's role in the risk management process.

At the same time, the proposals would not increase existing disclosure burdens for proxy and information statements, annual reports on Form 10–K, and registration statements on Forms 10, S–1, S–4 and S–11 by:

• Revising Summary Compensation Table and Director Compensation Table disclosure of stock awards and option awards to require disclosure of the aggregate grant date fair value of such awards, computed in accordance with FAS 123R, rather than the dollar amount recognized for financial statement purposes for the fiscal year in accordance with FAS 123R; and

• Eliminating the requirement to report the full grant date fair value of each individual equity award in the Grants of Plan-Based Awards Table and corresponding footnote disclosure to the Director Compensation Table.

The proposed amendments to the Summary Compensation Table, Grants of Plan-Based Awards Table and Director Compensation Table are intended to provide investors with clearer and more meaningful executive compensation disclosure, to facilitate informative and concise Compensation Discussion and Analysis disclosure of company policies and decisions regarding named executive officers' compensation, and to provide investors with a clearer view of the annual compensation earned by executives and directors consistent with the timing of current actions regarding plan awards, including the effect on total compensation of decisions to reprice option awards.

Together, the proposed amendments to the Summary Compensation Table, Grants of Plan-Based Awards Table and Director Compensation Table will simplify executive compensation disclosure because companies no longer will need to report two separate measures of equity compensation in their compensation disclosure. For purposes of Item 402 disclosure, companies no longer will need to explain or analyze a second, separate measure of equity compensation that is based on financial statement recognition rather than compensation decisions. In addition, we believe it is likely that these proposals will make companies' identification of named executive officers more consistent from year to year, providing investors more meaningful disclosure and reducing executive compensation tracking burdens in determining which executive officers are the most highly compensated.

The proposed amendments to the rules governing the proxy solicitation process would not increase any existing disclosure burden. We believe these proposals, if adopted, would provide certainty to soliciting parties and facilitate communications with shareholders. The proposed amendments to Exchange Act Rules 14a–2(b)(1), 14a–2(b)(1)(ix), 14a–4(e) and 14a–12(a)(1)(i) merely would clarify existing requirements. As a result, these amendments would not affect any existing disclosure burden. The proposed amendment to Rule 14a–4(d) would make the short slate rounding exception to the bona fide nominee requirement available whether a non-management soliciting person attempts to round out its short slate by seeking authority to vote for nominees named in the registrant's proxy statement, as currently permitted, or seeks to round out its short slate with nominees named in one or more other persons' proxy statements. Consequently, the proposed amendment to Rule 14a–4(d) simply would provide more flexibility to non-management persons that seek to round out their short slates and, as a result, would not increase any existing disclosure burden.[128]

B. Burden and Cost Estimates Related to the Proposed Amendments

We anticipate that the proposed disclosure amendments would increase the burdens and costs for companies that would be subject to the proposed amendments. We estimated the average number of hours a company would spend completing the forms and the average hourly rate for outside professionals. In deriving our estimates, we recognize that the burdens will likely vary among individual companies based on a number of factors, including the size and complexity of their organizations, and the nature of their operations. We believe that some companies will experience costs in excess of this average in the first year of compliance with proposals and some companies may experience less than the average costs.

We estimate no annual incremental increase in the paperwork burden for companies to comply with the proposed amendments to the Summary Compensation Table, Director Compensation Table, and Grants of Plan-Based Awards Table. We base this estimate on the fact that the amended approach would require disclosure of information that is collected to comply with financial reporting requirements, and will not impose additional burdens compared to the burdens associated with applying the currently required disclosure. We also base this estimate on the likelihood that, by eliminating factors unrelated to company compensation decisions, the proposed amendments will make companies' identification of named executive officers more consistent from year to year, thereby potentially reducing the burden of tracking the compensation of all executive officers in order to determine which executive officers are the most highly compensated.

For purposes of the PRA, we estimate the annual incremental paperwork burden for all companies (other than registered management investment companies) to prepare the disclosure that would be required under our proposals to be approximately 247,773 hours of company personnel time and a cost of approximately $47,413,161 for the services of outside professionals. These estimates include the time and the cost of preparing and reviewing the disclosure, filing documents and retaining records.

We derived the above estimates by estimating the total amount of time it would take a company to prepare and review the proposed disclosure requirements. This estimate represents the average burden for all companies, both large and small. Our estimates have been adjusted to reflect the fact that some of the proposed amendments would be required in some but not all of the above listed documents, and would not apply to all companies.

With respect to reporting companies (other than registered management investment companies), all of the proposed revisions to Regulation S–K would be required in proxy and information statements; however, only the proposed revisions to Items 401 and 402 of Regulation S–K would be required in Forms 10, 10–K, S–1, S–4 and S–11. Furthermore, the proposed amendments to CD&A would not be applicable to smaller reporting companies because under current CD&A reporting requirements these companies are not required to provide CD&A in their Commission filings. Based on the number of proxy filings we received in

[128] The proposed amendment to Exchange Act Rule 14a–4(d)(4) would require that a non-management soliciting person that attempts to round out its short slate by seeking authority to vote for nominees named in another non-management person's proxy statement provide specified representations to the effect that it is not acting together with any such other non-management person. The required representations would not, however, affect any existing disclosure burden in more than a negligible way.

the 2008 fiscal year, we estimate that approximately 3,922 domestic companies are smaller reporting companies that have a public float of less than $75 million. With respect to registered management investment companies, the proposed revisions would be reflected in certain Regulation S–K items, Schedule 14A, and Forms N–1A, N–2 and N–3.

Our annual burden estimates are also based on other assumptions. First, we assumed that the burden hours of the proposed amendments would be comparable to the burden hours related to similar disclosure requirements under current reporting requirements, such as the disclosure of audit fees and non-audit services,[129] CD&A and executive compensation reporting,[130] and the disclosure of the activities of nominating committees.[131] Second, we assumed that substantially all of the burdens associated with the proposed amendments to Items 401 and 402 of Regulation S–K would be associated with Schedules 14A and 14C as these would be the primary disclosure documents that CD&A would be prepared and presented.[132] For each reporting company (other than registered management investment companies), we estimated that the proposed amendments would impose on average the following incremental burden hours:

- Sixteen hours for the proposed amendments to CD&A;
- Four hours for the proposed enhanced director and nominee disclosure;
- Six hours for the proposed disclosures about company leadership structure and the board's role in risk management;
- Four hours for the proposed disclosures regarding compensation consultants; and
- One hour for the proposed reporting of voting results on Form 8–K.

With respect to registered management investment companies, we estimated that the proposed amendments would impose on average the following incremental burden hours:

- Four hours for the proposed enhanced director and nominee disclosure in proxy statements and three hours for such proposed disclosure in registration statements; [133] and
- Six hours for the proposed disclosures about company leadership structure and the board's role in risk management.

1. Proxy and Information Statements

For purposes of the PRA, in the case of reporting companies (other than registered management investment companies) we estimated the annual incremental paperwork burden for proxy and information statements under the proposed amendments would be approximately 14 hours per form for companies that are smaller reporting companies, and 30 hours per form for companies that are either accelerated or large accelerated filers. In the case of registered management investment companies, we estimate the annual incremental paperwork burden for proxy and information statements under the proposed amendments would be approximately ten hours per form. These estimates include the time and the cost of preparing disclosure that has been appropriately reviewed by management, in-house counsel, outside counsel, and members of the board of directors.

2. Exchange Act Periodic Reports

For purposes of the PRA, we estimate the annual incremental paperwork burden for Form 10–K under the proposed amendments would be approximately 1 hour per form. This estimate includes the time and the cost of preparing disclosure that has been appropriately reviewed by management, in-house counsel, outside counsel, and members of the board of directors.

3. Securities Act Registration Statements and Exchange Act Registration Statements

For purposes of the PRA, in the case of reporting companies (other than registered management investment companies) we estimate the annual incremental paperwork burden for Securities Act registration statements under the proposed amendments would be approximately 20 hours per form.[134]

For registered management investment companies, we estimate that the annual incremental paperwork burden under the proposed amendments to Forms N–1A, N–2, and N–3 would be approximately 9 hours per form. These estimates include the time and the cost of preparing disclosure that has been appropriately reviewed by management, in-house counsel, outside counsel, and members of the board of directors.

The tables below illustrate the total annual compliance burden of the collection of information in hours and in cost under the proposed amendments for annual reports; quarterly reports; current reports; proxy and information statements; Form 10; Forms S–1, S–4, S–11, N–1A, N–2, and N–3; and Regulation S–K.[135] The burden estimates were calculated by multiplying the estimated number of responses by the estimated average amount of time it would take a company to prepare and review the proposed disclosure requirements. For the Exchange Act reports on Form 10–K, 10–Q, and Form 8–K, and the proxy and information statements we estimate that 75% of the burden of preparation is carried by the company internally and that 25% of the burden of preparation is carried by outside professionals retained by the company at an average cost of $400 per hour. For the registration statements on Forms S–1, S–4, S–11, N–1A, N–2, and N–3, and the Exchange Act registration statement on Form 10, we estimate that 25% of the burden of preparation is carried by the company internally and that 75% of the burden of preparation is carried by outside professionals retained by the company at an average cost of $400 per hour. There is no change to the estimated burden of the collections of information under Regulation S–K because the burdens that this regulation imposes are reflected in our revised estimates for the forms. The portion of the burden carried by outside professionals is reflected as a cost, while the portion of the burden carried by the company internally is reflected in hours.

[129] Release No. 33–8183 (Jan. 28, 2003) [68 FR 6006] (which we estimated to be two hours).

[130] Release No. 33–8732A in note 24 above (which we estimated to be 95 hours). For purposes of the proposed amendments to CD&A, we adjusted this number downward in recognition that the 95 hours included, among other things, the estimated burdens of the preparation and review of additional tabular and related narrative disclosures required by Item 402 of Regulation S–K.

[131] Release No. 33–8340 (Nov. 24, 2003) [68 FR 69204] (which we estimated to be three hours).

[132] The burden estimates for Form 10–K assume that the proposed amendments to Items 401 and 402 of Regulation S–K would be satisfied by either including the information directly in an annual report or incorporating the information by reference from the proxy statement or information statement on Schedule 14A or Schedule 14C. Our PRA estimates include an estimate 1 hour burden in the Form 10–K and schedules to account for the incorporation of the information that would be required under proposed amendments to Items 401 and 402 of Regulation S–K.

[133] We estimated that the disclosure burden for registration statements on Forms N–1A, N–2, and N–3 is less than for proxy statements because the proposed disclosure relating to involvement in legal proceedings for the past 10 years applies only to proxy statements and not to registration statements.

[134] We calculated the 20 hours by adding 16 hours for the proposed amendments to CD&A to 4 hours for the proposed enhanced director and nominee disclosure.

[135] Figures in both tables have been rounded to the nearest whole number.

TABLE 1.—INCREMENTAL PAPERWORK BURDEN UNDER THE PROPOSED AMENDMENTS FOR ANNUAL REPORTS; QUARTERLY REPORTS; PROXY AND INFORMATION STATEMENTS

	Number of responses [136] (A)	Incremental burden hours/ form (B)	Total incremental burden hours (C)=(A)*(B)	75% Company (D)=(C)*0.75	25% Professional (E)=(C)*0.25	Professional costs (F)=(E)*$400
10–K	13,545	1	13,545	10,159	3,386	$1,354,500
10–Q [137]	32,462	(1)	(7,300)	(5,475)	(1,825)	(730,000)
8–K [138]	115,795	1	115,795	86,846	28,949	11,579,500
Form 10 [139]	238	20	4,760	1,190	3,570	1,428,000
Sch. 14A [140]	7,300					
Accel. Filers	3,378	30	101,340	76,005	25,335	10,134,000
SRC Filers	3,922	14	54,908	41,181	13,727	5,490,800
Sch. 14C	680					
Accel. Filers	315	30	9,440	7,080	2,360	1,415,984
SRC Filers	365	14	5,115	3,836	1,279	511,472
Rule 20a–1	1,225	10	12,250	9,188	3,062	1,225,000
Reg. S–K	N/A	N/A	N/A	N/A	N/A	N/A
Total			317,153	235,485		32,667,261

TABLE 2—INCREMENTAL PAPERWORK BURDEN UNDER THE PROPOSED AMENDMENTS FOR REGISTRATION STATEMENTS

	Number of responses [141] (A)	Incremental burden hours/ form (B)	Total incremental burden hours (C)=(A)*(B)	25% Company (D)=(C)*0.25	75% Professional (E)=(C)*0.75	Professional costs (F)=(E)*$400
Form S–1	768	20	15,360	3,840	11,520	$4,608,000
Form S–4	619	20	12,380	3,095	9,285	3,714,000
Form S–11	100	20	2,000	500	1,500	600,000
Form N–1A	1,935	9	17,415	4,354	13,061	5,224,500
Form N–2	205	9	1,845	461	1,384	553,500
Form N–3	17	9	153	38	115	45,900
Reg. S–K	N/A	N/A	N/A	N/A	N/A	N/A
Total			49,153	12,288		14,745,900

C. Request for Comment

Pursuant to 44 U.S.C. 3506(c)(2)(B), we request comment in order to:

- Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility;
- Evaluate the accuracy of our estimates of the burden of the proposed collections of information;
- Determine whether there are ways to enhance the quality, utility, and clarity of the information to be collected;
- Evaluate whether there are ways to minimize the burden of the collections of information on those who respond, including through the use of automated collection techniques or other forms of information technology; and
- Evaluate whether the proposed amendments will have any effects on any other collections of information not previously identified in this section.

Any member of the public may direct to us any comments concerning the accuracy of these burden estimates and any suggestions for reducing the burdens. Persons who desire to submit comments on the collection of information requirements should direct their comments to the OMB, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs,

[136] The number of responses reflected in the table equals the actual number of forms and schedules filed with the Commission during the 2008 fiscal year, except for Form 8–K. The number of responses for Form 8–K reflects the number of Form 8–Ks filed during the 2008 fiscal year plus an additional 7,371 filings.

[137] We calculated the reduction in the burden hours for Form 10–Q based on the number of proxy statements filed with the Commission during the 2008 fiscal year. We assumed that there would be, at a minimum, an equal number of Form 10–Qs filed to report the voting results from a meeting of shareholders. The reduction reflects the proposed deletion of the disclosure of voting results from the form.

[138] We have included an additional 7,300 responses to Form 8–K to reflect the additional Form 8–Ks that would be filed to report final voting results. We have also included an additional 71 Form 8–Ks to reflect the number of Form 8–Ks that would be filed to report preliminary voting results which we based on the actual number of proxy statements involving contested elections that were filed with the Commission during the 2008 fiscal year.

[139] The burden allocation for Form 10 uses a 25% internal to 75% outside professional allocation.

[140] The estimates for Schedule 14A and Schedule 14C are separated to reflect our estimate of the burden hours and costs related to the proposed amendments to CD&A which would be applicable to companies that are either accelerated or large accelerated filers, but not applicable to companies that are smaller reporting companies. We estimate that 3,378 Schedule 14A responses were filed by accelerated or large accelerated filers, and 315 Schedule 14C responses were filed by accelerated or large accelerated filers.

[141] The number of responses reflected in the table equals the actual number of forms filed with the Commission during the 2008 fiscal year, except for Forms N–1A and N–3. The number of responses for Forms N–1A and N–3 reflect the number of open-ended management investment companies registered with the Commission.

Washington, DC 20503, and send a copy of the comments to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090, with reference to File No. S7–13–09. Requests for materials submitted to the OMB by us with regard to these collections of information should be in writing, refer to File No. S7–13–09 and be submitted to the Securities and Exchange Commission, Office of Investor Education and Advocacy, 100 F Street, NE., Washington, DC 20549–0213. Because the OMB is required to make a decision concerning the collections of information between 30 and 60 days after publication, your comments are best assured of having their full effect if the OMB receives them within 30 days of publication.

IV. Cost-Benefit Analysis

A. Introduction

We are proposing amendments to enhance the disclosures with respect to a company's overall compensation policy and its impact on risk taking, director and nominee qualifications and legal proceedings, company leadership structure and the board's role in the risk management process, and the interests of compensation consultants. In addition, we are proposing amendments to transfer the requirement to disclose voting results from Forms 10–Q and 10–K to Form 8–K.

We also are proposing amendments to the disclosure requirements for executive and director compensation to require stock awards and option awards reporting based on a measure that will represent the aggregate grant date fair value of the compensation decision in the grant year, rather than the current rule, which allocates the grant date fair value over time commensurate with financial statement recognition of compensation costs.

Finally, we also are proposing amendments to Exchange Act Rules 14a–2, 14a–4, and 14a–12 to provide clarity and address issues that have arisen in regard to the proxy solicitation process. These amendments, discussed in detail above,[142] and their potential consequences that could result in benefits and costs are as follows.

1. Exchange Act Rule 14a–2(b)(1)

We propose to clarify the introductory text of Exchange Act Rule 14a–2(b)(1) by revising it to provide specifically that a ''form of revocation'' does not include an unmarked copy of management's proxy card that the soliciting shareholder requests be returned directly to management. As a result, a person otherwise qualified to rely on the exemption the rule provides still could rely on it if the person provided a solicited shareholder with an unmarked copy of management's proxy card and requested that the card be returned directly to management.[143] Consequently, the proposed amendment would provide certainty regarding the availability of the exemption in relation to this procedure. There may be persons who have different views or are uncertain about the application of the exemption to the procedure and would not, in the absence of the clarification, undertake it. As a result, the clarification may cause more persons to avail themselves of the procedure.[144]

2. Exchange Act Rule 14a–2(b)(1)(ix)

We propose to clarify Exchange Act Rule 14a–2(b)(1)(ix) by revising it to provide specifically that a person need not be a security holder of the class of securities being solicited and a benefit need not be related to or derived from any security holdings in the class being solicited for a person to have a substantial interest in a matter that would disqualify the person from relying on the exemption Exchange Act Rule 14a–2(b)(1) otherwise would provide in regard to that matter. As a result, the proposed amendment would provide certainty regarding the fact that a person need not be a security holder of the class of securities being solicited and a benefit need not be related to or derived from any security holdings in the class being solicited for the person to have a substantial interest. There may be persons who have different views or are uncertain about this fact and would not, in the absence of the clarification, recognize that the exemption is not available and act accordingly. Consequently, the clarification may cause more persons to refrain from soliciting in the absence of an exemption or to solicit in compliance with all of the generally applicable proxy solicitation requirements.

3. Exchange Act Rule 14a–4(d)(4)

We propose to revise Exchange Act Rule 14a–4(d)(4) to provide that the short slate rounding exception to the bona fide nominee requirement would be available whether a non-management soliciting person attempts to round out its short slate by seeking authority to vote for nominees named in the registrant's proxy statement, as currently permitted, or seeks to round out its short slate with nominees named in any other persons' proxy statement.[145] As a result, the proposed amendment would end the situation under the current rule in which only the registrant's nominees may be used to fill out the non-management slate and, as a result, are effectively advantaged as security holders may vote for them on two or more proxy cards where non-management nominees can only be voted for on one. Consequently, the proposed amendment would provide additional flexibility to non-management persons with regard to the nominees with whom they seek to round out their short slates without their seeking a no-action letter from the staff.[146] The codified additional flexibility may cause more non-management soliciting persons to seek to round out their short slates with other non-management persons' nominees.[147]

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[142] *See* Part II.F above.

[143] Rule 14a–2(b)(1) exempts from the generally applicable disclosure filing and most other requirements of the proxy rules solicitations by non-management persons who are not seeking proxy authority and do not have a substantial interest in the subject matter of the solicitation. The exemption is unavailable to, among others, a person who ''furnish[es] or otherwise request[s], or act[s] on behalf of a person who furnishes or requests, a form of revocation.''

[144] If more non-management persons use the procedure and provide solicited shareholders with more opportunities to vote as they suggest, then it is possible that these non-management persons will succeed more often in defeating management proposals. As a practical matter, however, it seems unlikely that many solicited shareholders would vote differently merely because they have more opportunities to vote as a non-management soliciting person suggests.

[145] Rule 14a–4(d)(1) requires that, in order to solicit authority to vote for the election of a person to office, the person must be a bona fide nominee, consenting to being named in the soliciting person's proxy statement and serving if elected. Rule 14a–4(d)(4) is an exception to the bona fide nominee requirement. This exception permits a person soliciting support of nominees who, if elected, would constitute a minority of the board of directors (commonly referred to as a ''short slate''), to round out its short slate of nominees up to the total number of director positions then subject to election by seeking authority to vote for nominees named in the registrant's proxy statement.

[146] As discussed above, the Division of Corporation Finance has issued two no-action letters in regard to short slate rounding with persons named in a non-management person's proxy statement under circumstances generally the same as those contemplated by the proposed amendment. While the Division would continue to consider issuing such letters in the absence of the adoption of the proposed amendment, only the parties to whom the letters were addressed can rely upon them. *See* Eastbourne Capital, L.L.C. in note above; Icahn Associates Corp. in note 108 above.

[147] It is possible that more non-management soliciting persons will seek to round out their short slates with other non-management persons' nominees and, as a result, more non-management nominees and fewer management nominees will be elected. As a practical matter, however, it is unclear how often non-management persons would seek to round out their short slates in this manner and, if they did, whether they would attract enough votes to increase the number of successful non-management nominees and decrease the number of

Continued

4. Exchange Act Rule 14a–4(e)

We propose to clarify Exchange Act Rule 14a–4(e) by revising it to provide specifically that the ''reasonable specified conditions'' under which the shares represented by a proxy will not be voted must be objectively determinable.[148] As a result, the proposed amendment would provide certainty regarding the fact that the ''reasonable specified conditions'' under which the shares represented by a proxy will not be voted must be objectively determinable. There may be persons who have different views or are uncertain about this fact and would not, in the absence of the clarification, recognize that the conditions must be objectively determinable and act accordingly. Consequently, the clarification may cause some persons to revise the conditions they otherwise would state to make them objectively determinable or refrain from soliciting because they do not wish to state objectively determinable conditions.

5. Exchange Act Rule 14a–12(a)(1)(i)

We propose to clarify Exchange Act Rule 14a–12(a)(1)(i) by revising it to provide specifically that when a soliciting communication is made before providing shareholders with a full proxy statement and that communication includes required participant information through a legend advising security holders where they can obtain the information, the information to which the legend refers must be filed under cover of Schedule 14A, as part of a proxy statement or other soliciting materials, no later than the time the first soliciting communication is made.[149] As a result, the proposed amendment would provide certainty regarding when the participant information to which the legend refers must be filed. There may be persons who have different views or are uncertain about this fact and would not, in the absence of the clarification, recognize that the participant information must be filed by the time the first soliciting communication is made. Consequently, the clarification may cause some persons to file the participant information earlier than they otherwise would or delay the start of a solicitation due to taking additional time to prepare and file the participant information.

B. Benefits

1. Disclosure Amendments

The proposed disclosure amendments are intended to enhance transparency of a company's compensation policies and its impact on risk taking; director and nominee qualifications; company leadership structure and the role of the board in the risk management process; potential conflicts of interest of compensation consultants; and voting results at annual and special meetings.

a. Benefits Related to Expanded Compensation Discussion and Analysis Disclosure

Expanding the Compensation Discussion and Analysis to include a discussion of the company's overall compensation program and how it relates to the company's approach to risk management may benefit investors in several ways. Incentive schemes and other compensation for employees may affect risk-taking behavior in the company's operations. To the extent that risks arising from a company's overall compensation policies for employees generally may have a material effect on the company, investors will benefit through an enhanced ability to monitor it. They would also potentially benefit from the ability to use this additional information in allocating capital across companies, toward companies where employee incentives appear better aligned with operational success and investors' appetite for risk. The new disclosure may also encourage the board and senior management to examine and improve incentive structures for management and employees of the company. These benefits should also lead to increased value to investors.

b. Benefits Related to Revisions to Summary Compensation Table Disclosure

As a result of the proposed Summary Compensation Table revision, companies would no longer need to prepare and report the allocation of equity awards' grant date fair value over time commensurate with financial statement recognition of compensation costs for executive and director compensation tabular reporting or as a footnote to the Director Compensation Table. Further, in preparing stock awards and option awards disclosure in the Summary Compensation Table and Director Compensation Table, companies no longer would need to incur additional costs to exclude the estimate for forfeitures related to service-based vesting used for financial statement reporting purposes. The elimination of costs of preparing and reporting this information is a benefit of the proposed amendments. The effects of the proposed amendments in making this information more readily available to investors may be useful to their voting and investment decisions.

Reporting stock awards and option awards in the Summary Compensation Table based on aggregate grant date fair value is designed to make it easier for investors to assess compensation decisions and evaluate the decisions of the compensation committee. For example, under the amendments the Summary Compensation Table values will correspond to awards granted for the fiscal year, potentially allowing companies to better explain in Compensation Discussion and Analysis how decisions with respect to these awards relate to other compensation decisions in the context of total compensation for the year. Further, the effect on total compensation of decisions to reprice options will be more evident because aggregate grant date fair value will be a component of total compensation reported in the Summary Compensation Table. However, because the proposals would eliminate the requirement to report the grant date fair value of individual awards in the Grants of Plan-Based Awards Table, there would not be disclosure of incremental fair value with respect to individual awards that were repriced or otherwise materially modified during the year, potentially limiting this benefit.

Under the proposed amendments, the identification of named executive officers based on total compensation for the last completed fiscal year will reflect the aggregate grant date fair value of equity awards granted in that year. As a result, the named executive officers other than the principal executive officer and principal financial officer may change. Investors may benefit from receiving compensation disclosure with respect to executives who would not have been named executive officers under the current rules. To the extent that this proposed change better aligns the identification of named executive officers with compensation decisions for

successful management nominees. In this regard, we note that there appear to have been few instances in the past in which more than one non-management person sought to round out a short slate with respect to a single election of directors.

[148] Exchange Act Rule 14a–4(e) requires that a proxy statement or form of proxy provide that the shares represented by the proxy be voted ''subject to reasonable specified conditions.''

[149] Exchange Act Rule 14a–12 permits a solicitation to be made before furnishing security holders with a proxy statement meeting the requirements of Rule 14a–3(a) if, among other requirements, each written communication that is part of the solicitation contains specified participant information. Rule 14a–12(a)(1)(i) requires such information to include the identity of the participants in the solicitation and a description of their direct or indirect interests or a legend advising security holders where they can obtain that information.

the year, it may make it easier for companies to track executive compensation for reporting purposes.

Smaller reporting companies are not required to provide a Grants of Plan-Based Awards Table or a Compensation Discussion and Analysis, but are required to provide a Summary Compensation Table. Investors in these companies may benefit from reporting stock awards and option awards based on full grant date fair value in the grant year, as opposed to the current reporting approach based on financial statement recognition of the awards.

c. Benefits Related to Enhanced Director and Nominee Disclosure

The proposed amendments to Item 401 of Regulation S–K would potentially benefit investors by increasing the amount and quality of information that they receive concerning the background and skills of directors and nominees for director, enabling investors to make better-informed voting and investment decisions. This increased information also may improve investor confidence because investors could determine more easily whether a particular director and the entire board composition is an appropriate choice for a given company at the time.

Disclosure of management's or other proponents' rationale for their nominees' membership on the board and on specific committees may benefit investors by enabling them to better assess the rationale in favor of a particular nominee. Investors would be able to adjust their holdings, allocating more capital to companies in which they believe board members are most likely to be able to effectively fulfill their duties to shareholders. In particular, in cases that do not meet investors' expectations, investors may respond by attempting to exert more influence on management or the board than would occur otherwise, thereby enhancing shareholder value.

Expanded disclosure of membership on previous corporate boards may also benefit investors by making it easier for them to evaluate whether nominees' past board memberships present potential conflicts of interest (such as membership on boards of major suppliers, customers, or competitors). Investors may also be able to more easily evaluate the performance, in both operations and governance, of the other companies on whose boards the nominees serve or have served. The public may also benefit from better understanding any potential positive or negative effects on corporate performance resulting from directors serving on other boards.

Expanded disclosure of legal proceedings involving directors, nominees and executive officers, from the current five year requirement to ten years, would benefit investors by providing more information by which they could determine the suitability of a director or nominee.

d. Benefits Related to New Disclosure about Company Leadership Structure and the Board's Role in the Risk Management Process

Investors may benefit from new disclosure about company leadership structure. In particular, they may benefit from understanding management's explanation regarding whether or not the principal executive officer serves as chairman of the board and, in the case of registered investment management company, whether the chairman is an ''interested person'' of the fund. In deciding whether to separate principal executive officer and chairman positions, companies may consider several factors, including the effectiveness of communication with the board and the degree to which the board can exercise independent judgment about management performance, and shareholders may, in different cases, be best served by different decisions.

Disclosures of the board's role in the risk management process may also benefit investors. Expanded disclosure of the board's role in risk management may enable investors to better evaluate whether the board is exercising appropriate oversight of risk management. Investors would be able to adjust their holdings, allocating more capital to companies in which they believe the board is adequately focused on risks. Improved capital allocation will also benefit the financial markets by increasing market efficiency.

e. Benefits Related to New Disclosure Regarding Compensation Consultants

New disclosure regarding compensation consultants may benefit investors by illuminating potential conflicts of interest. Providing better, more complete information in cases where non-executive compensation services occur allows investors to determine for themselves whether there are concerns related to the compensation consultants' financial interests and objectivity. Compensation consultants may earn fees from other services to the company, including benefits administration, human resources consulting, and actuarial services. With an incentive to retain these additional revenue streams, they may face incentives to cater, to some degree, to management preferences in recommending executive compensation packages. To the degree that these relationships are more transparent under the proposed amendments, investors benefit through their ability to better monitor the process of setting executive pay. This benefit may be limited to the degree that compensation consultants have potential conflicts of interest related to other material relationships with the company or other conflicts not specifically enumerated in the proposed amendments.

f. Benefits Related to Reporting of Voting Results on Form 8–K

The proposed amendments to Form 8–K would facilitate security holder access to faster disclosure of the vote results of a company's annual or special meeting. To find this information, investors no longer would need to wait for this information to be disclosed in a Form 10–Q or 10–K, which could be filed months after the end of the meeting.

2. Proxy Solicitation Process Amendments

We believe the proposed proxy solicitation process amendments may result in benefits as follows.

a. Exchange Act Rule 14a–2(b)(1) Introductory Text

The proposed amendment to the introductory text of Exchange Act Rule 14a–2(b)(1) may cause more persons to furnish an unmarked copy of management's proxy card requested to be returned directly to management.[150] Consequently, the proposed amendment may result in the benefit of aiding efforts by persons not seeking proxy authority to facilitate voting by shareholders sharing their views on matters submitted for shareholder approval—such as in a ''just vote no'' campaign—without having to incur the costs and efforts of conducting a fully-regulated proxy solicitation and provide shareholders a convenient opportunity to indicate their votes after hearing those views.

b. Exchange Act Rule 14a–2(b)(1)(ix)

The proposed amendment to Exchange Act Rule 14a–2(b)(1)(ix) may cause more persons to refrain from soliciting in the absence of an exemption or solicit in compliance with all of the generally applicable proxy solicitation requirements.[151] To the extent such persons refrain from

[150] *See* Part IV.A.1 above.

[151] *See* Part IV.A.2 above.

soliciting without an exemption, shareholders may benefit by not being called upon to make a voting decision in regard to a matter while possibly being unaware of the soliciting person's substantial interest in the matter. To the extent such persons solicit in compliance with all of the generally applicable proxy solicitation requirements, shareholders may benefit by having information regarding the soliciting person's substantial interest in the matter that they otherwise might not have.

c. Exchange Act Rule 14a–4(d)(4)

The proposed amendment to Exchange Act Rule 14a–4(d)(4) may cause more non-management soliciting persons to seek to round out their short slates with other non-management persons' nominees.[152] The amendment's effective codification of a no-action position the staff has taken in the past may benefit non-management soliciting persons who wish to round out their short slates with other non-management persons' nominees by enabling them to avoid the cost of seeking a no-action letter. To the extent more non-management soliciting persons seek to round out their slates with other non-management persons' nominees, shareholders may benefit from having more choices in deciding for whom they will vote.

d. Exchange Act Rule 14a–4(e)

The proposed amendment to Exchange Act Rule 14a–4(e) may cause some persons to revise the conditions they otherwise would state to make them objectively determinable or refrain from soliciting because they do not wish to state objectively determinable conditions.[153] To the extent such persons revise the conditions they state to make them objectively determinable, solicited shareholders may benefit by being better able to make an informed decision in regard to granting proxy authority and confirm that any later withholding of shares from voting is consistent with the authority granted. To the extent such persons refrain from soliciting, shareholders may benefit from not being called upon to make a decision in regard to granting proxy authority or confirming that any later withholding of shares from voting is consistent with the authority granted where such decisions would be more difficult due to a lack of objectively determinable conditions.

[152] *See* Part IV.A.3 above.

[153] *See* Part IV.A.4 above.

e. Exchange Act Rule 14a–12(a)(1)(i)

The proposed amendment to Exchange Act Rule 14a–12(a)(1)(i) may cause some persons to file legend-referenced participant information earlier than they otherwise would or delay the start of a solicitation due to taking additional time to prepare and file the participant information.[154] To the extent such persons file the participant information sooner or delay the start of a solicitation until ready to file the participant information, shareholders may benefit from having the participant information with which they can begin to evaluate the solicitation from the time they first are solicited.

C. Costs

1. Disclosure Amendments

The proposed rules would impose new disclosure requirements on companies. Some of the proposed disclosures are designed to build upon existing requirements to elicit a more detailed discussion of overall compensation policy and its impact on risk taking, director and nominee qualifications and legal proceedings and the interests of compensation consultants. To the degree that the proposed amendments require collecting information currently available, costs related to information collection will be limited.

a. Costs Related to Expanded Compensation Discussion and Analysis Disclosure

Expanded Compensation Discussion and Analysis disclosure will increase costs to companies as the proposed amendments would impose additional information gathering and drafting requirements. We believe that there may be information gathering costs, even though the information required may be readily available because this information may need to be reported up from business units and analyzed. Using our PRA burden estimates, we estimate the aggregate annual cost of the proposed amendments to CD&A to be approximately $29,950,652.[155] In addition, there may be costs in assessing whether risk arising from compensation policies and practices may have a material effect on the company, and if they may, there will be cost in drafting the additional disclosure. This could include the cost of hiring additional advisors to assist in the analysis as well as potential liability if risk is not identified as having a material effect on the company.

b. Costs Related to Revisions to Summary Compensation Table Disclosure

Investors may face some costs related to revisions in executive compensation reporting. The proposed amendments would rescind the requirement to report the full grant date fair value of each individual equity award in the Grants of Plan-Based Awards Table and corresponding footnote disclosure in the Director Compensation Table. Although the Outstanding Equity Awards at Fiscal Year-End Table would continue to provide useful disclosure of the contractual terms of outstanding equity awards, the contribution of an individual grant to the aggregate grant date fair value of awards would not be disclosed under the proposed amendments. Investors will therefore be less able to determine the manner in which an individual grant affects the aggregate grant date fair value of equity awards granted in the year.

Grant date fair value guidelines under FAS 123R call for management to exercise judgment. For example, the valuation of stock options requires assumptions about stock volatility and choice among several valuation methods. For financial statement recognition purposes, this grant date fair value measure of compensation cost is expensed over the expected term of the option. Compensation cost for awards containing a performance-based vesting condition is recognized only if it is probable that the performance condition will be achieved. If achievement of the performance condition later is no longer considered probable, the amount of compensation cost previously recognized is reversed in the period when it is determined that achievement of the condition is no longer probable. In addition, awards that are classified as ''liability awards'' under FAS 123R (such as an award that is cash settled) are re-measured at each financial statement reporting date through the date the awards are settled. Some investors may believe that Summary Compensation Table and Director Compensation Table disclosure of stock awards and option awards measured based on financial statement recognition principles provides a clearer

[154] *See* Part II.A.5 above.

[155] This estimate is based on the estimated total burden hours of 86,683 (the annual responses for the schedules and forms that would include the proposed CD&A amendments multiplied by 16 hours), an assumed split of the burden hours between internal staff and external professionals with respect to proxy and information statements, an assumed 25%/75% split of the burden hours between internal staff and external professionals with respect to registration statements, and an hourly rate of $200 for internal staff time and $400 for external professionals.

understanding of compensation earned in the reporting period because it takes into account potential adjustments regarding such factors as term of the option and changes in market value over time. To the extent that an investor would prefer to also see disclosure of this measure for purposes of voting or investment decisions, the proposed amendments may entail a cost.

In particular, the required re-measurement of liability awards under the current rules may help to reveal situations in which companies grant awards that subsequently change in value. For example, if a company grants an option-based liability award under the proposed amendments, the impact of subsequent events on the stock price, and therefore on the award value, would not be reflected in the Summary Compensation Table in the current or subsequent year. In contrast, under the current rule, reported compensation in the next year could be higher or lower as the result of re-measurement. To the extent that investors prefer to see changes in value of liability award compensation decisions reflected in the Summary Compensation Table, presentation of grant date fair value in the table may represent a cost. This cost, however, is limited to the degree that changes in value of liability based awards are reflected elsewhere in the proxy statement or can be inferred from previously disclosed award terms. Additionally, awards classified as ''equity awards'' under FAS 123R are not re-measured, and therefore any changes in the value of such awards are not currently reflected in the Summary Compensation Table and will also not be reflected under the proposed amendments.

Under the proposed amendments to the Summary Compensation Table and as noted in the Benefits section, the identification of named executive officers based on total compensation for the last completed fiscal year will reflect the aggregate grant date fair value of equity awards granted in that year, so that some executives subject to executive compensation disclosure may be different.

Smaller reporting companies, which are not required to provide the Grants of Plan-Based Awards Table, may incur some costs on a transitional basis in switching from the currently required measure of stock awards and option awards to full grant date fair value reporting. We expect that any such additional costs will be limited by the fact that full grant date fair value information required under the proposals is also collected to comply with financial reporting purposes. Because companies other than smaller reporting companies currently are required to report the grant date fair value of individual equity awards, we expect that they will incur only negligible costs in switching to the proposed Summary Compensation Table and Director Compensation Table disclosure requirements.

c. Costs Related to Enhanced Director and Nominee Disclosure

Companies may face some information gathering and reporting costs related to enhanced director and nominee disclosure. Using our PRA burden estimates, we estimate the aggregate annual cost to operating companies to be approximately $11,775,000.[156] With respect to our PRA burden estimates for registered management investment companies, we estimate the aggregate annual cost to be approximately $3,489,800.[157] Companies may also experience increased costs as it may be more difficult to find candidates willing to serve on boards if they do not want this information disclosed in a Commission filing. To the extent that information is available and verifiable, however, we expect that certain costs will be limited.

d. Costs Related to New Disclosure About Company Leadership Structure and the Board's Role in the Risk Management Process

Companies may face some costs related to new disclosure about company leadership structure. Disclosure of the board's role in the risk management process may have some similar costs. The information gathering costs are likely to be less significant than the costs to prepare the disclosure. Using our PRA burden estimates, we estimate the aggregate annual cost to operating companies to be approximately $11,970,000.[158] With respect to our PRA burden estimates for registered management investment companies, we estimate the aggregate annual cost to be approximately $6,367,200.[159] Although the amendments are not intended to drive behavior, there may be possible costs if a company re-evaluates its leadership structure or the board's role in the risk management process.

e. Costs Related to New Disclosure Regarding Compensation Consultants

Companies may face some costs related to new disclosure about other services provided by compensation consultants and aggregate fees. Using our PRA burden estimates, we estimate the aggregate annual cost to be approximately $7,980,000.[160] The costs to a company in contracting with compensation consultants could be increased under these amendments, and compensation consultants also may alter their mix of services. For instance, costs may increase if companies decide to contract with multiple different compensation consultants for services that had previously been provided by only one compensation consultant. Possible increased costs might include the costs associated with the time each new compensation consultant will need to learn about the company and decline in any economies of scale the compensation consultant may have factored into fees charged to the company. To the extent that fees for compensation consultants decline, rather than increase as a result of any improvement in competition under the proposed amendments, this represents a potential cost to compensation consultants, if any increase in the volume of business does not offset fee reductions.

f. Costs Related to Reporting of Voting Results on Form 8–K

Shareholders who are used to receiving this information in Form 10–Q filing may incur costs of adapting

[156] This estimate is based on the estimated total burden hours of 38,820 (the annual responses for the schedules and forms that would include the proposed enhanced director and nominee disclosure multiplied by 4 hours), an assumed 75%/25% split of the burden hours between internal staff and external professionals with respect to proxy and information statements, an assumed 25%/75% split of the burden hours between internal staff and external professionals with respect to registration statements, and an hourly rate of $200 for internal staff time and $400 for external professionals.

[157] This estimate is based on the estimated total burden hours of 11,371, an assumed 75%/25% split of the burden hours between internal staff and external professionals with respect to proxy statements, an assumed 25%/75% split of the burden hours between internal staff and external professionals with respect to registration statements, and an hourly rate of $200 for internal staff time and $400 for external professionals.

[158] This estimate is based on the estimated total burden hours of 47,880 (the annual responses for Schedules 14A and 14C multiplied by 6 hours), an assumed 75%/25% split of the burden hours, and an hourly rate of $200 for internal staff time and $400 for external professionals.

[159] This estimate is based on the estimated total burden hours of 20,292, an assumed 75%/25% split of the burden hours between internal staff and external professionals with respect to proxy statements, an assumed 25%/75% split of the burden hours between internal staff and external professionals with respect to registration statements, and an hourly rate of $200 for internal staff time and $400 for external professionals.

[160] This estimate is based on the estimated total burden hours of 31,920 (the annual responses for Schedules 14A and 14C multiplied by 4 hours), an assumed 75%/25% split of the burden hours, and an hourly rate of $200 for internal staff time and $400 for external professionals.

their research practices to find this information in 8–K filings, which may involve searching through a number of filings. This adjustment may be costly, in particular, to those investors who process this information using automated systems. A separate filing to report the information and potentially report both preliminary and final voting results may also increase direct costs to companies for filing fees, filing creation, and report dissemination because it may require two Form 8–K filings. However, the cost for preparing a quarterly report on Form 10–Q would be less because this disclosure would not appear in that Form. Companies engaged in a contested election may face some additional information gathering and reporting costs related to reporting shareholder voting results on Form 8–K, as these companies would need to file a Form 8–K to report preliminary voting results in addition to reporting final vote results. Using our PRA burden estimates, we estimate the aggregate annual cost to be approximately $1,842,750.[161]

2. Proxy Solicitation Process Amendments

We believe the proposed proxy solicitation process amendments may result in costs as follows.

a. Exchange Act Rule 14a–2(b)(1) Introductory Text

The proposed amendment to the introductory text of Exchange Act Rule 14a–2(b)(1) may cause more persons to furnish an unmarked copy of management's proxy card requested to be returned directly to management.[162] If more persons avail themselves of that procedure, companies may increase soliciting activity in an effort to counterbalance its use and, as a result, incur additional costs.

b. Exchange Act Rule 14a–2(b)(1)(ix)

The proposed amendment to Exchange Act Rule 14a–2(b)(1)(ix) may cause more persons to refrain from soliciting in the absence of an exemption or solicit in compliance with all of the generally applicable proxy solicitation requirements.[163] To the extent such persons refrain from soliciting, shareholders may be denied the opportunity to consider such persons' views in making a voting decision. To the extent such persons solicit in compliance with all of the generally applicable proxy solicitation requirements, they may incur greater costs than they otherwise would have.[164]

c. Exchange Act Rule 14a–4(d)(4)

The proposed amendment to Exchange Act Rule 14a–4(d)(4) may cause more non-management soliciting persons to seek to round out their short slates with other non-management persons' nominees.[165] Consequently, companies may increase soliciting activity in an effort to counterbalance such rounding out and, as a result, incur additional costs.

d. Exchange Act Rule 14a–4(e)

The proposed amendment to Exchange Act Rule 14a–4(e) may cause some persons to revise the conditions they otherwise would state to make them objectively determinable or refrain from soliciting because they do not wish to state objectively determinable conditions.[166] To the extent such persons revise the conditions to make them objectively determinable or refrain from soliciting, shareholders may lose the opportunity to grant proxy authority to a person that might exercise some degree of discretion in a manner that could be beneficial to the shareholders. The inability to grant proxy authority to a person that might exercise some degree of discretion may cause some shareholders to decide to attend a meeting and, as a result, incur costs accordingly.

e. Exchange Act Rule 14a–12(a)(1)(i)

The proposed amendment to Exchange Act Rule 14a–12(a)(1)(i) may cause some persons to file legend-referenced participant information earlier than they otherwise would or delay the start of a solicitation due to taking additional time to prepare and file the participant information.[167] To the extent such persons file the participant information sooner, they may incur additional costs to accelerate the preparation and filing of the information. To the extent such persons delay the start of a solicitation until when ready to file the participant information, they may lose time during which the shareholders can consider the solicitation and, thereby, reduce the likelihood of a successful solicitation.

D. Request for Comment

We request data to quantify the costs and the value of the benefits described above. We seek estimates of these costs and benefits, as well as any costs and benefits not already defined, that may result from the adoption of these proposed amendments. We also request qualitative feedback on the nature of the benefits and costs described above and any benefits and costs we may have overlooked.

V. Consideration of Impact on the Economy, Burden on Competition and Promotion of Efficiency, Competition and Capital Formation

Section 23(a)(2) of the Exchange Act also requires us,[168] when adopting rules under the Exchange Act, to consider the impact that any new rule would have on competition. In addition, Section 23(a)(2) prohibits us from adopting any rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

Section 2(b) of the Securities Act,[169] Section 3(f) of the Exchange Act,[170] and Section 2(c) of the Investment Company Act require us,[171] when engaging in rulemaking where we are required to consider or determine whether an action is necessary or appropriate in the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.

The proposed amendments to Regulation S–K are intended to provide additional important information to investors about corporate boards and management structure; and the clarity of executive compensation available to investors and the financial markets. These proposals would enhance investors' understanding of how corporate resources are used, and enable shareholders to better evaluate the actions of the board of directors and executive officers in fulfilling their responsibilities.

The proposed disclosure amendments would enhance our reporting requirements. These proposed amendments are designed to enhance transparency of a company's compensation policies and its impact on risk taking; director and nominee qualifications; board leadership structure; the potential conflicts of

[161] This estimate is based on the estimated 7,371 additional Form 8–K filings, an assumed 75%/25% split of one burden hour between internal staff and external professionals, and an hourly rate of $200 for internal staff time and $400 for external professionals.

[162] *See* Part IV.A.1 above.

[163] *See* Part IV.A.2 above.

[164] We recently cited certain evidence that indicated the average cost to a soliciting shareholder engaged in a proxy contest is $368,000. *See* Release No. 33–9046 in 22 above at 29073.

[165] *See* Part IV.A.3 above.

[166] *See* Part IV.A.4 above.

[167] *See* Part IV.A.5 above.

[168] 15 U.S.C. 78w(a)(2).

[169] 15 U.S.C. 77b(b).

[170] 15 U.S.C. 78c(f).

[171] 15 U.S.C. 80a–2(c).

compensation consultants; and to provide investors with clearer and more meaningful executive compensation disclosure. The proposed amendments would also accelerate the reporting of the results of shareholder votes at a company's annual or special meeting. The proposed amendments should improve the ability of investors to make informed voting and investment decisions, and, therefore lead to increased efficiency and competitiveness of the U.S. capital markets.

The proposed disclosure amendments should also increase efficiency and competitiveness of the U.S. capital markets by providing investors with additional information on risk incentives and companies' risk management practices. This information could be used by investors in allocating capital across companies, toward companies where the risk incentives appear better aligned with an investor's appetite for risk. The new disclosure may also encourage competition amongst companies to demonstrate superior risk management practices and improved incentive structures for management and employees of the company.

The proposed disclosure amendments also may affect competition among compensation consultants. Additional disclosure of consulting fees may provide an informational advantage to firms and increase competition, as firms can use this information to bid for additional services and potentially negotiate lower rates.

The proposed amendments to our rules governing the proxy solicitation process are intended to provide clarity and address issues that have arisen. We believe these proposals would provide certainty to soliciting parties and facilitate communications with shareholders. Additional clarity and facilitated communications would promote efficiency.

We request comment on whether the proposed amendments would promote efficiency, competition, and capital formation. Commenters are requested to provide empirical data and other factual support for their view to the extent possible.

VI. Small Business Regulatory Enforcement Fairness Act

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) [172] we solicit data to determine whether the proposed rule amendments constitute a ''major'' rule. Under SBREFA, a rule is considered ''major'' where, if adopted, it results or is likely to result in:

- An annual effect on the economy of $100 million or more (either in the form of an increase or a decrease);
- A major increase in costs or prices for consumers or individual industries; or
- Significant adverse effects on competition, investment or innovation.

Commenters should provide empirical data on (a) the annual effect on the economy; (b) any increase in costs or prices for consumers or individual industries; and (c) any effect on competition, investment or innovation. We request your comments on the reasonableness of this estimate.

VII. Initial Regulatory Flexibility Act Analysis

This Initial Regulatory Flexibility Analysis (IRFA) has been prepared in accordance with the Regulatory Flexibility Act.[173] It relates to proposed revisions to the rules under the Securities Act, Exchange Act and Investment Company Act regarding executive compensation and corporate governance disclosures and the proxy solicitation process.

A. Reasons for, and Objectives of, the Proposed Action

These proposals are designed to enhance the executive compensation and corporate governance disclosures provided by companies, and clarify and address issues that have arisen in the proxy solicitation process. Specifically, in regard to disclosure, the proposals are intended to enhance the transparency of a company's compensation policies and its impact on risk taking; director and nominee qualifications; board leadership structure; the potential conflicts of compensation consultants; and to provide investors with clearer and more meaningful executive compensation disclosure. We are also proposing amendments to our proxy rules that would clarify the manner in which they operate and to eliminate potential obstacles to shareholder communication.

B. Legal Basis

We are proposing the amendments pursuant to Sections 3(b), 6, 7, 10 and 19(a) of the Securities Act; Sections 12, 13, 14(a), 15(d), and 23(a) of the Exchange Act, and Sections 8, 20(a), 24(a), 30, and 38 of the Investment Company Act.

C. Small Entities Subject to the Proposed Action

The proposed amendments would affect some companies that are small entities. The Regulatory Flexibility Act defines ''small entity'' to mean ''small business,'' ''small organization,'' or ''small governmental jurisdiction.'' [174] The Commission's rules define ''small business'' and ''small organization'' for purposes of the Regulatory Flexibility Act for each of the types of entities regulated by the Commission. Securities Act Rule 157 [175] and Exchange Act Rule 0–10(a) [176] defines a company, other than an investment company, to be a ''small business'' or ''small organization'' if it had total assets of $5 million or less on the last day of its most recent fiscal year. We estimate that there are approximately 1,229 companies, other than registered investment companies, that may be considered small entities. The proposed amendments would affect small entities that have a class of securities that are registered under Section 12 of the Exchange Act or that are required to file reports under Section 15(d) of the Exchange Act. In addition, the proposals also would affect small entities that file, or have filed, a registration statement that has not yet become effective under the Securities Act and that has not been withdrawn. An investment company is considered to be a ''small business'' if it, together with other investment companies in the same group of related investment companies, has net assets of $50 million or less as of the end of its most recent fiscal year.[177] We believe that the proposals would affect small entities that are investment companies. We estimate that there are approximately 212 investment companies that may be considered small entities.

D. Reporting, Recordkeeping, and Other Compliance Requirements

The proposed disclosure amendments are designed to enhance the transparency of boards of directors, provide investors with a better understanding of the functions and activities of boards, and to provide investors with clearer and more meaningful compensation disclosure. These amendments would require small entities that are operating companies to provide:[178]

[172] 5 U.S.C. 603.

[173] 5 U.S.C. 601.

[174] 5 U.S.C. 601(6).

[175] 17 CFR 230.157.

[176] 17 CFR 240.0–10(a).

[177] 17 CFR 270.0–10(a).

[178] The proposed requirements to discuss and analyze a company's overall compensation

Continued

• Disclosure of the aggregate grant date fair value of equity awards computed in accordance with FAS 123R;

• Additional disclosure about compensation consultants employed by companies, including disclosure about the full scope of services provided by the consultants or its affiliates and the related fees for such services; and

• Disclosure of the results of shareholder votes on Form 8–K within four business days after the end of the meeting.

In addition, these amendments would require small entities that are operating companies or registered management investment companies to provide:

• Disclosure of the qualifications of directors and nominees for director, and a brief discussion of the specific experience, qualifications, attributes or skills that qualify that person to serve as a director for the company at that time, and as a member of any committee that the person serves on or is chosen to serve on, in light of the company's business and structure;

• Added disclosure regarding certain legal proceedings involving a company's directors, nominees for director and executive officers; and

• Disclosure about a company's board leadership structure and the board's role in the risk management process.

The proposed proxy rule amendments would provide certainty to soliciting parties and facilitate communications with shareholders and, as a result, would not impose any reporting or recordkeeping requirements on small entities. These proposed amendments would affect both large and small entities equally. The proposed proxy rule amendments set forth clear, uniform standards to aid companies and other soliciting parties in the process of soliciting proxies under our rules.

E. Duplicative, Overlapping, or Conflicting Federal Rules

We believe the proposed amendments would not duplicate, overlap, or conflict with other Federal rules.

F. Significant Alternatives

The Regulatory Flexibility Act directs us to consider alternatives that would accomplish our stated objectives, while minimizing any significant adverse impact on small entities. In connection with the proposed disclosure amendments, we considered the following alternatives:

• Establishing different compliance or reporting requirements or timetables that take into account the resources available to small entities;

• Clarifying, consolidating or simplifying compliance and reporting requirements under the rules for small entities;

• Using performance rather than design standards; and

• Exempting small entities from all or part of the requirements.

Currently, small entities are subject to some different compliance or reporting requirements under Regulation S–K and the proposed amendments would not affect these requirements. Under Regulation S–K, small entities are required to provide abbreviated compensation disclosure with respect to the principal executive officer and two most highly compensated executive officers for the last two completed fiscal years. Specifically, small entities may provide the executive compensation disclosure specified in Items 402(l) through (r) of Regulation S–K, rather than the corresponding disclosure specified in Items 402(a) through (k) of Regulation S–K. Items 402(l) through (r) also do not require small entities to provide CD&A or the Grants of Plan-Based Awards Table. Therefore small entities would not be required to disclose their overall compensation practices. Other than the proposed amendments to the Grants of Plan-Based Awards Table, the remaining proposed disclosure requirements would apply to small entities to the same extent as larger issuers.

As noted above, the proposed amendments to CD&A would not apply to small entities. We are not proposing to expand the existing alternative reporting requirements under Item 402 of Regulation S–K, or establish additional different compliance requirements or an exemption from coverage of the proposed amendments for small entities. The proposed amendments would provide investors with greater transparency regarding director and nominee qualifications; board leadership structure and their role in the risk management process; potential conflicts of compensation consultants; and voting results at annual and special meetings. We do not believe these disclosures will create a significant new burden; we do, however, believe uniform, comparable disclosures across all companies will help shareholders and the markets.

The proposed amendments would clarify, consolidate and simplify the reporting requirements for all public companies including small entities. The proposed amendments would require clear and straightforward disclosure of director and nominee qualifications, board leadership structure and the potential conflicts of interest of compensation consultants. We have used design rather than performance standards in connection with the proposed amendments for two reasons. First, based on our past experience, we believe the proposed revisions would be more useful to investors if there were specific disclosure requirements. The proposed disclosures are intended to result in more comprehensive and clear disclosure. Second, the specific disclosure requirements in the proposed amendments would promote consistent disclosure among all companies. We seek comment on whether we should exempt small entities from any of the proposed disclosures or scale the proposed amendments to reflect the characteristics of small entities and the needs of their investors.

G. Solicitation of Comments

We encourage the submission of comments with respect to any aspect of this Initial Regulatory Flexibility Analysis. In particular, we request comments regarding:

• How the proposed amendments can achieve their objective while lowering the burden on smaller entities;

• The number of small entity companies that may be affected by the proposed amendments;

• The existence or nature of the potential impact of the proposed amendments on small entity companies discussed in the analysis; and

• How to quantify the impact of the proposed amendments.

Respondents are asked to describe the nature of any impact and provide empirical data supporting the extent of the impact. Such comments will be considered in the preparation of the Final Regulatory Flexibility Analysis, if the proposed rule amendments are adopted, and will be placed in the same public file as comments on the proposed amendments themselves.

VIII. Statutory Authority and Text of the Proposed Amendments

The amendments contained in this release are being proposed under the authority set forth in Sections 3(b), 6, 7, 10, and 19(a) of the Securities Act; Sections 12, 13, 14, 15(d) and 23(a) of the Exchange Act; and Sections 8, 20(a), 24(a), 30 and 38 of the Investment Company Act.

List of Subjects in 17 CFR Parts 229, 239, 240, 249, 270 and 279

Reporting and recordkeeping requirements, Securities.

programs as they may have a material impact on risk management practices would not apply to smaller reporting companies.

Text of the Proposed Amendments

For the reasons set out in the preamble, the Commission proposes to amend title 17, chapter II, of the Code of Federal Regulations as follows:

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S–K

1. The authority citation for part 229 continues to read in part as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77z–2, 77z–3, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77nnn, 77sss, 78c, 78i, 78j, 78*l*, 78m, 78n, 78o, 78u–5, 78w, 78*ll*, 78mm, 80a–8, 80a–9, 80a–20, 80a–29, 80a–30, 80a–31(c), 80a–37, 80a–38(a), 80a–39, 80b–11, and 7201 *et seq.*; and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

2. Amend § 229.401 by:

a. Revising paragraph (e)(1);

b. In paragraph (e)(2) revising the phrase ''Indicate any other directorships'' to read ''Indicate any other directorships held, including any other directorships held during the past five years,'';

c. In paragraph (f), introductory text, revise the phrase ''during the past five years'' to read ''during the past ten years''.

The revisions read as follows:

§ 229.401 (Item 401) Directors, executive officers, promoters and control persons.

* * * * *

(e) *Business experience*—(1) *Background.* Briefly describe the business experience during the past five years of each director, executive officer, person nominated or chosen to become a director or executive officer, and each person named in answer to paragraph (c) of Item 401, including: Each person's principal occupations and employment during the past five years; the name and principal business of any corporation or other organization in which such occupations and employment were carried on; and whether such corporation or organization is a parent, subsidiary or other affiliate of the registrant. In addition, for each director or person nominated or chosen to become a director, briefly discuss the specific experience, qualifications, attributes or skills that qualify that person to serve as a director for the registrant at the time that the disclosure is made, and as a member of any committee that the person serves on or is chosen to serve on (if known), in light of the registrant's business and structure. If material, this disclosure should cover more than the past five years, and include information about the person's risk assessment skills, particular areas of expertise, or other relevant qualifications. When an executive officer or person named in response to paragraph (c) of Item 401 has been employed by the registrant or a subsidiary of the registrant for less than five years, a brief explanation shall be included as to the nature of the responsibility undertaken by the individual in prior positions to provide adequate disclosure of his or her prior business experience. What is required is information relating to the level of his professional competence, which may include, depending upon the circumstances, such specific information as the size of the operation supervised.

* * * * *

3. Amend § 229.402 by:

a. Redesignating paragraph (b)(1) introductory text and paragraphs (b)(1)(i) through (vi) as paragraphs (b)(1)(i) introductory text and (b)(1)(i)(A) through (F);

b. Redesignating paragraph (b)(2) introductory text and paragraphs (b)(2)(i) through (xv) as paragraphs (b)(1)(ii) introductory text and (b)(1)(ii)(A) through paragraph (b)(1)(ii)(O);

c. Redesignating the Instructions to Item 402(b) as Instructions to Item 402(b)(1)(i) and (b)(1)(ii);

d. Adding a heading to newly redesignated paragraph (b)(1)(i);

e. Revising the introductory text to newly redesignated paragraph (b)(1)(ii);

f. Revising newly redesignated Instructions to Item 402(b)(1)(i) and (b)(1)(ii);

g. Adding new paragraph (b)(2);

h. Adding Instructions 1, 2, and 3 to Item 402(b);

i. Revising Instruction 2 to Item 402(c)(2)(iii) and (iv), paragraphs (c)(2)(v) and (c)(2)(vi), the Instructions to Item (c)(2)(v) and (vi), and paragraph (c)(2)(ix)(G);

j. Revising the Grants of Plan-Based Awards Table in paragraph (d)(1);

k. Removing the period at the end of paragraphs (d)(2)(iii) and (d)(2)(iv) and adding a semicolon in its place;

l. Adding ''and'' at the end of paragraph (d)(2)(vi), removing ''and'' at the end of paragraph (d)(2)(vii) and adding a period in its place;

m. Removing paragraph (d)(2)(viii) and Instruction 7 to Item 402(d);

n. Revising paragraphs (k)(2)(iii) and (k)(2)(iv) and the Instruction to Item (k)(2)(iii) and (iv);

o. Revising paragraph (k)(2)(vii)(I) and Instruction to Item 402(k);

p. Revising Instruction 2 to Item 402(n)(2)(iii) and (iv);

q. Revising paragraphs (n)(2)(v), (n)(2)(vi) and the Instruction to Item 402(n)(2)(v) and (vi);

r. Revising paragraph (n)(2)(ix)(G);

s. Revising paragraphs (r)(2)(iii), (r)(2)(iv) and (r)(2)(vii)(I) before the Instruction, and Instruction to Item 402(r).

The revisions and additions read as follows:

§ 229.402 (Item 402) Compensation.

* * * * *

(b) *Compensation discussion and analysis.* (1)(i) *Compensation discussion and analysis for the named executive officers.* * * *

* * * * *

(ii) While the material information to be disclosed under Compensation Discussion and Analysis for the Named Executive Officers will vary depending upon the facts and circumstances, examples of such information may include, in a given case, among other things, the following:

* * * * *

Instruction 1 to Item 402(b)(1)(i) and (b)(1)(ii). The purpose of the Compensation Discussion and Analysis for the Named Executive Officers is to provide to investors material information that is necessary to an understanding of the registrant's compensation policies and decisions regarding the named executive officers.

Instruction 2 to Item 402(b)(1)(i) and (b)(1)(ii). The Compensation Discussion and Analysis for the Named Executive Officers should be of the information contained in the tables and otherwise disclosed pursuant to this Item. It should also cover actions regarding executive compensation that were taken after the registrant's last fiscal year's end. Actions that should be addressed might include, as examples only, the adoption or implementation of new or modified programs and policies or specific decisions that were made or steps that were taken that could affect a fair understanding of the named executive officer's compensation for the last fiscal year. Moreover, in some situations it may be necessary to discuss prior years in order to give context to the disclosure provided.

(2) *Compensation discussion and analysis of the registrant's overall compensation program as it relates to the registrant's risk management.* To the extent that risks arising from the registrant's compensation policies and overall actual compensation practices for employees generally may have a material effect on the registrant, discuss

the registrant's policies or practices of compensating its employees, including non-executive officers, as they relate to risk management practices and/or risk-taking incentives. While the situations requiring disclosure will vary depending on the particular registrant and compensation policies, situations that may trigger disclosure include, among others, compensation policies: At a business unit of the company that carries a significant portion of the registrant's risk profile; at a business unit with compensation structured significantly differently than other units within the registrant; at business units that are significantly more profitable than others within the registrant; at business units where compensation expense is a significant percentage of the unit's revenues; and that vary significantly from the overall risk and reward structure of the registrant, such as when bonuses are awarded upon accomplishment of a task, while the income and risk to the registrant from the task extend over a significantly longer period of time. The purpose of this paragraph (b)(2) is to provide investors material information concerning how the registrant compensates and incentivizes its employees that may create risk. While the information to be disclosed pursuant to this paragraph (b)(2) will vary depending upon the nature of the registrant's business and the compensation approach, the following are examples of the issues that the registrant may need to address for the business units or employees discussed:

(i) The general design philosophy of the registrant's compensation policies for employees whose behavior would be most impacted by the incentives established by the policies, as such policies relate to or affect risk taking by employees on behalf of the registrant, and the manner of its implementation;

(ii) The registrant's risk assessment or incentive considerations, if any, in structuring compensation policies or in awarding and paying compensation;

(iii) How the registrant's compensation policies relate to the realization of risks resulting from the actions of employees in both the short term and the long term, such as through policies requiring claw backs or imposing holding periods;

(iv) The registrant's policies regarding adjustments to its compensation policies to address changes in its risk profile;

(v) Material adjustments the company has made to its compensation policies or practices as a result of changes in risk profile; and

(vi) The extent to which the registrant monitors its compensation policies to determine whether its risk management objectives are being met with respect to incentivizing its employees.

Instruction 1 to Item 402(b). The Compensation Discussion and Analyses provided pursuant to paragraph (b) should focus on the material principles underlying the registrant's compensation policies and decisions and the most important factors relevant to analysis of those policies and decisions. The Compensation Discussion and Analyses shall reflect the individual circumstances of the registrant and shall avoid boilerplate language and repetition of the more detailed information set forth in the tables and narrative disclosures that follow.

Instruction 2 to Item 402(b). Registrants are not required to disclose target levels with respect to specific quantitative or qualitative performance-related factors considered by the compensation committee or the board of directors, or any other factors or criteria involving confidential trade secrets or confidential commercial or financial information, the disclosure of which would result in competitive harm for the registrant. The standard to use when determining whether disclosure would cause competitive harm for the registrant is the same standard that would apply when a registrant requests confidential treatment of confidential trade secrets or confidential commercial or financial information pursuant to Securities Act Rule 406 (17 CFR 230.406) and Exchange Act Rule 24b–2 (17 CFR 240.24b–2), each of which incorporates the criteria for non-disclosure when relying upon Exemption 4 of the Freedom of Information Act (5 U.S.C. 552(b)(4)) and Rule 80(b)(4) (17 CFR 200.80(b)(4)) thereunder. A registrant is not required to seek confidential treatment under the procedures in Securities Act Rule 406 and Exchange Act Rule 24b–2 if it determines that the disclosure would cause competitive harm in reliance on this instruction; however, in that case, the registrant must discuss how difficult it will be for the executive or how likely it will be for the registrant to achieve the undisclosed target levels or other factors.

Instruction 3 to Item 402(b). Disclosure of target levels that are non-GAAP financial measures will not be subject to Regulation G (17 CFR 244.100 through 244.102) and Item 10(e) (§ 229.10(e)); however, disclosure must be provided as to how the number is calculated from the registrant's audited financial statements.

(c) * * *

(2) * * *

Instructions to Item 402(c)(2)(iii) and (iv).

* * * * *

2. Registrants need not include in the salary column (column (c)) or bonus column (column (d)) any amount of salary or bonus forgone at the election of a named executive officer pursuant to a registrant's program under which stock, equity-based or other forms of non-cash compensation may be received by a named executive officer instead of a portion of annual compensation earned in a covered fiscal year. However, the receipt of any such form of non-cash compensation instead of salary or bonus earned for a covered fiscal year must be disclosed in the appropriate column of the Summary Compensation Table corresponding to that fiscal year (*e.g.*, stock awards (column (e)); option awards (column (f)); all other compensation (column (i))), or, if made pursuant to a non-equity incentive plan and therefore not reportable in the Summary Compensation Table when granted, a footnote must be added to the salary or bonus column so disclosing and referring to the Grants of Plan-Based Awards Table (required by paragraph (d) of this Item) where the award is reported.

(v) For awards of stock, the aggregate grant date fair value computed in accordance with FAS 123R (column (e));

(vi) For awards of options, with or without tandem SARs (including awards that subsequently have been transferred), the aggregate grant date fair value computed in accordance with FAS 123R (column (f));

Instruction 1 to Item 402(c)(2)(v) and (vi). For awards reported in columns (e) and (f), include a footnote disclosing all assumptions made in the valuation by reference to a discussion of those assumptions in the registrant's financial statements, footnotes to the financial statements, or discussion in the Management's Discussion and Analysis. The sections so referenced are deemed part of the disclosure provided pursuant to this Item.

Instruction 2 to Item 402(c)(2)(v) and (vi). If at any time during the last completed fiscal year, the registrant has adjusted or amended the exercise price of options or SARs previously awarded to a named executive officer, whether through amendment, cancellation or replacement grants, or any other means (''repriced''), or otherwise has materially modified such awards, the registrant shall include, as awards required to be reported in column (f), the incremental

fair value, computed as of the repricing or modification date in accordance with FAS 123R, with respect to that repriced or modified award.

* * * * *

(ix) * * *

(G) The dollar value of any dividends or other earnings paid on stock or option awards, when those amounts were not factored into the grant date fair value required to be reported for the stock or option award in columns (e) or (f); and

* * * * *

(d) * * *

(1) * * *

GRANTS OF PLAN-BASED AWARDS

Name	Grant date	Estimated future payouts under non-equity incentive plan awards			Estimated future payouts under equity incentive plan awards			All other stock awards: number of shares of stock or units (#)	All other option awards: number of securities underlying options (#)	Exercise or base price of option awards ($/Sh)
		Threshold ($)	Target ($)	Maximum ($)	Threshold (#)	Target (#)	Maximum (#)			
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)
PEO										
PFO										
A										
B										
C										

* * * * *

(k) * * *

(2) * * *

(iii) For awards of stock, the aggregate grant date fair value computed in accordance with FAS 123R (column (c));

(iv) For awards of stock options, with or without tandem SARs (including awards that subsequently have been transferred), the aggregate grant date fair value computed in accordance with FAS 123R (column (d));

Instruction to Item 402(k)(2)(iii) and (iv). For each director, disclose by footnote to the appropriate column, the aggregate number of stock awards and the aggregate number of option awards outstanding at fiscal year end.

* * * * *

(vii) * * *

(I) The dollar value of any dividends or other earnings paid on stock or option awards, when those amounts were not factored into the grant date fair value required to be reported for the stock or option award in column (c) or (d); and

* * * * *

Instruction to Item 402(k). In addition to the Instructions to paragraph (k)(2)(vii) of this Item, the following apply equally to paragraph (k) of this Item: Instructions 2 and 4 to paragraph (c) of this Item; Instructions to paragraphs (c)(2)(iii) and (iv) of this Item; Instructions to paragraphs (c)(2)(v) and (vi) of this Item; Instructions to paragraph (c)(2)(vii) of this Item; and Instructions to paragraph (c)(2)(viii) of this Item. These Instructions apply to the columns in the Director Compensation Table that are analogous to the columns in the Summary Compensation Table to which they refer and to disclosures under paragraph (k) of this Item that correspond to analogous disclosures provided for in paragraph (c) of this Item to which they refer.

* * * * *

(n) * * *

(2) * * *

Instructions to Item 402(n)(2)(iii) and (n)(2)(iv). 1. * * *

2. Smaller reporting companies need not include in the salary column (column (c)) or bonus column (column (d)) any amount of salary or bonus forgone at the election of a named executive officer pursuant to a smaller reporting company's program under which stock, equity-based or other forms of non-cash compensation may be received by a named executive officer instead of a portion of annual compensation earned in a covered fiscal year. However, the receipt of any such form of non-cash compensation instead of salary or bonus earned for a covered fiscal year must be disclosed in the appropriate column of the Summary Compensation Table corresponding to that fiscal year (*e.g.*, stock awards (column (e)); option awards (column (f)); all other compensation (column (i))), or, if made pursuant to a non-equity incentive plan and therefore not reportable in the Summary Compensation Table when granted, a footnote must be added to the salary or bonus column so disclosing and referring to the narrative disclosure to the Summary Compensation Table (required by paragraph (o) of this Item) where the material terms of the award are reported.

(v) For awards of stock, the aggregate grant date fair value computed in accordance with FAS 123R (column (e));

(vi) For awards of options, with or without tandem SARs (including awards that subsequently have been transferred), the aggregate grant date fair value computed in accordance with FAS 123R (column (f));

Instruction 1 to Item 402(n)(2)(v) and (n)(2)(vi). For awards reported in columns (e) and (f), include a footnote disclosing all assumptions made in the valuation by reference to a discussion of those assumptions in the smaller reporting company's financial statements, footnotes to the financial statements, or discussion in the Management's Discussion and Analysis. The sections so referenced are deemed part of the disclosure provided pursuant to this Item.

Instruction 2 to Item 402(n)(2)(v) and (n)(2)(vi). If at any time during the last completed fiscal year, the smaller reporting company has adjusted or amended the exercise price of options or SARs previously awarded to a named executive officer, whether through amendment, cancellation or replacement grants, or any other means (''repriced''), or otherwise has materially modified such awards, the smaller reporting company shall include, as awards required to be reported in column (f), the incremental fair value, computed as of the repricing or modification date in accordance with FAS 123R, with respect to that repriced or modified award.

* * * * *

(ix) * * *

(G) The dollar value of any dividends or other earnings paid on stock or option awards, when those amounts were not factored into the grant date fair value required to be reported for the

stock or option award in column (e) or (f); and

* * * * *

(r) * * *

(2) * * *

(iii) For awards of stock, the aggregate grant date fair value computed in accordance with FAS 123R (column (c));

(iv) For awards of options, with or without tandem SARs (including awards that subsequently have been transferred), the aggregate grant date fair value computed in accordance with FAS 123R (column (d));

* * * * *

(vii) * * *

(I) The dollar value of any dividends or other earnings paid on stock or option awards, when those amounts were not factored into the grant date fair value required to be reported for the stock or option award in column (c) or (d); and

* * * * *

Instruction to Item 402(r). In addition to the Instruction to paragraph (r)(2)(vii) of this Item, the following apply equally to paragraph (r) of this Item: Instructions 2 and 4 to paragraph (n) of this Item; the Instructions to paragraphs (n)(2)(iii) and (iv) of this Item; the Instructions to paragraphs (n)(2)(v) and (vi) of this Item; the Instructions to paragraph (n)(2)(vii) of this Item; the Instruction to paragraph (n)(2)(viii) of this Item; the Instructions to paragraph (n)(2)(ix) of this Item; and paragraph (o)(7) of this Item. These Instructions apply to the columns in the Director Compensation Table that are analogous to the columns in the Summary Compensation Table to which they refer and to disclosures under paragraph (r) of this Item that correspond to analogous disclosures provided for in paragraph (n) of this Item to which they refer.

* * * * *

4. Amend § 229.407 by revising paragraph (e)(3)(iii) and adding paragraph (h) before the Instructions to Item 407 to read as follows:

§ 229.407 (Item 407) Corporate governance.

* * * * *

(e) * * *

(3) * * *

(iii) Any role of compensation consultants in determining or recommending the amount or form of executive and director compensation (other than any role *limited* to consulting on any broad-based plan that does not discriminate in scope, terms, or operation, in favor of executive officers or directors of the registrant, and that is available generally to all salaried employees) during the registrant's last completed fiscal year, identifying such consultants, stating whether such consultants were engaged directly by the compensation committee (or persons performing the equivalent functions) or any other person, describing the nature and scope of their assignment, and the material elements of the instructions or directions given to the consultants with respect to the performance of their duties under the engagement. If any compensation consultants or their affiliates played a role in determining or recommending the amount or form of executive and director compensation and they also provided additional services to the registrant or its affiliates during the registrant's last completed fiscal year (including consulting on any broad-based plan that does not discriminate in scope, terms, or operation, in favor of executive officers or directors of the registrant, and that is available generally to all salaried employees), then disclose the nature and the extent of all additional services provided, as well as the aggregate fees for determining or recommending the amount or form of executive and director compensation and the aggregate fees for such additional services. Disclose whether the decision to engage the compensation consultant or their affiliates for these other services was made, subject to screening, or recommended, by management, and whether the compensation committee or the board approved such other services of the compensation consultants or their affiliates.

* * * * *

(h) Company leadership structure. Briefly describe the registrant's leadership structure, such as whether the same person serves as both principal executive officer and chairman of the board, or whether two individuals serve in those positions, and, in the case of a registrant that is an investment company, whether the chairman of the board is an ''interested person'' of the registrant as defined in section 2(a)(19) of the Investment Company Act. If one person serves as both principal executive officer and chairman of the board, or if the chairman of the board of a registrant that is an investment company is an ''interested person'' of the registrant, disclose whether the registrant has a lead independent director and what specific role the lead independent director plays in the leadership of the registrant. This disclosure should indicate why the registrant has determined that its leadership structure is appropriate given the specific characteristics or circumstances of the registrant. In addition, disclose the extent of the board's role in the registrant's risk management and the effect that this has on the company's leadership structure.

* * * * *

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

5. The authority citation for Part 239 continues to read in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77z–2, 77z–3, 77sss, 78c, 78*l*, 78m, 78n, 78o(d), 78u–5, 78w(a), 78ll, 78mm, 80a–2(a), 80a–3, 80a–8, 80a–9, 80a–10, 80a–13, 80a–24, 80a–26, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

6. The authority citation for Part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*, 78mm, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4, 80b–11, and 7201 *et seq.*; and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

7. Amend § 240.14a–2 by revising paragraph (b)(1) introductory text; and paragraph (b)(1)(ix) to read as follows:

§ 240.14a–2 Solicitations to which § 240.14a–3 to § 240.14a–15 apply.

* * * * *

(b) * * *

(1) Any solicitation by or on behalf of any person who does not, at any time during such solicitation, seek directly or indirectly, either on its own or another's behalf, the power to act as proxy for a security holder and does not furnish or otherwise request, or act on behalf of a person who furnishes or requests, a form of revocation, abstention, consent or authorization. *Provided, however,* that for purposes of this paragraph (b)(1), the term ''form of revocation'' does not include an unmarked duplicate of a form of proxy that the registrant provides to security holders if the person who furnishes such unmarked duplicate requests that it be returned directly to the registrant, and provided further that the exemption set forth in this paragraph shall not apply to:

* * * * *

(ix) Any person, whether or not a security holder of the registrant who, because of a substantial interest in the subject matter of the solicitation, is likely to receive a benefit from a successful solicitation other than a benefit:

(A) Realized as a security holder of the registrant that would be shared pro rata by all other holders of the same class of securities; or

(B) Arising from the person's employment with the registrant; and

* * * * *

8. Amend § 240.14a–4 by revising paragraphs (d)(4) and (e) to read as follows:

§ 240.14a–4 Requirements as to proxy.

* * * * *

(d) * * *

(4) To consent to or authorize any action other than the action proposed to be taken in the proxy statement, or matters referred to in paragraph (c) of this section. A person shall not be deemed to be a bona fide nominee and the person shall not be named as such unless the person has consented to being named in the proxy statement and to serve if elected. Provided, however, that nothing in this § 240.14a–4 shall prevent any person soliciting in support of nominees who, if elected, would constitute a minority of the board of directors, from seeking authority to vote for nominees named in the registrant's or one or more other persons' proxy statements, so long as the soliciting party:

(i) Seeks authority to vote in the aggregate for the number of director positions then subject to election;

(ii) Represents that it will vote for all the nominees named in such other proxy statements, other than those nominees specified by the soliciting party;

(iii) Provides the security holder an opportunity to withhold authority with respect to any other nominee named in such other proxy statements by writing the name of that nominee on the form of proxy;

(iv) States on the form of proxy and in the proxy statement that there is no assurance that the nominees named in such other proxy statements will serve if elected with any of the soliciting party's nominees; and

(v) If seeking authority to vote for nominees named in one or more other non-registrant persons' proxy statements, represents in the proxy statement that:

(A) It has not agreed and will not agree to act, directly or indirectly, as a group or otherwise engage in any activities that would be deemed to cause the formation of a ''group'' as determined under section 13(d)(3) of the Exchange Act (15 U.S.C. 78m(d)(3)) and in Regulation 13D–G (§§ 240.13d–1 through 240.13d–102) with any such other non-registrant person or persons; and

(B) It has not acted and otherwise will not act as a ''participant,'' as defined in Schedule 14A (§ 240.14a–101), in any solicitation by any such other non-registrant person or persons.

(e) The proxy statement or form of proxy shall provide, subject to objectively determinable reasonable specified conditions, that the shares represented by the proxy will be voted and that where the person solicited specifies by means of a ballot provided pursuant to paragraph (b) of this section a choice with respect to any matter to be acted upon, the shares will be voted in accordance with the specifications so made.

* * * * *

9. Amend § 240.14a–12 by revising paragraph (a)(1)(i) to read as follows:

§ 240.14a–12 Solicitation before furnishing a proxy statement.

(a) * * *

(1) * * *

(i) The identity of the participants in the solicitation (as defined in Instruction 3 to Item 4 of Schedule 14A (§ 240.14a–101)) and a description of their direct or indirect interests, by security holdings or otherwise, or, if that information previously has been filed either as part of a proxy statement or other soliciting materials under a cover page in the form set forth in Schedule 14A (§ 240.14a–101) in connection with the solicitation, a prominent legend in clear, plain language advising security holders where they can obtain that filed information; and

* * * * *

10. Amend § 240.14a–101 by:

a. Revising paragraph (b) of Item 7;

b. In Item 22:

i. Redesignating paragraph (b)(3) as paragraph (b)(3)(ii);

ii. Adding new paragraph (b)(3)(i); and

iii. Redesignating *Instruction to paragraph (b)(3)* as *Instruction to paragraph (b)(3)(ii)*;

iv. Redesignating paragraph (b)(4), introductory text, and paragraph (b)(4)(i) through paragraph (b)(4)(iv) as new paragraph (b)(4)(i), introductory text, and paragraph (b)(4)(i)(A) through paragraph (b)(4)(i)(D);

v. Adding new paragraph (b)(4)(ii); and

vi. Revising paragraph (b)(11).

The revisions and additions read as follows:

§ 240.14a–101 Schedule 14A. Information required in proxy statement.

* * * * *

Item 7. Directors and Executive Officers.

* * * * *

(b) The information required by Items 401, 404(a) and (b), 405 and 407(d)(4), (d)(5) and (h) of Regulation S–K (§ 229.401, § 229.404(a) and (b), § 229.405 and § 229.407(d)(4), (d)(5) and (h) of this chapter).

* * * * *

Item 22. Information required in investment company proxy statement.

* * * * *

(b) *Election of Directors.* * * *

(3)(i) For each director or nominee for election as director, briefly discuss the specific experience, qualifications, attributes, or skills that qualify that person to serve as a director for the Fund at the time that the disclosure is made, and as a member of any committee that the person serves on or is chosen to serve on (if known), in light of the Fund's business and structure. If material, this disclosure should cover more than the past five years, and include information about the person's risk assessment skills, particular areas of expertise, or other relevant qualifications.

* * * * *

(4) * * *

(ii) Unless disclosed in the table required by paragraph (b)(1) of this Item or in response to paragraph (b)(4)(i) of this Item, indicate any directorships held during the past five years by each director or nominee for election as director in any company with a class of securities registered pursuant to section 12 of the Exchange Act (15 U.S.C. 78*l*) or subject to the requirements of section 15(d) of the Exchange Act (15 U.S.C. 78o(d)) or any company registered as an investment company under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*), as amended, and name the companies in which the directorships were held.

* * * * *

(11) Provide in tabular form, to the extent practicable, the information required by Items 401(f) and (g), 404(a), 405, and 407(h) of Regulation S–K (§§ 229.401(f) and (g), 229.404(a), 229.405, and 229.407(h) of this chapter).

Instruction to Item 22(b)(11). Information provided under paragraph (b)(8) of this Item 22 is deemed to satisfy the requirements of Item 404(a) of Regulation S–K for information about directors, nominees for election as directors, and Immediate Family Members of directors and nominees, and need not be provided under this paragraph (b)(11).

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

11. The authority citation for part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a *et seq.* and 7201 *et seq.*; and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

12. Amend Form 8–K (referenced in § 249.308) by adding Item 5.07 under the caption ''Information to Be Included in the Report'' after the General Instructions read as follows:

Note: The text of Form 8–K does not, and this amendment will not, appear in the Code of Federal Regulations.

Form 8–K

* * * * *

General Instructions

* * * * *

Information To Be Included in the Report

* * * * *

Item 5.07 Submission of Matters to a Vote of Security Holders

If any matter was submitted to a vote of security holders, through the solicitation of proxies or otherwise, furnish the following information:

(a) The date of the meeting and whether it was an annual or special meeting.

(b) If the meeting involved the election of directors, the name of each director elected at the meeting and the name of each other director whose term of office as a director continued after the meeting.

(c) A brief description of each other matter voted upon at the meeting and state the number of votes cast for, against or withheld, as well as the number of abstentions and broker non-votes as to each such matter, including a separate tabulation with respect to each nominee for office.

(d) A description of the terms of any settlement between the registrant and any other participant (as defined in Instruction 3 to Item 4 of Schedule 14A (17 CFR 240.14a–101)) terminating any solicitation subject to Rule 14a–12(c), including the cost or anticipated cost to the registrant.

Instruction 1 to Item 5.07. The four business day period for reporting the event under this Item 5.07 shall begin to run on the day on which the meeting ended. If the matter voted upon at the meeting relates to a contested election of directors and the information called for by this Item is not definitively determined at the end of the meeting, the registrant shall disclose on Form 8–K under this Item 5.07 the preliminary voting results within four business days after the preliminary voting results are determined; provided that in such an event, the registrant shall file an amended report on Form 8–K under this Item 5.07 within four business days after the final voting results are certified.

Instruction 2 to Item 5.07. If any matter has been submitted to a vote of security holders otherwise than at a meeting of such security holders, corresponding information with respect to such submission shall be furnished. The solicitation of any authorization or consent (other than a proxy to vote at a stockholders' meeting) with respect to any matter shall be deemed a submission of such matter to a vote of security holders within the meaning of this item.

Instruction 3 to Item 5.07. Paragraph (a) need be answered only if paragraph (b) or (c) is required to be answered.

Instruction 4 to Item 5.07. Paragraph (b) need not be answered if (i) proxies for the meeting were solicited pursuant to Regulation 14A under the Act, (ii) there was no solicitation in opposition to the management's nominees as listed in the proxy statement, and (iii) all of such nominees were elected. If the registrant did not solicit proxies and the board of directors as previously reported to the Commission was re-elected in its entirety, a statement to that effect in answer to paragraph (b) will suffice as an answer thereto.

Instruction 5 to Item 5.07. Paragraph (c) must be answered for all matters voted upon at the meeting, including both contested and uncontested elections of directors.

Instruction 6 to Item 5.07. If the registrant has furnished to its security holders proxy soliciting material containing the information called for by paragraph (d), the paragraph may be answered by reference to the information contained in such material.

Instruction 7 to Item 5.07. If the registrant has published a report containing all the information called for by this item, the item may be answered by a reference to the information contained in such report.

* * * * *

Note: The text of Form 10–Q does not, and this amendment will not, appear in the Code of Federal Regulations.

13. Amend Form 10–Q (referenced in § 249.308a) by removing Item 4 in Part II—Other Information, and redesignating Items 5 and 6 as Items 4 and 5.

Note: The text of Form 10–K does not, and this amendment will not, appear in the Code of Federal Regulations.

14. Amend Form 10–K (referenced in § 249.310) by removing Item 4 in Part I, and redesignating Items 5 through 15 as Items 4 through 14.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

15. The authority citation for Part 274 continues to read in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b), 78*l*, 78m, 78n, 78o(d), 80a–8, 80a–24, 80a–26, and 80a–29, unless otherwise noted.

* * * * *

16. Form N–1A (referenced in §§ 239.15A and 274.11A), Item 17 is amended by:

a. Revising the heading to paragraph (b);

b. Revising paragraph (b)(1);

c. Redesignating paragraph (b)(3), introductory text, and paragraph (b)(3)(i) through paragraph (b)(3)(iv) as paragraph (b)(3)(i), introductory text, and paragraph (b)(3)(i)(A) through paragraph (b)(3)(i)(D);

d. Adding new paragraph (b)(3)(ii); and

e. Adding paragraph (b)(10).

The revisions and additions read as follows:

Note: The text of Form N–1A does not, and these amendments will not, appear in the Code of Federal Regulations.

Form N–1A

* * * * *

Item 17. Management of the fund.

* * * * *

(b) *Leadership Structure and Board of Directors.*

(1) Briefly describe the Fund's leadership structure, including the responsibilities of the board of directors with respect to the Fund's management and whether the chairman of the board is an interested person of the Fund. If the chairman of the board is an interested person of the Fund, disclose whether the Fund has a lead independent director and what specific role the lead independent director plays in the leadership of the Fund. This disclosure should indicate why the Fund has determined that its leadership structure is appropriate given the specific characteristics or circumstances of the Fund. In addition, disclose the extent of the board's role in the Fund's

risk management and the effect that this has on the Fund's leadership structure.

* * * * *

(3) * * *

(ii) Unless disclosed in the table required by paragraph (a)(1) of this Item 17 or in response to paragraph (b)(3)(i) of this Item 17, indicate any directorships held during the past five years by each director in any company with a class of securities registered pursuant to section 12 of the Securities Exchange Act (15 U.S.C. 78*l*) or subject to the requirements of section 15(d) of the Securities Exchange Act (15 U.S.C. 78o(d)) or any company registered as an investment company under the Investment Company Act, and name the companies in which the directorships were held.

* * * * *

(10) For each director, briefly discuss the specific experience, qualifications, attributes, or skills that qualify that person to serve as a director for the Fund at the time that the disclosure is made, and as a member of any committee that the person serves on, in light of the Fund's business and structure. If material, this disclosure should cover more than the past five years, and include information about the person's risk assessment skills, particular areas of expertise, or other relevant qualifications.

* * * * *

17. Form N–2 (referenced in §§ 239.14 and 274.11a–1), Item 18 is amended by:

a. Redesignating paragraph 5, introductory text, and paragraph 5(a) through paragraph 5(d) as paragraph 5(b), introductory text, and paragraph 5(b)(1) through paragraph 5(b)(4);

b. Adding new paragraph 5(a);

c. Redesignating paragraph 6, introductory text, and paragraph 6(a) through paragraph 6(d) as paragraph 6(a), introductory text, and paragraph 6(a)(1) through paragraph 6(a)(4);

d. Adding new paragraph 6(b); and

e. Adding paragraph 17.

The additions read as follows:

Note: The text of Form N–2 does not, and these amendments will not, appear in the Code of Federal Regulations.

Form N–2

* * * * *

Item 18. Management

* * * * *

5.(a) Briefly describe the Registrant's leadership structure, including whether the chairman of the board is an interested person of the Registrant, as defined in section 2(a)(19) of the 1940 Act (15 U.S.C. 80a–2(a)(19)). If the chairman of the board is an interested person of the Registrant, disclose whether the Registrant has a lead independent director and what specific role the lead independent director plays in the leadership of the Registrant. This disclosure should indicate why the Registrant has determined that its leadership structure is appropriate given the specific characteristics or circumstances of the Registrant. In addition, disclose the extent of the board's role in the Registrant's risk management and the effect that this has on the Registrant's leadership structure.

* * * * *

6. * * *

(b) Unless disclosed in the table required by paragraph 1 of this Item 18 or in response to paragraph 6(a) of this Item 18, indicate any directorships held during the past five years by each director in any company with a class of securities registered pursuant to section 12 of the Exchange Act (15 U.S.C. 78*l*) or subject to the requirements of section 15(d) of the Exchange Act (15 U.S.C. 78o(d)) or any company registered as an investment company under the 1940 Act, and name the companies in which the directorships were held.

* * * * *

17. For each director, briefly discuss the specific experience, qualifications, attributes, or skills that qualify that person to serve as a director for the Registrant at the time that the disclosure is made, and as a member of any committee that the person serves on, in light of the Registrant's business and structure. If material, this disclosure should cover more than the past five years, and include information about the person's risk assessment skills, particular areas of expertise, or other relevant qualifications.

* * * * *

18. Form N–3 (referenced in §§ 239.17a and 274.11b), Item 20 is amended by:

a. Redesignating paragraph (d), introductory text, and paragraph (d)(i) through paragraph (d)(iv) as paragraph (d)(ii), introductory text, and paragraph (d)(ii)(A) through paragraph (d)(ii)(D);

b. Adding new paragraph (d)(i);

c. Redesignating paragraph (e), introductory text, and paragraph (e)(i) through paragraph (e)(iv) as paragraph (e)(i), introductory text, and paragraph (e)(i)(A) through paragraph (e)(i)(D);

e. Adding new paragraph (e)(ii); and

f. Adding paragraph (o).

The additions read as follows:

Note: The text of Form N–3 does not, and these amendments will not, appear in the Code of Federal Regulations.

Form N–3

* * * * *

Item 20. Management

* * * * *

(d)(i) Briefly describe the Registrant's leadership structure, including whether the chairman of the board is an interested person of the Registrant, as defined in Section 2(a)(19) of the 1940 Act (15 U.S.C. 80a–2(a)(19)) and the rules thereunder. If the chairman of the board is an interested person of the Registrant, disclose whether the Registrant has a lead independent director and what specific role the lead independent director plays in the leadership of the Registrant. This disclosure should indicate why the Registrant has determined that its leadership structure is appropriate given the specific characteristics or circumstances of the Registrant. In addition, disclose the extent of the board's role in the Registrant's risk management and the effect that this has on the Registrant's leadership structure.

(e) * * *

(ii) Unless disclosed in the table required by paragraph (a) of this Item 20 or in response to paragraph (e)(i) of this Item 20, indicate any directorships held during the past five years by each director in any company with a class of securities registered pursuant to section 12 of the Exchange Act (15 U.S.C. 78*l*) or subject to the requirements of section 15(d) of the Exchange Act (15 U.S.C. 78o(d)) or any company registered as an investment company under the 1940 Act, and name the companies in which the directorships were held.

* * * * *

(o) For each director, briefly discuss the specific experience, qualifications, attributes, or skills that qualify that person to serve as a director for the Registrant at the time that the disclosure is made, and as a member of any committee that the person serves on, in light of the Registrant's business and structure. If material, this disclosure should cover more than the past five years, and include information about the person's risk assessment skills, particular areas of expertise, or other relevant qualifications.

* * * * *

By the Commission.

Dated: July 10, 2009.

Elizabeth M. Murphy,

Secretary.

[FR Doc. E9–16764 Filed 7–16–09; 8:45 am]

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H.R. 1777/P.L. 111–39

To make technical corrections to the Higher Education Act of 1965, and for other purposes. (July 1, 2009; 123 Stat. 1934)

S. 614/P.L. 111–40

To award a Congressional Gold Medal to the Women Airforce Service Pilots (''WASP''). (July 1, 2009; 123 Stat. 1958)

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