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Presidential Documents

Title 3—

The President

Proclamation 8484 of March 15, 2010

National Poison Prevention Week, 2010

By the President of the United States of America

A Proclamation

Since 1962, during National Poison Prevention Week we alert American families about the dangers of accidental poisonings and provide information on safety measures that can prevent senseless injuries and deaths. With nearly two million poison exposures reported each year, we must take every precaution to guard against these preventable tragedies.

Sadly, more than half of all reported poisonings involve children under the age of six, and the vast majority take place in the home. Parents should keep household chemicals and medicines in child-proof containers, beyond the reach of their children. Thanks to safety regulations and awareness campaigns like National Poison Prevention Week, childhood death rates from unintentional poisonings have fallen considerably. However, adult death rates have steadily risen in recent years.

We must each remember to read labels thoroughly before taking medications, to keep medicines in their original packaging, and to dispose of them properly. Consulting a physician before combining prescription drugs or using them with alcohol also reduces our risks.

In the event of an accidental poisoning, crucial information and immediate action can save lives. Individuals can call the toll-free national poison control hotline at 1–800–222–1222 to be connected to one of dozens of local poison control centers, which are open 24 hours every day. These centers provide emergency assistance, offer guidance on poison prevention, and answer questions concerning potential exposure.

To encourage Americans to learn more about the dangers of accidental poisonings and to take appropriate preventive measures, the Congress, by joint resolution approved September 26, 1961, as amended (75 Stat. 681), has authorized and requested the President to issue a proclamation designating the third week of March each year as "National Poison Prevention Week."

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim the third week of March of each year as National Poison Prevention Week. I call upon all Americans to observe this week by taking actions to protect their families from hazardous household materials and from the misuse of prescription medications.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of March, in the year of our Lord two thousand ten, and of the Independence of the United States of America the two hundred and thirty-fourth.

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Rules and Regulations

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DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket No. EE–RM–03–630]

RIN 1904–AB52

Energy Conservation Program for Consumer Products: Classifying Products as Covered Products

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final rule.

SUMMARY: Under the Energy Policy and Conservation Act (EPCA), the U.S. Department of Energy (DOE) promulgates a rule to define the term "household" and related terms. These definitions provide a basis for DOE to determine whether the household energy use of products not currently covered by EPCA meets the levels required for DOE to classify a product as a "covered product" under EPCA; such a classification would mean that DOE potentially could establish energy conservation requirements for the covered product. With the "household" definition in place, the Secretary may exercise statutory authority to classify as covered products additional qualifying consumer products beyond the products already specified in EPCA, and set test procedures and efficiency standards for them.

DATES: This rule is effective April 19, 2010.

FOR FURTHER INFORMATION CONTACT: Linda Graves, Esq., Project Manager, Coverage of Consumer Products, Docket No. EE–RM–03–630, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J/Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–1851, *e-mail: Linda.graves@ee.doe.gov,* or Francine Pinto, Esq., U.S. Department of Energy, Office of General Counsel, GC–72/ Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–9507, *e-mail: Francine.Pinto@hq.doe.gov.*

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I. Introduction

A. Authority

Part A of Title III of EPCA sets forth a variety of provisions that provide for the "Energy Conservation Program for Consumer Products Other than Automobiles." (42 U.S.C. 6291–6309) The program consists essentially of four parts: Mandatory testing, labeling, energy conservation standards, and certification and enforcement procedures. DOE implements all parts of the program except for the labeling provisions, which are implemented by the Federal Trade Commission (FTC).

EPCA lists specific types of consumer products that are subject to this program, referring to them as "covered products," and authorizes DOE to add other consumer products to the program as covered products. (42 U.S.C. 6292(a) and (b)) DOE may add any type of consumer product if: (1) "Classifying products of such type as covered products is necessary or appropriate to carry out the purposes" of EPCA, and (2) the annual per household energy use of such products in the households that use them is likely to average more than 100 kilowatt-hours. (42 U.S.C. 6292(b)) For purposes of section 6292(b), "[t]he term 'household' shall be defined under rules of the Secretary [of Energy]." (42 U.S.C. 6292(b)(2)(C)) This notice promulgates a rule that amends Title 10 of the Code of Federal Regulations (10 CFR) 430.2 to define "household," as well as four related terms, three of which are used in defining "household."

DOE may prescribe test procedures for any product it classifies as a "covered product." (42 U.S.C. 6293(b)(1)(B)) If DOE prescribes such test procedures, the FTC may also prescribe a labeling rule under EPCA for the product if it determines that labeling will assist purchasers in making purchasing decisions and is economically and technically feasible. (42 U.S.C. 6294(a)(3)) Finally, DOE may prescribe energy conservation standards for a type of consumer product it classifies as covered if the product meets certain additional criteria, such as "average per household energy use within the United States" in excess of 150 kilowatt-hours, and "aggregate household energy use" in excess of 4.2 billion kilowatt-hours, for any prior 12-month period. (42 U.S.C. 6295(l)(1))

With the household definition promulgated in this final rule, the Secretary may henceforth exercise statutory authority (1) to identify as covered products additional qualifying consumer products beyond the products already specified in EPCA, and then potentially (2) to set test procedures and efficiency standards for the newly covered consumer products.

B. Background

Prior to 2006, DOE annually prepared an analysis of pending and prospective rulemakings under its energy conservation program for consumer products and its companion program for commercial and industrial equipment under Parts A and A–1 of Title III of EPCA. DOE used this analysis to develop priorities and propose schedules for all rulemakings under these programs. In its priority-setting activities beginning in fiscal year 2003, DOE discussed possible expansion of

the programs to include additional consumer products and commercial and industrial equipment. However, with the passage of the Energy Policy Act of 2005 (EPACT 2005), Public Law 109–58, several additional products that DOE had been considering for coverage (e.g., ceiling fans and torchieres) became covered products with prescribed standards. The Energy Independence and Security Act of 2007 (EISA 2007), Public Law 110–140, prescribed standards for several consumer products and types of commercial and industrial equipment, and amended the schedule for DOE to update several standards.

Since the passage of EPACT 2005 and EISA 2007, as well as issuance of the Consent Decree for the consolidated cases of *New York* v. *Bodman,* No. 05 Civ. 7807 (S.D.N.Y. filed Sept. 7, 2005) and *Natural Resources Defense Council* v. *Bodman,* No. 05 Civ. 7808 (S.D.N.Y. filed Sept. 7, 2005), DOE has re-assessed its rulemaking procedures and scheduling decisions. DOE held a public meeting November 15, 2005, followed by a 30-day public comment period, to obtain public input. After considering the public comments, DOE released a five-year plan that described how DOE would address the appliance standards rulemaking backlog and meet all of the statutory requirements established in EPCA, as amended, and EPACT 2005. The plan is contained in the report to Congress, which was released January 31, 2006. DOE has updated that plan in response to EISA 2007 and the Consent Decree, and an updated version of the plan is posted on the DOE Web page at: *http://www1.eere.energy.gov/buildings/appliance_standards/schedule_setting.html.* The plan focuses on how DOE will complete rulemakings currently in process, catch up on a backlog of overdue rulemakings, and meet all rulemaking requirements contained in EPACT 2005 and EISA 2007 on time. The plan also addresses rulemaking deadlines set by the Consent Decree. In a memorandum for the Secretary of Energy, dated February 5, 2009 (74 FR 6537, Feb. 9, 2009), the President requested that DOE expeditiously finalize the rulemakings required by EPACT 2005, EISA 2007, and the Consent Decree. Given recent progress on expeditiously finalizing rulemakings, DOE now contemplates expanding the program to cover additional consumer products or commercial equipment. DOE is proceeding with this final rule to fill in a gap in DOE regulations so the Secretary can exercise statutory authority (as scheduling, priorities, and available resources permit) to expand standards coverage to appropriate products. Particularly, as energy efficient technologies advance in the future, the Secretary may exercise DOE's authority to consider whether any other products should be classified as covered products.

As indicated above, a significant element of the required assessment for each of these products is whether its annual "per-household" energy use is likely to exceed 100 kilowatt-hours. DOE can classify a product as covered only if it determines that the product meets this criterion. To address the criterion, DOE needed to define the term "household." DOE may now apply the definition to any future evaluations of whether DOE can classify other consumer products as covered products. In addition, DOE may use the definition as a basis for determining whether a product meets the per-household and aggregate-household energy-use criteria for setting energy conservation standards for a product DOE classifies as covered. (42 U.S.C. 6295(l))

C. Summary of Final Rule

The final rule defines "household" and three related terms. Taken together, these definitions in essence provide that a household is an individual or group that lives together in a housing unit that they occupy separately from any other group or individual. The content of these definitions is consistent with the legislative history of EPCA and with dictionary definitions of "household," and is essentially the same as the relevant definitions that the DOE Energy Information Administration (EIA) uses as a basis for its periodic Residential Energy Consumption Surveys (RECS) of household energy use, which is discussed in more detail below in section II., C. The final rule also defines the term "energy use of a type of consumer product which is used by households," which is virtually identical to a term used in section 322(b)(2)(A) of EPCA, 42 U.S.C. 6292(b)(2)(A), so as to make clear the locations at which household energy consumption can occur and that visitors to a household can contribute to such consumption.

II. Discussion

A. The Definitions

As discussed above, DOE is authorized to add products to its program under EPCA, if the product is likely to exceed "annual per-household energy use" of 100 kilowatt-hours pursuant to DOE's definition of "household." (42 U.S.C. 6292(a) and (b))

DOE is hereby providing a definition of "household," and of the related terms "housing unit," "separate living quarters," and "group quarters." The definitions of these related terms serve to clarify the meaning of "household." "Housing unit" is defined because the term is used in the definition of "household," and "separate living quarters" and "group quarters" are defined because they are used in the definition of "housing unit."

The core of the final rule is the definition of "household" as an individual or group that resides in a particular housing unit. This conforms to the general dictionary definition of the term. The final rule, in turn, defines "housing unit" as "a house, an apartment, a group of rooms, or a single room occupied as separate living quarters, but [that] does not include group quarters." "Separate living quarters" is defined as a place where people live in a separate space from others and to which they have access without going through the living space of others, and "group quarters" is defined as living quarters occupied by an institutional group of 10 or more unrelated persons. DOE has incorporated the substance of the RECS definitions of these last two terms to assure that "household" refers to a group that consumes energy as a unit. *See* the 2001 RECS report at *http://www.eia.doe.gov/emeu/recs/glossary.html.* The cut off of 10 or more unrelated people would serve to distinguish a group that acts as a unit from one that does not.

Under these definitions, DOE intends to use a broad range of data, including data generated by the RECS, in determining whether products qualify for coverage and the development of standards under EPCA. In gathering information as to the household energy use of any particular product, DOE will use the best available data for that product. When RECS data covers a product, its use will be possible because the substance of the proposed definitions is consistent with and quite similar to the corresponding EIA definitions. *See* the 2001 RECS report at *http://www.eia.doe.gov/emeu/recs/glossary.html.* Moreover, DOE will generally prefer to use the RECS data because generally it is the most comprehensive and best available source of information on residential energy consumption. The RECS, however, will likely not cover many of the products DOE is investigating. By not adhering to all of the details of the definitions used in the RECS, the definitions promulgated by this final

rule allow DOE sufficient flexibility to use other sources of information.

Finally, EPCA defines "average annual per-household energy use" for a type of product as being the "estimated aggregate annual energy use * * * of consumer products of such type which are used by households in the United States, divided by the number of such households which use [them]." (42 U.S.C. 6292(b)(2)) DOE is hereby defining "energy use of a type of consumer product which is used by households" as meaning energy use by the product both within the interior space of housing units occupied by households, as well as on contiguous property used primarily by the household occupying the housing unit. Thus, for example, where a product consumes energy in a housing unit's backyard or outdoor pool or accessory building(s) or structures, such energy use would be included in determining per-household or aggregate-household energy use. This definition also makes clear that household energy use includes all energy consumption, both by members of each household and their visitors, at all housing units occupied by each household.

B. Extent of Reliance on Definitions Used in DOE's Residential Energy Consumption Survey

Since 1978, EIA has periodically gathered information about energy consumption in the residential sector by conducting a RECS, and in 2004, EIA posted data on its Web site on the results of its 2001 RECS at *http://www.eia.doe.gov/emeu/recs/contents.html.* (2001 RECS Report). The RECS provides information on the use of energy in residential housing units in the United States. This information includes: the physical characteristics of the housing units surveyed; the appliances in those units, including space heating and cooling equipment; demographic characteristics of the households; the types of fuels used; and other information that relates to energy use.

"Household" energy consumption behavior is the focus of the RECS. This behavior is a primary driver behind purchases and consumption of energy in the residential setting. The RECS collects information focused on the household, and the RECS report provides data on energy consumption and expenditures per household.

The definitions promulgated in this final rule contain the same concepts as the RECS definitions (see the 2001 RECS report at *http://www.eia.doe.gov/emeu/recs/glossary.html*), and this is appropriate for several reasons. First, as a general matter, the RECS definitions appear to be reasonable and logical constructions of the term "household." In content, they are very similar to definitions for household and related terms in the Census Bureau's housing survey, e.g., Current Housing Reports, U.S. Census Bureau, Pub. No. H150/07, American Housing Survey for the United States: 2007 at Appendix A, A–9–A–11 (2008) (2008 Housing Survey Report). Second, the RECS uses "household" and related terms for purposes very similar to those for which DOE would use the definitions promulgated in this final rule. These definitions provide a basis on which DOE could estimate the household energy use of particular products. The RECS uses the terms for gathering and presenting precisely this type of information, although it also collects information as to household energy use generally. Finally, DOE has used RECS data in its rulemakings concerning energy conservation standards, and intends to use this data whenever possible to determine whether it can classify as covered, and adopt standards for, consumer products not listed as covered in EPCA. For example, DOE used RECS data in rulemakings concerning efficiency standards for residential central air conditioners and heat pumps, and for residential water heaters. 65 FR 59589, 59595, 59600 (October 5, 2000); 66 FR 4474, 4477, 4478 (January 17, 2001).

As indicated above, today's final rule incorporates from the RECS definitions the concept that a group of 10 or more unrelated people, even if living in a dwelling that would otherwise be a single housing unit, would not be a "household" for purposes of determining per-household energy consumption. From 1984 to 2005, the Census Bureau's housing survey used a similar approach: It did not treat as a household a group that occupies living quarters inhabited by nine or more unrelated persons. 2008 Housing Survey Report, App. C at C–7. Although DOE might possibly have used a different numerical cut off than the RECS uses, or a more subjective approach to describe groups that occupy a dwelling and act as a unit, DOE determined that the approach in the RECS is reasonable and wants to be able to rely on the RECS data to the greatest extent possible to evaluate household energy consumption for products it seeks to cover. DOE emphasizes that it is promulgating this classification only for purposes of evaluating household energy consumption under EPCA. The final rule's definition of "household" is not intended in any way to address or make a judgment on the desirability of households of any particular size or composition.

Although definitions promulgated in this final rule are essentially the same in substance as the definitions the RECS uses for "household" and related terms, the final rule language is much less detailed, and differs from the language of the RECS definitions in a number of respects. The RECS definitions contain language specifically geared to EIA's purposes that is unnecessary for this rulemaking. Regarding the level of detail, most significant is that the RECS definition of "household" identifies various specific categories of people who would or would not be considered household members, whereas this final rule does not identify such categories. The RECS gathers information as to the characteristics of the households it surveys, but DOE will not use the final rule's definitions as a basis for obtaining such information. Therefore, the RECS definition needs to delineate who is and is not within a household with much greater precision than the final rule's definition.

In addition, the definitions in this final rule contain many technical and editorial changes to the RECS definitions. For example, the RECS definition of "household" refers to a person's residence "at the time of the first field contact" and to comparison of the numbers of households and of occupied housing units "in the RECS." 2001 RECS report at *http://www.eia.doe.gov/emeu/recs/glossary.html.* Such language does not belong in the final rule's definition of household, which would be used to provide a metric for assessing the energy use of a product.

Furthermore, because EIA did not develop the RECS definitions for inclusion in regulations, they are not in the form, and sometimes lack the precision, needed in a regulation. For example, consecutive sentences of the RECS definition of "household" describe members of the household as persons who have their "usual or permanent place of residence" in the same housing unit, who "live in the housing unit," and who "usually live in the household." 2001 RECS report at *http://www.eia.doe.gov/emeu/recs/glossary.html.* These different descriptions create the potential for misinterpretation, and use of the word "household" within the definition of that term makes the definition circular. In the definitions promulgated in this final rule, DOE has converted the EIA definitions into language suitable for use as a regulation, adhering to the

concepts in these definitions while attempting to reduce the potential for misinterpretation, vagueness, and conflicts, as well as unnecessary wording.

Finally, the final rule's definition of "energy use of a type of consumer product which is used by households" reflects how EIA conducts the RECS and uses its definitions of household and related terms, although in one significant respect it departs from the RECS approach. First, the RECS concerns all energy consumption at the housing unit where the household is located, i.e., consumption both by members of a household and by visitors. 2001 RECS report at *http://www.eia.doe.gov/emeu/recs/recs2001/questionaire.pdf.* The language of the RECS definitions of household and related terms, however, does not clearly provide that household energy consumption includes consumption by non-members of the household. DOE is defining "energy use of a type of consumer product which is used by households" so as to clearly include such energy consumption.

Second, the RECS often addresses energy consumption on the grounds and in buildings belonging to the housing unit in which the household members reside, although its definition of "housing unit" does not explicitly include such areas. For example, the 2001 RECS addressed swimming pool heaters, well water pumps, and outdoor gas lighting (2001 RECS report at table HC5–4a), and previous surveys have addressed products such as electric lawn mowers. The final rule's definition of "energy use of a type of consumer product which is used by households" provides in essence that energy consumption on the grounds of housing units occupied by the household, and in structures on those grounds, is part of household energy consumption.

Third, the RECS concerns energy consumption only at housing units that households occupy as primary residences. 2001 RECS report at *http://www.eia.doe.gov/emeu/recs/recs2001/append_a.html* and *http://www.eia.doe.gov/emeu/recs/recs2001/questionaire.pdf.* Thus, the RECS report does not include information as to household energy use in secondary residences. EIA uses this approach for several reasons. First, the amount of energy consumed in secondary residences, although not negligible, is not large. Second, by covering a narrower universe—primary residences rather than all residences occupied by households—the sample of households from which the RECS gathers information will provide stronger support for the conclusions reached in the RECS as to household energy use. And third, this approach parallels the Census Bureau's historical definition of "household" and its approach to gathering information in its housing survey. EPCA's criteria for determining whether a consumer product qualifies for coverage and the adoption of standards, however, do not limit per-household or aggregate household energy use to energy use in the primary residences of households. (42 U.S.C. 6292(b) and 6295(l)) Furthermore, DOE sees no reason to adopt such a limitation in evaluating products for coverage and standards. Therefore, the definitions in this final rule provide in effect that household energy use by a product includes all energy that households consume in using that product, at all housing units they occupy, regardless of whether the housing units are primary residences. This permits DOE to use data as to household energy consumption that includes both primary and secondary residences, if such data is available. When such data is not available, DOE intends to use data that includes only primary residences, such as the RECS data. Energy consumption at primary residences will always be at least a constituent element of total household energy use for consumer products, since for all or virtually all such products it appears to represent the most significant portion of household energy use. Thus, for products for which the available data includes energy use only at primary residences, such as the RECS data, DOE's use of such data as a basis for determining whether the product qualifies for coverage and the adoption of standards would provide an accurate but conservative estimate of per-household and aggregate household energy use under EPCA.

C. Conclusion

In sum, DOE has adopted definitions of "household" and related terms, which it would use to determine whether products not currently covered under EPCA meet the EPCA criteria for classification as "covered products." DOE would also use these definitions to determine whether, once a product has been so classified, it meets the additional per-household and aggregate household energy use criteria for setting energy conservation standards under EPCA for a product DOE classifies as covered. EPCA directs DOE to define "household," and DOE believes the definitions promulgated in this final rule are reasonable and consistent with data DOE intends to use in making its determinations on household energy consumption.

III. Public Participation

A. Determination Not To Hold Public Meeting

Under 42 U.S.C. 7191(c)(1), the Secretary may determine that "no substantial issue of fact or law exists and that such rule * * * is unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses," and that "such proposed rule * * * or order may be promulgated in accordance with section 553 of title 5." Section 553(c) of title 5 permits the agency to "give interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments with or without opportunity for oral presentation." DOE determined that a 45-day public comment period for written comments was sufficient and that a public meeting for oral presentation was unnecessary for this rulemaking. Since this rulemaking did not raise any issues of fact or law and merely provided a definition necessary for the Secretary to carry out authority already held by the Secretary under EPCA, this rulemaking was unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses.

B. Public Comment Response

No comments were received during the public comment period that ended June 19, 2006. One comment was received from the Peoples Republic of China (China) after the close of the comment period. China recommended that the definition take into account the possibility that certain households may have non-residential energy uses, which should be excluded from consideration. Even if China's comment had been received during the comment period, DOE believes that the statutory provisions that direct DOE to consider the average annual per-household energy use of consumer products ensure that only residential energy uses will be considered. China also made suggestions regarding certain regulatory issues that are beyond the scope of this rulemaking.

DOE anticipated that this rulemaking would be non-controversial. This was confirmed, as evidenced by the receipt of only one public comment. Therefore, DOE is adopting the rule verbatim as originally proposed in the notice of proposed rulemaking and opportunity for public comment which was published in the **Federal Register** on May 4, 2006. (71 FR 26275)

IV. Procedural Requirements

A. Review Under Executive Order 12866

The Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB) determined that today's regulatory action is not a "significant regulatory action" under Executive Order 12866, "Regulatory Planning and Review," 58 FR 51735 (October 4, 1993). Accordingly, this action was not subject to review under the Executive Order.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, "Proper Consideration of Small Entities in Agency Rulemaking," 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its draft rules on small entities are properly considered during the rulemaking process (68 FR 7990). DOE has made them available on the Office of General Counsel's Web site: *http://www.gc.doe.gov.*

DOE reviewed this rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. This final rule neither classifies any product as covered under EPCA, nor includes any requirement for any product. Thus, the final rule does not have any economic impact on any business or entity. On the basis of the foregoing, DOE certifies that the final rule does not impose a significant economic impact on a substantial number of small entities. Accordingly, DOE did not prepare a regulatory flexibility analysis for this rulemaking. DOE transmitted the certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review pursuant to 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act of 1995

This rule was reviewed under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*) This rule concerns an element of the criteria DOE must use to determine whether it can regulate and adopt energy conservation standards for consumer products not already covered under EPCA. It does not require any additional reports or recordkeeping. Accordingly, this action is not subject to review under the Paperwork Reduction Act.

D. Review Under the National Environmental Policy Act of 1969

In this rulemaking, DOE adopted definitions that provide a basis for DOE to determine whether products not currently covered by EPCA meet the requirements for DOE to classify a product as a "covered product" under EPCA, and to establish energy conservation requirements for the product. The definitions will not affect the quality or distribution of energy and, therefore, will not result in any environmental impacts. DOE, therefore, determined that this rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and DOE's implementing regulations at 10 CFR part 1021. More specifically, today's rule is covered by the Categorical Exclusion in paragraph A5 to subpart D, 10 CFR part 1021 (rulemaking that amends an existing rule without changing the environmental effect of the rule being amended). Accordingly, neither an environmental assessment nor an environmental impact statement was required.

E. Review Under Executive Order 13132

Executive Order 13132, "Federalism," 64 FR 43255 (August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive Order 13132 requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations (65 FR 13735).

The final rule published today supplies an element of the criteria DOE must use to determine whether it can regulate and adopt energy conservation standards for consumer products not already covered under EPCA. This final rule will not directly affect state or local governments. However, it might ultimately have an indirect impact on such governments because the rule could affect which products DOE covers and adopts standards for, under EPCA. If DOE ultimately decides to extend the coverage of its energy efficiency program to additional consumer products, the future application of coverage criteria could pre-empt state and local requirements for those newly covered products. Such impacts would not be the result of this final rule but would be the result of later notice-and-comment rulemakings. Thus today's rule, by itself, does not pre-empt any state or local action.

For these reasons, DOE determined that this final rule does not preempt State law and does not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, no further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, "Civil Justice Reform," 61 FR 4729 (February 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

G. Review Under Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and tribal governments and the private sector. With respect to a proposed regulatory action that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector of $100 million or more (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish estimates of the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and tribal governments on a proposed "significant intergovernmental mandate," and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA (62 FR 12820) (also available at *http://www.gc.doe.gov*).

This final rule will not directly affect any State, local or tribal government, or the private sector. It might ultimately have an indirect effect on State or local governments, and the private sector, since it could affect which products DOE covers and adopts standards for under EPCA. DOE's coverage and adoption of standards for products could pre-empt state and local requirements for those products, and would affect companies that manufacture and sell them. Such impacts will not result from promulgation of this final rule, however, and the rule imposes no mandates of any kind.

For these reasons, we have determined that this final rule does not provide for any Federal mandate that may result in estimated costs of $100 million or more. Therefore, a cost benefit analysis was not required under the UMRA.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277), requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. Today's final rule does not have any impact on the autonomy or the integrity of the family as an institution. Accordingly, DOE concluded that it was not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

DOE determined under Executive Order 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights," 53 FR 8859 (March 18, 1988), that this regulation would not result in any takings which might require compensation under the Fifth Amendment to the United States Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency under general guidelines issued by OMB. The OMB guidelines were published in 67 FR 8452 (February 22, 2002), and the DOE guidelines were published in 67 FR 62446 (October 7, 2002). DOE reviewed this final rule under the OMB and DOE guidelines, and concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, a Statement of Energy Effects for any proposed significant energy action. A "significant energy action" is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administration of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. Today's final rule is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy. Therefore, it is not a significant energy action, and DOE has not prepared a Statement of Energy Effects.

L. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of today's rule prior to its effective date. The report will state that it has been determined that the rule is not a "major rule" as defined by 5 U.S.C. 804(2).

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of today's rule.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Energy conservation, Household appliances.

Issued in Washington, DC, on January 22, 2010.

Cathy Zoi,

Assistant Secretary, Energy Efficiency and Renewable Energy.

■ For the reasons set forth in the preamble, Part 430 of Chapter II of Title 10, Code of Federal Regulations, is amended as set forth below.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 1. The authority citation for Part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 2. Section 430.2 is amended by adding definitions for "energy use of a type of consumer product which is used by households," and "household," in alphabetical order to read as follows:

§ 430.2 Definitions.

* * * * *

Energy use of a type of consumer product which is used by households means the energy consumed by such product within housing units occupied by households (such as energy for space heating and cooling, water heating, the operation of appliances, or other activities of the households), and includes energy consumed on any property that is contiguous with a housing unit and that is used primarily by the household occupying the housing unit (such as energy for exterior lights or heating a pool).

* * * * *

Household means an entity consisting of either an individual, a family, or a

group of unrelated individuals, who reside in a particular housing unit. For the purpose of this definition:

(1) *Group quarters* means living quarters that are occupied by an institutional group of 10 or more unrelated persons, such as a nursing home, military barracks, halfway house, college dormitory, fraternity or sorority house, convent, shelter, jail or correctional institution.

(2) *Housing unit* means a house, an apartment, a group of rooms, or a single room occupied as separate living quarters, but does not include group quarters.

(3) *Separate living quarters* means living quarters:

(i) To which the occupants have access either:

(A) Directly from outside of the building, or

(B) Through a common hall that is accessible to other living quarters and that does not go through someone else's living quarters, and

(ii) Occupied by one or more persons who live and eat separately from occupant(s) of other living quarters, if any, in the same building.

* * * * *

[FR Doc. 2010–6045 Filed 3–18–10; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL ELECTION COMMISSION

11 CFR Parts 100 and 106

[Notice 2010–08]

Funds Received in Response to Solicitations; Allocation of Expenses by Separate Segregated Funds and Nonconnected Committees

AGENCY: Federal Election Commission.

ACTION: Final rules.

SUMMARY: The Federal Election Commission ("Commission") is removing its rule regarding funds received in response to solicitations. The Commission is also removing two additional rules regarding the allocation of certain expenses by separate segregated funds and nonconnected committees. The United States District Court for the District of Columbia ordered that these rules are vacated, in accordance with a Court of Appeals decision. Further information is provided in the supplementary information that follows.

DATES: *Effective:* April 19, 2010.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Knop, Assistant General Counsel, or Mr. Neven F. Stipanovic, Attorney, 999 E Street, NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Commission is revising its regulations to conform to the decision of the United States Court of Appeals for the District of Columbia Circuit in *EMILY's List* v. *FEC,* 581 F.3d 1 (DC Cir. 2009). On September 18, 2009, the court ruled that 11 CFR 100.57, 106.6(c), and 106.6(f) violated the First Amendment of the United States Constitution. *See EMILY's List* v. *FEC,* 581 F.3d 1 (DC Cir. 2009). The court also ruled that 11 CFR 100.57 and 106.6(f), as well as one provision of 106.6(c), exceeded the Commission's authority under the Federal Election Campaign Act ("Act"). *See id.* At the direction of the Court of Appeals, the United States District Court for the District of Columbia ordered that these rules are vacated. *See Final Order, EMILY's List* v. *FEC,* No. 05–0049 (D.D.C. Nov. 30, 2009).

The Commission published a Notice of Proposed Rulemaking ("NPRM") on December 29, 2009, in which it sought public comment on the proposed removal of rules at 11 CFR 100.57, 106.6(c), and 106.6(f). *See* Notice of Proposed Rulemaking on Funds Received in Response to Solicitations; Allocation of Expenses by Separate Segregated Funds and Nonconnected Committees, 74 FR 68720 (Dec. 29, 2009) ("NPRM"). The comment period closed on January 28, 2010. The Commission received two comments on the proposed rules, one of which was a comment from the Internal Revenue Service ("IRS") stating that the proposed rules did not conflict with Internal Revenue Code or IRS regulations. The comments are available on the Commission's website at *http://www.fec.gov/law/law_rulemakings.shtml#emilyslistrepeal.*

For the reasons explained below, the Commission has decided to delete the rules at 11 CFR 100.57, 106.6(c), and 106.6(f). The Commission's final rules are identical to the proposed rules in the NPRM.

Under the Administrative Procedure Act, 5 U.S.C. 553(d) and the Congressional Review of Agency Rulemaking Act, 5 U.S.C. 801(a)(1), agencies must submit final rules to the Speaker of the House of Representatives and the President of the Senate and publish them in the **Federal Register** at least 30 calendar days before they take effect. The final rules that follow were transmitted to Congress on March 15, 2010.

Explanation and Justification

I. Deletion of 11 CFR 100.57—Funds Received in Response to Solicitations

The Commission promulgated 11 CFR 100.57 to specify when funds received in response to solicitations are considered to be contributions for purposes of the Act. Under paragraph (a) of section 100.57, funds provided in response to a communication were treated as contributions if the communication indicated that any portion of the funds received would be used to support or oppose the election of a clearly identified Federal candidate. Paragraph (b)(1) of section 100.57 provided that all funds received in response to a solicitation described in section 100.57(a) that referred to both a clearly identified Federal candidate and a political party, but not to any non-Federal candidates, had to be treated as contributions. Paragraph (b)(2) stated that if a solicitation described in section 100.57 referred to at least one clearly identified Federal candidate and one or more clearly identified non-Federal candidate, then at least fifty percent of the funds received in response to the solicitation had to be treated as contributions. Paragraph (c) of section 100.57 provided an exception for certain solicitations for joint fundraisers conducted between or among authorized committees of Federal candidates and the campaign organizations of non-Federal candidates.

The Commission is removing section 100.57 in its entirety from its regulations because the Court of Appeals held that section 100.57 is unconstitutional and that it exceeded the Commission's statutory authority under the Act. *See EMILY's List* v. *FEC,* 581 F.3d 1 (D.C. Cir. 2009). Accordingly, the District Court ordered that 11 CFR 100.57 is vacated. *See Final Order, EMILY's List* v. *FEC,* No. 05–0049 (D.D.C. Nov. 30, 2009).

The Commission received one comment on the proposal to remove section 100.57. That commenter agreed with the Commission that 11 CFR 100.57 should be removed in its entirety.

II. Deletion of 11 CFR 106.6(c) and 106.6(f)—Allocation of Expenses Between Federal and Non-Federal Activities by Separate Segregated Funds and Nonconnected Committees

The Commission promulgated 11 CFR 106.6 to provide separate segregated funds (SSFs) and nonconnected committees making disbursements in connection with both Federal and non-Federal elections with instructions as to how to allocate their administrative

expenses and costs for combined Federal and non-Federal activities. The rule at 11 CFR 106.6(c) required nonconnected committees and SSFs to use at least fifty percent Federal funds to pay for administrative expenses, generic voter drives, and public communications that referred to a political party, but not to any Federal or non-Federal candidates.[1] Paragraph (f) of section 106.6 specified that nonconnected committees and SSFs had to pay for public communications and voter drives that referred to both Federal and non-Federal candidates using a percentage of Federal funds proportionate to the amount of the communication that was devoted to the Federal candidates. *See id.*

The Commission is now removing paragraphs (c) and (f) from section 106.6 because the Court of Appeals held that these provisions are unconstitutional. *See EMILY's List* v. *FEC,* 581 F.3d 1 (DC Cir. 2009). Accordingly, the District Court ordered that paragraphs (c) and (f) of section 106.6 are vacated. *See Final Order, EMILY's List* v. *FEC,* No. 05–0049 (D.DC Nov. 30, 2009).

The Commission sought public comment on whether the Court of Appeals' decision extends to SSFs as well as to nonconnected committees. *See EMILY's List NPRM* at 68721. The Commission noted that section 106.6's allocation rules, including paragraphs (c) and (f), apply to nonconnected committees and to SSFs. *See id.* EMILY's List is a non-profit non-connected political committee, not an SSF. The *EMILY's List* decision stated that "this case concerns the FEC's regulation of *non-profit entities* that are not connected to a * * * for-profit corporation." *See EMILY's List,* 581 F.3d at 8. Moreover, in footnote 7 of the decision, the court stated: "In referring to non-profit entities, we mean non-connected non-profit corporations * * * as well as unincorporated non-profit groups. 'Non-connected' means that the non-profit is not a * * * committee established by a corporation or labor union." *See id. n.7.* The Commission asked whether these aspects of the opinion provided any basis for treating SSFs differently from the non-connected committee at issue in the *EMILY's List* case. *See EMILY's List NPRM* at 68721. Alternatively, the Commission asked whether the court's order vacating 11 CFR 106.6(c) and (f) is so clear that the Commission has no discretion to do anything but repeal those provisions in their entirety. *Id.*

The Commission received one comment on this issue. That commenter agreed with the Commission's proposal to remove paragraphs (c) and (f) from section 106.6. The commenter argued that the *EMILY's List* decision applies to SSFs as well as to nonconnected committees. According to the commenter, the Court of Appeals ruled that the regulations were invalid in their entirety and the court did not provide any exception for SSFs. The commenter further noted that paragraphs (c) and (f) of section 106.6 applied to both SSFs and to nonconnected committees, and that these regulations were challenged on their face. Accordingly, the court's reasoning applies with equal force to SSFs as to nonconnected committees. As to the court's statement in footnote 7, the commenter argued that this statement was simply a description of how the term "non-profit entities" was to be used in the opinion because the term "non-profit entities" does not appear in the Act. However, the explanation of the court's terminology did not limit the reach of the decision.

The Commission agrees with the commenter that the court's holding applies to SSFs as well as to nonconnected committees. Although the court defined the term non-profit entities as not including SSFs, the court explicitly ordered the District Court to "vacate the challenged regulations," referring to section 106.6(c) and section 106.6(f) in their entirety. The court's order provides no exception for SSFs. Accordingly, the Commission is removing paragraphs (c) and (f) in their entirety.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)

The Commission certifies that the attached final rules will not have a significant economic impact on a substantial number of small entities. Few, if any, small entities will be affected by these final rules, which apply to Federal candidates and their campaign committees, political committees of political parties, nonconnected committees, and separate segregated funds. Candidates, party committees, separate segregated funds, and nonconnected committees are not "small entities" under 5 U.S.C. 601. They are not independently owned and operated because they are not financed and controlled by a small identifiable group of individuals; rather, they rely on contributions from a variety of persons to fund committee activities. However, to the extent that any committees might be considered "small entities," it is also the case that the final rules do not add any new substantive provisions to the current regulations, but instead remove existing regulations pursuant to a Federal court order that they be vacated. Accordingly, removing these regulations will not have a significant impact on a substantial number of small entities.

List of Subjects

11 CFR Part 100

Elections.

11 CFR Part 106

Campaign funds, Political committees and parties, Reporting and recordkeeping requirements.

■ For the reasons set out in the preamble, subchapter A of chapter I of title 11 of the *Code of Federal Regulations* is amended as follows:

PART 100—SCOPE AND DEFINITIONS (2 U.S.C. 431)

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 2 U.S.C. 431, 434, 438(a)(8), and 439a(c).

§ 100.57 [Removed and Reserved]

■ 2. Section 100.57 is removed and reserved.

PART 106—ALLOCATIONS OF CANDIDATE AND COMMITTEE ACTIVITIES

■ 3. The authority citation for part 106 continues to read as follows:

Authority: 2 U.S.C. 438(a)(8), 441a(b), 441a(g).

§ 106.6 Allocation of expenses between Federal and non-Federal activities by separate segregated funds and nonconnected committees.

■ 4. In § 106.6, paragraphs (c) and (f) are removed and reserved.

Dated: March 15, 2010.

On behalf of the Commission.

Matthew S. Petersen,

Chairman, Federal Election Commission.

[FR Doc. 2010–6002 Filed 3–18–10; 8:45 am]

BILLING CODE 6715–01–P

[1] Section 106.6(a) defines a non-connected committee as "any committee which conducts activities in connection with an election but which is not a party committee, an authorized committee of any candidate for Federal election, or a separate segregated fund." A separate segregated fund is a political committee established, administered, or financially supported by a corporation or labor organization. 2 U.S.C. 441b(b)(2)(C); 11 CFR 114.1(a)(2)(iii). A generic voter drive includes voter identification, voter registration, and get-out-the-vote drives, or any other activities that urge the general public to register, vote or support candidates of a particular party or associated with a particular issue, without mentioning a specific candidate. 11 CFR 106.6(b)(1)(iii).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2009–0452; Directorate Identifier 2007–NM–326–AD; Amendment 39–16223; AD 2010–05–13]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 Series Airplanes

Correction

In rule document 2010–4511 beginning on page 10658 in the issue of Tuesday, March 9, 2010, make the following correction:

On page 10660, in the table, under the heading "Number of U.S.–registered airplanes", the second entry "87" should read "787".

[FR Doc. C1–2010–4511 Filed 3–18–10; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

[Docket No. FDA–2010–N–0002]

Implantation or Injectable Dosage Form New Animal Drugs; Flunixin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an original abbreviated new animal drug application (ANADA) filed by Cross Vetpharm Group Ltd. The ANADA provides for the use of flunixin meglumine injectable solution in swine.

DATES: This rule is effective March 19, 2010.

FOR FURTHER INFORMATION CONTACT: John K. Harshman, Center for Veterinary Medicine (HFV–170), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8197, e-mail: *john.harshman@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Cross Vetpharm Group Ltd., Broomhill Rd., Tallaght, Dublin 24, Ireland, filed ANADA 200–489 that provides for use of FLUNAZINE–S (flunixin meglumine) Injectable Solution in swine for control of pyrexia associated with swine respiratory disease. Cross Vetpharm Group Ltd.'s FLUNAZINE–S is approved as a generic copy of BANAMINE–S, sponsored by Schering-Plough Animal Health Corp. under NADA 101–479. The ANADA is approved as of March 1, 2010, and the regulations are amended in 21 CFR 522.970 to reflect the approval.

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

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

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

List of Subjects in 21 CFR Part 522

Animal drugs.

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

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

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

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

■ 2. In § 522.970, revise paragraphs (b)(1) and (b)(4) to read as follows:

§ 522.970 Flunixin.

* * * * *

(b) * * *

(1) See Nos. 000061, 055529, and 061623 for use as in paragraph (e) of this section.

* * * * *

(4) See No. 059130 for use as in paragraphs (e)(1) and (e)(2) of this section.

* * * * *

Dated: March 12, 2010.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. 2010–6038 Filed 3–18–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1140

[Docket No. FDA–1995–N–0259] (formerly Docket No. 1995N–0253)

RIN 0910–AG33

Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco To Protect Children and Adolescents

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is reissuing a final rule restricting the sale, distribution, and use of cigarettes and smokeless tobacco. As required by the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act), FDA is issuing a final rule that is identical to the provisions of the final rule on cigarettes and smokeless tobacco published by FDA in 1996, with certain required exceptions. The rule prohibits the sale of cigarettes and smokeless tobacco to individuals under the age of 18 and imposes specific marketing, labeling, and advertising requirements. Elsewhere in this issue of the **Federal Register**, FDA is issuing an advance notice of proposed rulemaking to obtain information related to the regulation of outdoor advertising of cigarettes and smokeless tobacco.

DATES: This rule is effective June 22, 2010.

FOR FURTHER INFORMATION CONTACT: Annette Marthaler, Center for Tobacco Products, Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850–3229, 877–287–1373, *annette.marthaler@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

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VI. Information Collection Provisions in the Final Rule

I. Background

The Tobacco Control Act was enacted on June 22, 2009, amending the Federal Food, Drug, and Cosmetic Act (act) and providing FDA with the authority to regulate tobacco products (Public Law 111–31; 123 Stat. 1776). Section 102 of the Tobacco Control Act requires FDA to publish a final rule regarding cigarettes and smokeless tobacco identical in its provisions to the regulation issued by FDA in 1996 (61 FR 44396, August 28, 1996) (1996 final rule), with certain specified exceptions.

In enacting the Tobacco Control Act, Congress made extensive legislative findings regarding the lethal and addictive nature of tobacco products, including that tobacco use is the foremost preventable cause of premature death in the United States (section 2(13) of the Tobacco Control Act; 61 FR 44398). Tobacco use causes more than 400,000 deaths each year (section 2(13) of the Tobacco Control Act). Moreover, advertising, marketing, and promotion of tobacco products have been "especially directed to attract young persons to use tobacco products, and these efforts have resulted in increased use of such products by youth" (section 2(15) of the Tobacco Control Act). The use of tobacco products is a "pediatric disease" and an effective program to address this disease must include restrictions on youth access and restrictions on labeling and advertising to help reduce the appeal of tobacco products to young people (section 2(1), (30) of the Tobacco Control Act; 60 FR 41314 at 41315; August 11, 1995).

As Congress recognized, the 1996 final rule was "the longest rulemaking proceeding in [FDA] history," with 700,000 comments received in the course of the rulemaking (Congressional Record, S6407, June 10, 2009, Statement of Senator Kennedy). "[I]t makes no sense to require FDA to reinvent the wheel by conducting a new multiyear rulemaking process on the same issues * * * this legislation will give the youth access and advertising restrictions already developed by FDA the force of law" (Congressional Record, S6407, June 10, 2009, Statement of Senator Kennedy). Both the 1996 final rule and the 1995 proposed rule (60 FR 41314) included extensive discussions of the scientific information available at that time and the final rule included FDA's responses to the more than 700,000 comments on the proposed rule (61 FR 44396).

II. Overview of the Final Rule

Consistent with the requirements of section 102 of the Tobacco Control Act, this rule prohibits the sale of cigarettes and smokeless tobacco to any person under age 18 and imposes restrictions on marketing, labeling, and advertising. The rule requires retailers to verify a purchaser's age by photographic identification; prohibits free samples of cigarettes and prohibits free samples of smokeless tobacco, except in qualified adult-only facilities; prohibits the sale of cigarettes and smokeless tobacco products through vending machines and self-service displays, except in facilities where individuals under the age of 18 are not present or permitted at any time; limits the advertising and labeling to which children and adolescents are exposed to a black-and-white, text-only format [1]; prohibits the sale or distribution of brand-identified promotional nontobacco items such as hats and tee shirts; and prohibits sponsorship of sporting and other events, teams, and entries in a brand name of a tobacco product, but permits such sponsorship in a corporate name.

As required by section 102(a)(2) of the Tobacco Control Act, this final rule includes the following changes to the provisions of the 1996 final rule:

- Strikes subpart C—Labels and § 897.32(c) (section 102(a)(2)(B));
- Replaces the definitions of "cigarette," "cigarette tobacco," and "smokeless tobacco" with the definitions of those terms included in the Tobacco Control Act (section 102(a)(2)(C));
- Inserts the phrase "or roll-your-own paper" in 21 CFR 1140.34(a) (formerly § 897.34(a) of the 1996 final rule) (section 102(a)(2)(D)); and
- Reflects the language in section 102(a)(2)(G) of the Tobacco Control Act in 21 CFR 1140.16(d) (formerly § 897.16(d)) of the 1996 final rule.

FDA has also changed the section numbers of the codified provisions to reflect the rule's codification at part 1140 (21 CFR part 1140) (the 1996 final rule codified the provisions at part 897, a part used for device regulations, because the products were regulated as devices at that time), made conforming edits, such as corrections to paragraph numbering, to § 1140.16(d), and updated the address in § 1140.30(a)(2). In addition, the rule reflects the following considerations.

Section 21 CFR 1140.16(a)—Under this final rule, manufacturers may not use a trade or brand name of a nontobacco product as the trade or brand name for a cigarette or smokeless tobacco product unless the trade or brand name was on both the tobacco product and a nontobacco product sold in the United States on January 1, 1995. FDA is aware of concerns regarding this provision and is considering what changes, if any, would be appropriate.

Section 21 CFR 1140.30(b)—Consistent with section 102(a)(2)(E) of the Tobacco Control Act, FDA has carefully considered whether this section (formerly § 897.30(b)) should be modified in light of governing First Amendment case law, including the decision of the Supreme Court of the United States in *Lorillard Tobacco Co.* v. *Reilly* (Lorillard) (533 U.S. 525 (2001)). FDA has determined that it is appropriate in light of governing First Amendment case law to solicit additional information regarding outdoor advertising in order to determine what modifications to this section, if any, are appropriate. Accordingly, elsewhere in this **Federal Register**, FDA is publishing an advance notice of proposed rulemaking (ANPR) requesting comments and information on outdoor advertising. By issuing this ANPR, the Agency will obtain comments and data, research, or other information that may have developed since the 1996 issuance of § 897.30(b). This will enable the Agency to implement a regulatory approach to outdoor advertising that reflects careful consideration of the U.S. Supreme Court's decision in *Lorillard*, the other provisions of the Tobacco Control Act, and other developments and information, such as the Master Settlement Agreement between the State Attorneys General and the tobacco industry, that have occurred since the original publication of the 1996 final rule. FDA intends to use the information submitted in response to this advance notice of proposed rulemaking, along with information in the existing record and other information developed since the publication of the 1996 final rule, to inform its regulation of outdoor advertising of cigarettes and smokeless tobacco. Accordingly, FDA has reserved former § 897.30(b), which is now renumbered as § 1140.30(b), in this final rule.

Section 21 CFR 1140.32(a)—The United States District Court for the Western District of Kentucky recently issued an order granting the plaintiffs' motion for an order enjoining FDA from enforcing against them section § 1140.32(a) (formerly § 897.32(a) of the 1996 final rule), scheduled to go into effect on June 22, 2010. (*Commonwealth*

[1] As discussed later in this section II, this provision is the subject of an injunction issued by the United States District Court for the Western District of Kentucky (*Commonwealth Brands, Inc.* v. *United States*, No. 1:09-CV-117-M (W.D. Ky. Jan. 4, 2010)).

Brands, Inc. v. *United States*, No. 1:09–CV–117–M (W.D. Ky. Jan. 4, 2010)). The government has noticed an appeal from the final judgment entered in that case on March 8, 2010.

III. Scientific Information That Has Become Available Since the Publication of the 1996 Final Rule

In developing its proposed rule (60 FR 41314, August 11, 1995) and the 1996 final rule, FDA carefully considered the scientific reviews and information available at that time. Although not required to do so by the Tobacco Control Act, FDA reviewed scientific information that has become available since publication of the 1996 final rule and found that, consistent with the evidence in the record for the 1996 final rule, the provisions continue to be overwhelmingly supported by extensive studies on continued youth access to tobacco products, the targeted marketing of tobacco products to youth, and the immense public health harm that results. Following is an overview of some of the scientific information that has become available since the 1996 final rule.

A. Access

The 2008 National Survey on Drug Use and Health found that the number of persons aged 12 or older who smoked cigarettes for the first time within the past 12 months was 2.4 million in 2008, which was significantly higher than the estimate for 2002 (1.9 million), 2003 (2.0 million), and 2004 (2.1 million).[2] In 2008, every day, nearly 4,000 youth aged 12 to 17 became new cigarette smokers.[3] Approximately 85 percent of persons who ever tried a cigarette did so by age 18.[4] In addition, the number of persons aged 12 or older initiating use of smokeless tobacco was 1.4 million in 2008 and a little less than half (47.4 percent) were under age 18 when they first used smokeless tobacco.[5] The President's Cancer Panel identified youth as a population group "particularly vulnerable to tobacco initiation, continued use, and consequent diseases caused by tobacco use" and reported that the "younger people are when they begin to smoke, the more likely they are to be adult smokers."[6] Based on 2009 data from the Monitoring the Future survey, past-month cigarette smoking rates among 8th, 10th, and 12th grade students declined only slightly from 2007 to 2009, at a much slower pace than observed previously, while significant increases occurred from 2005 to 2009 in past-month use of smokeless tobacco among 10th and 12th grade students.[7]

Cigarette sources include social and commercial sources (e.g., gas stations, convenience stores). Despite state laws prohibiting the sale of cigarettes to youth, many middle school and high school students continue to report that cigarettes are easy to obtain.[8] One study found that minors were 2.2 times more successful when attempting to buy a smokeless tobacco product than when trying to buy cigarettes.[9] Age verification data indicate that minors are able to purchase cigarettes and other tobacco products from stores without age verification.[10,11] In addition, youth continue to have some access to "loosies" (defined as less than a full pack of cigarettes).[12,13]

Youth access restrictions and enforcement of these laws continue to be identified as important interventions for preventing tobacco use among adolescents.[14,15,16,17] One national study found that increases in state retailer compliance with state laws against selling tobacco products to minors were associated with decreases in daily cigarette smoking rates among 10th grade students.[18] States have universally adopted youth access restrictions in light of the Synar Amendment (Public Law 102–321), which is aimed at decreasing youth access to tobacco, and most states have made considerable progress in achieving the goal of reducing retailer violation rates in random inspections to 20 percent or less.[19,20] In 2008, the national average retailer violation rate (tobacco sales to minors) was 9.9 percent.[21] This was the lowest retailer violation rate in Synar's 12-year history. However, the Synar Amendment focuses on only one aspect of tobacco control: Reducing youth access to tobacco products through retail sources. Although important, reduction of youth access to tobacco products is generally recognized as only one aspect of an effective multi-component approach to reduce youth tobacco initiation and use, which should also include efforts to limit tobacco industry marketing and smoking restrictions.[22,23] Moreover,

[2] Substance Abuse and Mental Health Services Administration, "Results from the 2008 National Survey on Drug Use and Health: National Findings," p. 60, Office of Applied Studies, NSDUH Series H–34, DHHS Publication No. SMA 09–4434, Rockville, MD, 2009. (*http://www.oas.samhsa.gov/nsduh/2k8nsduh/2k8Results.cfm*). (FDA has verified the Web site addresses in this document, but FDA is not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**.)

[3] *Id.*

[4] Memorandum from the Centers for Disease Control to the Food and Drug Administration, February 3, 2010.

[5] Substance Abuse and Mental Health Services Administration, "Results from the 2008 National Survey on Drug Use and Health: National Findings," p. 62, Office of Applied Studies, NSDUH Series H–34, DHHS Publication No. SMA 09–4434, Rockville, MD, 2009.

[6] President's Cancer Panel, "Promoting Healthy Lifestyles," p. 64, U.S. Department of Health and Human Services, National Institutes of Health, National Cancer Institute, 2007 (*http://deainfo.nci.nih.gov/ADVISORY/pcp/pcp07rpt/pcp07rpt.pdf*).

[7] Johnston, L.D., P.M. O'Malley, J.G. Bachman, et al., "Smoking continues gradual decline among U.S. teens, smokeless tobacco threatens a comeback" (press release), University of Michigan News Service, December 14, 2009 (*http://www.monitoringthefuture.org/data/09data.html#2009data-cigs*).

[8] *Id.*

[9] Clark, P.I., S.L. Natanblut, C.L. Schmitt, et al., "Factors Associated With Tobacco Sales to Minors: Lessons Learned From the FDA Compliance Checks," *Journal of American Medical Association*; 284(6), pp.729–734, 2000.

[10] Centers for Disease Control and Prevention (CDC), "Tobacco Use, Access, and Exposure to Tobacco in Media Among Middle and High School Students, United States, 2004," MMWR Highlights, April 1, 2005 (*http://www.cdc.gov/tobacco/data_statistics/mmwrs/byyear/2005/mm5412a1/highlights.htm*).

[11] Jones S.E., D.J. Sharp, C.G. Husten, et al., "Cigarette acquisition and proof of age among U.S. high school students who smoke," *Tobacco Control*, 11(1), pp. 20–25, 2002.

[12] Johnston L.D., P.M. O'Malley, Y.M. Terry-McElrath, "Methods, Locations, and Ease of Cigarette Access for American Youth, 1997–2002," *American Journal of Preventive Medicine*; 27(4), pp. 267–276, 2004.

[13] Clegg Smith, K., F. Stillman, L. Bone, et al., "Buying and Selling 'Loosies' in Baltimore: The Informal Exchange of Cigarettes in the Community Context," *Journal of Urban Health*, 84(4), pp.494–507, 2007.

[14] National Institutes of Health, "NIH State-of-the-Science Conference Statement on Tobacco Use: Prevention, Cessation and Controls," 2006 (*http://consensus.nih.gov/2006/2006TobaccoSOS029html.htm*).

[15] Substance Abuse and Mental Health Services Administration: Center for Substance Abuse Prevention: Division of State Programs, "FFY 2008 Annual Synar Reports: Youth Tobacco Sales," 2008 (*http://prevention.samhsa.gov/tobacco/synarreportfy2008.pdf*).

[16] Stead, L.F., T. Lancaster, "Interventions for preventing tobacco sales to minors (Review)," *Cochrane Database of Systematic Reviews*, Issue 1, Article No. CD001497, 2005.

[17] *Restricting minors' access to tobacco products*, Guide to Community Preventive Services, 2009, (*http://www.thecommunityguide.org/Tobacco/restrictingaccess/index.html*).

[18] DiFranza J.R., J.A. Savageau, K.E. Fletcher, "Enforcement of underage sales laws as a predictor of daily smoking among adolescents—a national study," *BioMed Central Public Health*, 9:107, pp. 1–7, 2009.

[19] DiFranza J.R., G.F. Dussault, "The federal initiative to halt the sale of tobacco to children—the Synar Amendment, 1992–2000: lessons learned," *Tobacco Control*, 14(2), pp. 93–98, 2005.

[20] Substance Abuse and Mental Health Services Administration: Center for Substance Abuse Prevention: Division of State Programs, "FFY 2008 Annual Synar Reports: Youth Tobacco Sales," 2008 (*http://prevention.samhsa.gov/tobacco/synarreportfy2008.pdf*).

[21] *Id.*

[22] National Institutes of Health, "NIH State-of-the-Science Conference Statement on Tobacco Use:

Continued

data indicate many teens still report access to cigarettes and smokeless tobacco through commercial and/or social sources even in communities with strong enforcement of youth access laws.[24,25,26,27]

B. Marketing

In 2006, the U.S. tobacco industry spent $12.5 billion on advertising and promoting cigarettes and another $354 million on advertising and promoting smokeless tobacco products.[28,29] Combined advertising and promotion expenditures for cigarettes and smokeless tobacco in 2006 amounted to $35 million a day. "As direct advertising channels have become increasingly restricted by policy interventions on both the domestic and global levels, promotional expenditures for tobacco continue to increase in areas such as point-of-purchase displays, promotional allowances, and viral, or 'stealth,' marketing." [30] Sponsorship expenditures, including sponsorship of sports teams and athletes, were $30.6 million in 2005.[31,32] Price discounts accounted for 74 percent of total cigarette marketing expenditures in 2006 ($9.2 billion), with the broader category of promotional allowances (which includes price discounts) accounting for 81 percent of these expenditures ($10.6 billion).[33] The largest category of advertising and promotion for smokeless tobacco products in 2006 was price discounts, which accounted for 58 percent of total spending ($204 million).[34] The broader category of promotional allowances (which includes price discounts) accounted for 61 percent of total spending ($216 million).[35] In comparison, as a general matter, "the assessment of State tobacco control funding indicates little progress in the past year toward the level needed for effective, comprehensive state tobacco control efforts, as recommended by the Centers for Disease Control and Prevention" and is "miniscule" compared to the amount tobacco companies spend on marketing.[36]

NCI Monograph 19—In 2008, the Department of Health and Human Services (HHS) U.S. National Cancer Institute (NCI) published its 19th monograph in the Tobacco Control Monograph Series, *The Role of the Media in Promoting and Reducing Tobacco Use* (Monograph 19). Monograph 19 is a "comprehensive distillation of the scientific literature on media communications in tobacco promotion and tobacco control." [37] In examining tobacco advertising, Monograph 19 stated that "tobacco advertising forms part of an integrated marketing communications strategy combining sponsorship, brand merchandising, brand stretching, packaging, point-of-sale promotions, and product placement." [38] The major conclusions of Monograph 19 included the following: (1) Cigarettes are one of the most heavily marketed products in the United States; (2) the targeting of various population groups, including youth and young adults, "has been strategically important to the tobacco industry"; and (3) the weight of the evidence demonstrates a causal relationship between tobacco advertising and promotion and increased tobacco use.[39] With respect to marketing of tobacco to children and adolescents, Monograph 19 concluded, among other things, that: (1) Tobacco advertising targets the psychological needs of adolescents (e.g., popularity) and "adolescents who believe that smoking can satisfy their psychological needs, or whose desired image of themselves is similar to their image of smokers, are more likely to smoke cigarettes"; and (2) even brief exposure to tobacco advertising influences adolescents' intentions to smoke.[40]

Monograph 19 reviewed studies and literature related to point of sale advertising, use of promotional items in marketing, restrictions on the use of color in labeling and advertising, and tobacco industry sponsorship of sporting and other events. Monograph 19 stated that "cigarette advertising and promotion are heavy in volume and high in visibility at the point of sale, particularly in convenience stores." [41] Further, point of purchase retail settings and bars have become important sites of promotion.[42,43,44,45,46,47] The tobacco industry has also directed more resources toward public relations activities, personal selling, direct marketing campaigns, internet

Prevention, Cessation and Controls," 2006, (*http://consensus.nih.gov/2006/2006TobaccoSOS029html.htm*).

[23] Institute of Medicine (IOM) of the National Academies, "Ending the Tobacco Problem: A Blueprint for the Nation," (2007 IOM Report), 2007 (*http://www.iom.edu/Reports/2007/Ending-the-Tobacco-Problem-A-Blueprint-for-the-Nation.aspx*).

[24] Johnston, L.D., P.M. O'Malley, J.G. Bachman, et al., "Smoking continues gradual decline among U.S. teens, smokeless tobacco threatens a comeback" (press release). University of Michigan News Service, December 14, 2009 (*http://www.monitoringthefuture.org/data/09data.html#2009data-cigs*).

[25] Clark, P.I., S.L. Natanblut, C.L. Schmitt, et al., "Factors Associated With Tobacco Sales to Minors: Lessons Learned From the FDA Compliance Checks," *Journal of American Medical Association*; 284(6), pp.729–734, 2000.

[26] Johnston L.D., P.M. O'Malley, Y.M. Terry-McElrath, "Methods, Locations, and Ease of Cigarette Access for American Youth, 1997–2002," *American Journal of Preventive Medicine*; 27(4), pp. 267–276, 2004.

[27] DiFranza J.R., M. Coleman, "Sources of tobacco for youths in communities with strong enforcement of youth access laws," *Tobacco Control*, 10, pp. 323–328, 2001.

[28] Federal Trade Commission, "Federal Trade Commission Cigarette Report for 2006," 2009 (*http://www.ftc.gov/os/2009/08/090812cigarettereport.pdf*).

[29] Federal Trade Commission, "Federal Trade Commission Smokeless Tobacco Report for the Year 2006," 2009 (*http://www.ftc.gov/os/2009/08/090812smokelesstobaccoreport.pdf*).

[30] National Cancer Institute, "The Role of the Media in Promoting and Reducing Tobacco Use," NCI Tobacco Control Monograph Series, Monograph 19, pp. 7–8, NIH Publication No. 07–6242, 2008 (*http://cancercontrol.cancer.gov/TCRB/monographs/19/index.html*).

[31] Federal Trade Commission, "Federal Trade Commission Cigarette Report for 2004 and 2005," 2007 (*http://www.ftc.gov/reports/tobacco/2007cigarette2004-2005.pdf*).

[32] National Cancer Institute, "The Role of the Media in Promoting and Reducing Tobacco Use," NCI Tobacco Control Monograph Series, Monograph 19, pp. 154–55, 180, NIH Publication No. 07–6242, 2008 (*http://cancercontrol.cancer.gov/TCRB/monographs/19/index.html*).

[33] Federal Trade Commission, "Federal Trade Commission Cigarette Report for 2006," 2009 (*http://www.ftc.gov/os/2009/08/090812cigarettereport.pdf*).

[34] Federal Trade Commission, "Federal Trade Commission Smokeless Tobacco Report for the Year 2006," 2009 (*http://www.ftc.gov/os/2009/08/090812smokelesstobaccoreport.pdf*).

[35] *Id.*

[36] President's Cancer Panel 2007–2008 Annual Report, "Maximizing Our Nation's Investment in Cancer: Three Crucial Actions for America's Health,"U.S. Department of Health and Human Services, National Institutes of Health, National Cancer Institute, p. 54, 2008 (*http://deainfo.nci.nih.gov/advisory/pcp/pcp07-08rpt/pcp07-08rpt.pdf*).

[37] National Cancer Institute, "The Role of the Media in Promoting and Reducing Tobacco Use," NCI Tobacco Control Monograph Series, Monograph 19, p. xvii, NIH Publication No. 07–6242, 2008 (*http://cancercontrol.cancer.gov/TCRB/monographs/19/index.html*).

[38] *Id.*, p. 7.

[39] *Id.*, pp. 11–12.

[40] *Id.*, pp. 280–281.

[41] *Id.*, pp.132, 133.

[42] *Id.*, p. 84.

[43] Feighery, E. C., K.M. Ribisl, N. Schleicher, R.E. Lee, et al. , "Cigarette advertising and promotional strategies in retail outlets: results of a statewide survey in California," *Tobacco Control* 10(1), pp. 184–88, 2001.

[44] Katz, S.K., A.M. Lavack, "Tobacco related bar promotions: insights from tobacco industry documents," *Tobacco Control* 11, Suppl. 1: i92–i101, 2002.

[45] Sepe, E., P.M. Ling, S.A. Glantz, "Smooth Moves: Bar and Nightclub Tobacco Promotions That Target Young Adults," *American Journal of Public Health* vol. 92 (3), pp. 414–19, 2002.

[46] Dewhirst, T, "POP goes the power wall? Taking aim at tobacco promotional strategies utilised at retail," *Tobacco Control* vol. 13(3), pp. 209–10, 2004.

[47] Institute of Medicine (IOM) of the National Academies, "Ending the Tobacco Problem: A Blueprint for the Nation," (2007 IOM Report), Appendix L, L–5, 2007. *http://www.iom.edu/Reports/2007/Ending-the-Tobacco-Problem-A-Blueprint-for-the-Nation.aspx*.

advertising, package design, and trademark diversification.[48,49,50]

Monograph 19 also contained an extensive discussion of the colors and symbols associated with cigarette brands and found that colors and symbols can be used in ways that facilitate the circumvention of tobacco advertising restrictions.[51] Monograph 19 found that the "brand image of most tobacco products represents the end result of a multifaceted marketing effort involving brand identity * * * and the use of color. The development, enhancement, and reinforcement of this brand imagery are primary objectives of tobacco promotion."[52]

Other Information—In addition to Monograph 19's comprehensive discussion of the many studies and reviews related to youth access and tobacco industry marketing to youth, other recent reports and documents also reflect the need to address these issues. In 2007 the Institute of Medicine of the National Academies issued a report entitled "Ending the Tobacco Problem: A Blueprint for the Nation" (2007 IOM report). In discussing factors that have slowed reductions in tobacco use initiation and kept the annual rate of cessation among smokers fairly low, the 2007 IOM report noted "First and foremost, tobacco products are highly addictive because they contain nicotine, one of the most addictive substances used by humans. Nicotine's addictive power thus poses significant challenges to smoking cessation efforts at both the individual and the population levels. Second, factors such as distorted risk and harm perceptions, which are associated with the initiation and maintenance of tobacco use among young smokers, pose a continuing obstacle for prevention and control strategies."[53]

With respect to adolescent cigarette smoking, the 2007 IOM report stated that "research suggests that adolescents misperceive the magnitude of smoking harms and the addictive properties of tobacco and fail to appreciate the long-term dangers of smoking, especially when they apply the dangers to their own behavior. When taken together with the general tendencies of adolescents to take a short-term perspective and to given [sic] substantial weight to peer influences, they tend to unduly discount the risks and overstate the benefits of smoking. These distorted risk perceptions are associated with adolescents' decisions to initiate tobacco use, a decision that they will later regret."[54] Moreover, "[t]he evidence clearly shows that youth exposure to images that create a positive association with smoking is associated with a higher likelihood of smoking" and "prevailing scientific opinion regards the relationship between promotional exposures and smoking to be a causal one."[55] The 2007 IOM report recommended a two-pronged strategy for reducing tobacco use in the United States. The first prong would strengthen traditional tobacco control measures, including restricting youth access within the context of a comprehensive approach, and the second prong would increase the Federal presence in tobacco control, including Federal regulation over tobacco industry products and marketing.[56]

In 2003, the World Health Organization's Framework Convention on Tobacco Control (FCTC) opened for signature, and has since been signed by the United States and ratified by 168 countries. The FCTC was developed in response to the global "tobacco epidemic" and is aimed at reducing the supply and demand for tobacco. The core demand reduction provisions include articles aimed at tobacco labeling, advertising, promotion, and sponsorship, including provisions that these be accompanied by health or other appropriate warnings.[57] The core supply reduction provisions include provisions aimed at sales to minors. The FCTC's preamble includes language reflecting concerns "about the escalation in smoking and other forms of tobacco consumption by children and adolescents worldwide, particularly smoking at increasingly early ages" and "the impact of all forms of advertising, promotion and sponsorship aimed at encouraging the use of tobacco products."[58]

In enacting the Tobacco Control Act, Congress found, among other things, that the use of tobacco products is a pediatric disease, virtually all new users of tobacco products are under the minimum legal age to purchase such products, children are exposed to substantial and unavoidable tobacco advertising that leads to favorable beliefs about tobacco use and are more influenced by tobacco marketing than are adults, and that tobacco company documents indicate that young people are an important and often crucial segment of the tobacco market (section 2(1), (4), (20), (23), (24)) of the Tobacco Control Act). In addition, Congress found that reducing the use of tobacco by minors by 50 percent would prevent well over 10,000,000 of today's children from becoming regular, daily smokers, saving over 3,000,000 of them from premature death due to tobacco-induced disease (section 2(14) of the Tobacco Control Act). Accordingly, Congress directed FDA to reissue provisions contained in its 1996 final rule that restrict youth access to tobacco products and target the advertising practices used by the industry to recruit children and adolescents (section 2(30), (31)).

IV. Legal Authority

Section 102 of the Tobacco Control Act directs the Secretary to issue a final rule identical in its provisions to the final rule issued on August 28, 1996 (61 FR 44615 to 44618), with certain exceptions. Under section 102(a)(1)(B), the rule issued under this section is, "deemed to be in compliance with all applicable provisions of chapter 5, title 5, United States Code, and all other provisions of law related to rulemaking procedures."

V. Executive Order 12866

This rule has been determined to be economically significant for the purposes of Executive Order 12866 and, therefore, it has been reviewed by the Office of Management and Budget (OMB). Because section 102 of the Tobacco Control Act directs the Secretary to issue a final rule identical in its provisions to the final rule issued on August 28, 1996 (61 FR 44615 to 44618), OMB has not required a Regulatory Impact Analysis beyond that done at that time (see 61 FR 44568 to 44606).

[48] Freeman, B., S. Chapman, "Open source marketing: Camel cigarette brand marketing in the 'Web 2.0' world," *Tobacco Control*, 18, pp. 212–217, 2009.

[49] Hamilton, W.L., D.M. Turner-Bowker, C.C. Celebucki, et al., "Cigarette advertising in magazines: the tobacco industry response to the Master Settlement Agreement and to public pressure," *Tobacco Control* 11 Suppl. pp. ii54–ii58, 2002.

[50] National Cancer Institute, "The Role of the Media in Promoting and Reducing Tobacco Use," NCI Tobacco Control Monograph Series, Monograph 19, p. 84, NIH Publication No. 07–6242, 2008, *http://cancercontrol.cancer.gov/TCRB/monographs/19/index.html.*

[51] *Id.*, p. 85.

[52] *Id.*, p. 87.

[53] Institute of Medicine (IOM) of the National Academies, "Ending the Tobacco Problem: A Blueprint for the Nation," (2007 IOM Report), p. 77, 2007. *http://www.iom.edu/Reports/2007/Ending-the-Tobacco-Problem-A-Blueprint-for-the-Nation.aspx.*

[54] *Id.*, p. 93.

[55] *Id.*, pp. 322–323.

[56] *Id.*, pp.154, 272.

[57] World Health Organization, "WHO Framework Convention on Tobacco Control," Geneva: World Health Organization, 2003, *http://www.who.int/fctc/text_download/en/index.html.*

[58] *Id.*, pp. 1–2.

VI. Information Collection Provisions in the Final Rule

This final rule contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The 1995 proposed rule provided a 90-day comment period (extended to 144 days in the **Federal Register** of October 16, 1995 (60 FR 53560)). The information collection provisions in the proposed rule were approved under OMB control number 0910–0312. FDA will be submitting the information collection provisions of the final rule to OMB for reinstatement. Prior to the effective date of this final rule, FDA will publish a notice in the **Federal Register** of OMB's decision to approve, modify, or disapprove the information collection provisions in the final rule.

List of Subjects in 21 CFR Part 1140

Tobacco, Smoking, Advertising, Labeling.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, chapter I of title 21 of the Code of Federal Regulations is amended by adding a new subchapter K, consisting of part 1140 to read as follows:

SUBCHAPTER K—TOBACCO PRODUCTS

PART 1140—CIGARETTES AND SMOKELESS TOBACCO

Subpart A—General Provisions

Sec.
1140.1 Scope.
1140.2 Purpose.
1140.3 Definitions.

Subpart B—Prohibition of Sale and Distribution to Persons Younger Than 18 Years of Age

1140.10 General responsibilities of manufacturers, distributors, and retailers.
1140.12 Additional responsibilities of manufacturers.
1140.14 Additional responsibilities of retailers.
1140.16 Conditions of manufacture, sale, and distribution.

Subpart C—[Reserved]

Subpart D—Labeling and Advertising

1140.30 Scope of permissible forms of labeling and advertising.
1140.32 Format and content requirements for labeling and advertising.
1140.34 Sale and distribution of nontobacco items and services, gifts, and sponsorship of events.

Authority: 21 U.S.C. 301 *et seq.*, Sec. 102, Pub. L. 111–31, 123 Stat. 1776.

Subpart A—General Provisions

§ 1140.1 Scope.

(a) This part sets out the restrictions under the Federal Food, Drug, and Cosmetic Act (the act) on the sale, distribution, and use of cigarettes and smokeless tobacco that contain nicotine.

(b) The failure to comply with any applicable provision in this part in the sale, distribution, and use of cigarettes and smokeless tobacco renders the product misbranded under the act.

(c) References in this part to regulatory sections of the Code of Federal Regulations are to chapter I of title 21, unless otherwise noted.

§ 1140.2 Purpose.

The purpose of this part is to establish restrictions on the sale, distribution, and use of cigarettes and smokeless tobacco in order to reduce the number of children and adolescents who use these products, and to reduce the life-threatening consequences associated with tobacco use.

§ 1140.3 Definitions.

(a) *Cigarette*. (1) Means a product that:

(i) Is a tobacco product; and

(ii) Meets the definition of the term "cigarette" in section 3(1) of the Federal Cigarette Labeling and Advertising Act; and

(2) Includes tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette or as roll-your-own tobacco.

(b) *Cigarette tobacco* means any product that consists of loose tobacco that is intended for use by consumers in a cigarette. Unless otherwise stated, the requirements applicable to cigarettes under this chapter shall also apply to cigarette tobacco.

(c) *Distributor* means any person who furthers the distribution of cigarettes or smokeless tobacco, whether domestic or imported, at any point from the original place of manufacture to the person who sells or distributes the product to individuals for personal consumption. Common carriers are not considered distributors for the purposes of this part.

(d) *Manufacturer* means any person, including any repacker and/or relabeler, who manufactures, fabricates, assembles, processes, or labels a finished cigarette or smokeless tobacco product.

(e) *Nicotine* means the chemical substance named 3-(1-Methyl-2-pyrrolidinyl)pyridine or C[10]H[14]N[2], including any salt or complex of nicotine.

(f) *Package* means a pack, box, carton, or container of any kind in which cigarettes or smokeless tobacco are offered for sale, sold, or otherwise distributed to consumers.

(g) *Point of sale* means any location at which a consumer can purchase or otherwise obtain cigarettes or smokeless tobacco for personal consumption.

(h) *Retailer* means any person who sells cigarettes or smokeless tobacco to individuals for personal consumption, or who operates a facility where vending machines or self-service displays are permitted under this part.

(i) *Smokeless tobacco* means any tobacco product that consists of cut, ground, powdered, or leaf tobacco and that is intended to be placed in the oral or nasal cavity.

Subpart B—Prohibition of Sale and Distribution to Persons Younger Than 18 Years of Age

§ 1140.10 General responsibilities of manufacturers, distributors, and retailers.

Each manufacturer, distributor, and retailer is responsible for ensuring that the cigarettes or smokeless tobacco it manufactures, labels, advertises, packages, distributes, sells, or otherwise holds for sale comply with all applicable requirements under this part.

§ 1140.12 Additional responsibilities of manufacturers.

In addition to the other responsibilities under this part, each manufacturer shall remove from each point of sale all self-service displays, advertising, labeling, and other items that the manufacturer owns that do not comply with the requirements under this part.

§ 1140.14 Additional responsibilities of retailers.

In addition to the other requirements under this part, each retailer is responsible for ensuring that all sales of cigarettes or smokeless tobacco to any person comply with the following requirements:

(a) No retailer may sell cigarettes or smokeless tobacco to any person younger than 18 years of age;

(b)(1) Except as otherwise provided in § 1140.16(c)(2)(i) and in paragraph (b)(2) of this section, each retailer shall verify by means of photographic identification containing the bearer's date of birth that no person purchasing the product is younger than 18 years of age;

(2) No such verification is required for any person over the age of 26;

(c) Except as otherwise provided in § 1140.16(c)(2)(ii), a retailer may sell cigarettes or smokeless tobacco only in a direct, face-to-face exchange without

the assistance of any electronic or mechanical device (such as a vending machine);

(d) No retailer may break or otherwise open any cigarette or smokeless tobacco package to sell or distribute individual cigarettes or a number of unpackaged cigarettes that is smaller than the quantity in the minimum cigarette package size defined in § 1140.16(b), or any quantity of cigarette tobacco or smokeless tobacco that is smaller than the smallest package distributed by the manufacturer for individual consumer use; and

(e) Each retailer shall ensure that all self-service displays, advertising, labeling, and other items, that are located in the retailer's establishment and that do not comply with the requirements of this part, are removed or are brought into compliance with the requirements under this part.

§ 1140.16 Conditions of manufacture, sale, and distribution.

(a) *Restriction on product names.* A manufacturer shall not use a trade or brand name of a nontobacco product as the trade or brand name for a cigarette or smokeless tobacco product, except for a tobacco product whose trade or brand name was on both a tobacco product and a nontobacco product that were sold in the United States on January 1, 1995.

(b) *Minimum cigarette package size.* Except as otherwise provided under this section, no manufacturer, distributor, or retailer may sell or cause to be sold, or distribute or cause to be distributed, any cigarette package that contains fewer than 20 cigarettes.

(c) *Vending machines, self-service displays, mail-order sales, and other "impersonal" modes of sale.* (1) Except as otherwise provided under this section, a retailer may sell cigarettes and smokeless tobacco only in a direct, face-to-face exchange between the retailer and the consumer. Examples of methods of sale that are not permitted include vending machines and self-service displays.

(2) Exceptions. The following methods of sale are permitted:

(i) Mail-order sales, excluding mail-order redemption of coupons and distribution of free samples through the mail; and

(ii) Vending machines (including vending machines that sell packaged, single cigarettes) and self-service displays that are located in facilities where the retailer ensures that no person younger than 18 years of age is present, or permitted to enter, at any time.

(d)(1) Except as provided in paragraph (d)(2) of this section, no manufacturer, distributor, or retailer may distribute or cause to be distributed any free samples of cigarettes, smokeless tobacco, or other tobacco products (as such term is defined in section 201 of the Federal Food, Drug, and Cosmetic Act).

(2)(i) Paragraph (d)(1) of this section does not prohibit a manufacturer, distributor, or retailer from distributing or causing to be distributed free samples of smokeless tobacco in a qualified adult-only facility.

(ii) Paragraph (d)(2) of this section does not affect the authority of a State or local government to prohibit or otherwise restrict the distribution of free samples of smokeless tobacco.

(iii) For purposes of paragraph (d) of this section, the term "qualified adult-only facility" means a facility or restricted area that:

(A) Requires each person present to provide to a law enforcement officer (whether on or off duty) or to a security guard licensed by a governmental entity government-issued identification showing a photograph and at least the minimum age established by applicable law for the purchase of smokeless tobacco;

(B) Does not sell, serve, or distribute alcohol;

(C) Is not located adjacent to or immediately across from (in any direction) a space that is used primarily for youth-oriented marketing, promotional, or other activities;

(D) Is a temporary structure constructed, designated, and operated as a distinct enclosed area for the purpose of distributing free samples of smokeless tobacco in accordance with this paragraph (d)(2) of this section;

(E) Is enclosed by a barrier that:

(*1*) Is constructed of, or covered with, an opaque material (except for entrances and exits);

(*2*) Extends from no more than 12 inches above the ground or floor (which area at the bottom of the barrier must be covered with material that restricts visibility but may allow airflow) to at least 8 feet above the ground or floor (or to the ceiling); and

(*3*) Prevents persons outside the qualified adult-only facility from seeing into the qualified adult-only facility, unless they make unreasonable efforts to do so; and

(F) Does not display on its exterior:

(*1*) Any tobacco product advertising;

(*2*) A brand name other than in conjunction with words for an area or enclosure to identify an adult-only facility; or

(*3*) Any combination of words that would imply to a reasonable observer that the manufacturer, distributor, or retailer has a sponsorship that would violate § 1140.34(c).

(iv) Distribution of samples of smokeless tobacco under paragraph (d)(2) of this section permitted to be taken out of the qualified adult-only facility shall be limited to one package per adult consumer containing no more than 0.53 ounces (15 grams) of smokeless tobacco. If such package of smokeless tobacco contains individual portions of smokeless tobacco, the individual portions of smokeless tobacco shall not exceed eight individual portions, and the collective weight of such individual portions shall not exceed 0.53 ounces (15 grams). Any manufacturer, distributor, or retailer who distributes or causes to be distributed free samples also shall take reasonable steps to ensure that the amounts in this paragraph (d)(2)(iv) are limited to one such package per adult consumer per day.

(3) Notwithstanding paragraph (d)(2) of this section, no manufacturer, distributor, or retailer may distribute or cause to be distributed any free samples of smokeless tobacco:

(i) To a sports team or entertainment group; or

(ii) At any football, basketball, baseball, soccer, or hockey event or any other sporting or entertainment event determined by the Secretary to be covered by paragraph (d)(3) of this section.

(4) The Secretary shall implement a program to ensure compliance with paragraph (d) of this section and submit a report to the Congress on such compliance not later than 18 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act.

(5) Nothing in paragraph (d) of this section shall be construed to authorize any person to distribute or cause to be distributed any sample of a tobacco product to any individual who has not attained the minimum age established by applicable law for the purchase of such product.

(e) *Restrictions on labels, labeling, and advertising.* No manufacturer, distributor, or retailer may sell or distribute, or cause to be sold or distributed, cigarettes or smokeless tobacco with labels, labeling, or advertising not in compliance with subpart D of this part, and other applicable requirements.

Subpart C—[Reserved]

Subpart D—Labeling and Advertising

§ 1140.30 Scope of permissible forms of labeling and advertising.

(a)(1) A manufacturer, distributor, or retailer may, in accordance with this subpart D, disseminate or cause to be disseminated advertising or labeling which bears a cigarette or smokeless tobacco brand name (alone or in conjunction with any other word) or any other indicia of tobacco product identification, in newspapers; in magazines; in periodicals or other publications (whether periodic or limited distribution); on billboards, posters, and placards; in nonpoint-of-sale promotional material (including direct mail); in point-of-sale promotional material; and in audio or video formats delivered at a point-of-sale.

(2) A manufacturer, distributor, or retailer intending to disseminate, or to cause to be disseminated, advertising or labeling for cigarettes or smokeless tobacco in a medium that is not listed in paragraph (a)(1) of this section, shall notify the agency 30 days prior to the use of such medium. The notice shall describe the medium and discuss the extent to which the advertising or labeling may be seen by persons younger than 18 years of age. The manufacturer, distributor, or retailer shall send this notice to the Office of Compliance, Center for Tobacco Products, Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD, 20850–3229.

(b) [Reserved]

(c) This subpart D does not apply to cigarette or smokeless tobacco package labels.

§ 1140.32 Format and content requirements for labeling and advertising.

(a) Except as provided in paragraph (b) of this section, each manufacturer, distributor, and retailer advertising or causing to be advertised, disseminating or causing to be disseminated, any labeling or advertising for cigarettes or smokeless tobacco shall use only black text on a white background. This section does not apply to advertising:

(1) In any facility where vending machines and self- service displays are permitted under this part, provided that the advertising is not visible from outside the facility and that it is affixed to a wall or fixture in the facility; or

(2) Appearing in any publication (whether periodic or limited distribution) that the manufacturer, distributor, or retailer demonstrates is an adult publication. For the purposes of this section, an adult publication is a newspaper, magazine, periodical, or other publication:

(i) Whose readers younger than 18 years of age constitute 15 percent or less of the total readership as measured by competent and reliable survey evidence; and

(ii) That is read by fewer than 2 million persons younger than 18 years of age as measured by competent and reliable survey evidence.

(b) Labeling and advertising in an audio or video format shall be limited as follows:

(1) Audio format shall be limited to words only with no music or sound effects.

(2) Video formats shall be limited to static black text only on a white background. Any audio with the video shall be limited to words only with no music or sound effects.

§ 1140.34 Sale and distribution of nontobacco items and services, gifts, and sponsorship of events.

(a) No manufacturer and no distributor of imported cigarettes or smokeless tobacco may market, license, distribute, sell, or cause to be marketed, licensed, distributed, or sold any item (other than cigarettes or smokeless tobacco or roll-your-own paper) or service, which bears the brand name (alone or in conjunction with any other word), logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of cigarettes or smokeless tobacco.

(b) No manufacturer, distributor, or retailer may offer or cause to be offered any gift or item (other than cigarettes or smokeless tobacco) to any person purchasing cigarettes or smokeless tobacco in consideration of the purchase thereof, or to any person in consideration of furnishing evidence, such as credits, proofs-of-purchase, or coupons, of such a purchase.

(c) No manufacturer, distributor, or retailer may sponsor or cause to be sponsored any athletic, musical, artistic, or other social or cultural event, or any entry or team in any event, in the brand name (alone or in conjunction with any other word), logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of cigarettes or smokeless tobacco. Nothing in this paragraph prevents a manufacturer, distributor, or retailer from sponsoring or causing to be sponsored any athletic, musical, artistic, or other social or cultural event, or team or entry, in the name of the corporation which manufactures the tobacco product, provided that both the corporate name and the corporation were registered and in use in the United States prior to January 1, 1995, and that the corporate name does not include any brand name (alone or in conjunction with any other word), logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, those used for any brand of cigarettes or smokeless tobacco.

Dated: March 11, 2010.

Margaret A. Hamburg,

Commissioner of Food and Drugs.

Dated: March 11, 2010.

Kathleen Sebelius,

Secretary of Health and Human Services.

[FR Doc. 2010–6087 Filed 3–18–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2009–1031]

RIN 1625–AA00

Safety Zone; Lake Mead Intake Construction, Lake Mead, Boulder City, NV

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone on the navigable waters of Lake Mead in support of the construction project for Lake Mead's Intake #3. This safety zone is necessary to ensure non-authorized personnel and vessels remain safe by keeping clear of the hazardous area during blasting, excavating, and any other general construction work. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port (COTP) or his designated representative.

DATES: *Effective Date:* This rule is effective in the CFR on March 19, 2010 through December 31, 2010. This rule is effective with actual notice for purposes of enforcement prior to publication.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2009–1031 and are available online by going to *http://www.regulations.gov,* inserting

USCG–2009–1031 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail MST3 Corey McDonald, Waterways Management, U.S. Coast Guard Sector San Diego, Coast Guard; telephone 619–278–7262, e-mail *Corey.R.McDonald@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because immediate action is necessary to ensure the safety of commercial and recreational vessels in the vicinity of any construction on the dates and times this rule will be in effect and delay would be contrary to the public interest.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register.** Delay in the effective date will be contrary to the public interest, since immediate action is needed to ensure the public's safety.

Background and Purpose

Vegas Tunnel Construction will be conducting intermittent blasting, excavating, and other general construction operations for the placement of an Intake Pipe from Lake Mead throughout 2010. This safety zone is necessary to ensure non-authorized personnel and vessels remain safe by keeping clear of the hazardous area during the construction operations.

Discussion of Rule

The Coast Guard is establishing a safety zone that will be enforced intermittently from January 1, 2010 through December 31, 2010. The limits of the safety zone will include the navigable waters within a 1,300 foot radius around the construction vessels during transit and while at blast site located at approximately 36°05′23.677501″ N, 114°45′59.925819″ W. The safety zone will be enforced only during construction operations. This safety zone is necessary to ensure non-authorized personnel and vessels remain safe by keeping clear of the hazardous area during the blasting activities. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port or his designated representative.

Regulatory Analyses

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

Regulatory Planning and Review

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

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. This determination is based on the size and location of the safety zone. Commercial and recreational vessels will not be allowed to transit through the designated safety zone during the specified times while construction operations are being conducted.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in a portion of Lake Mead from January 1, 2010 through December 31, 2010.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be enforced only when blasting, excavating, or other general work is actively being progressed. Vessel traffic can pass safely around the zone. Before the effective period, the Coast Guard will publish Local Notice to Mariners (LNM) and the construction company will issue Broadcast Notice to Mariners (BNM).

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves the establishment of a safety zone.

An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add a new section § 165.T11–281 to read as follows:

§ 165.T11–281 Safety Zone; Lake Mead Intake Construction; Lake Mead, Boulder City, NV.

(a) *Location.* The limits of the safety zone will include the navigable waters of Lake Mead within a 1300 foot radius around the construction vessels located at approximately 36°05′24″ N, 114°45′60″ W.

(b) *Enforcement Period.* This section will be enforced from March 15, 2010 through December 31, 2010 during construction operations. The safety zone will only be enforced during blasting, excavation, and other general construction operations. General public boating will be notified prior to commencement of construction operations by construction crew via Broadcast Notice to Mariners. If the construction concludes prior to the scheduled termination time, the COTP will cease enforcement of this safety zone.

(c) *Definitions.* The following definitions apply to this section:

(1) *Designated representative* means any Commissioned, Warrant, or Petty Officers of the Coast Guard, Coast Guard Auxiliary, or local, state, and federal law enforcement vessels who have been authorized to act on the behalf of the COTP.

(2) *Non-authorized personnel and vessels,* means any civilian boats, fishermen, divers, and swimmers.

(d) *Regulations.* (1) Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the COTP San Diego or his designated representative.

(2) Non-authorized personnel and vessels requesting permission to transit through the safety zone may request authorization to do so from the COTP San Diego or his designated representative. They may be contacted on VHF–FM Channel 16, or at telephone number (619) 278–7033.

(3) Vessels involved in the construction operations are allowed in the confines of the established safety zone.

(4) All persons and vessels must comply with the instructions of the Coast Guard COTP or his designated representative.

(5) Upon being hailed by U.S. Coast Guard or other official personnel by siren, radio, flashing light, or other means, the operator of a vessel must proceed as directed.

(6) The Coast Guard may be assisted by other federal, state, or local agencies.

Dated: February 22, 2010.

D.L. LeBlanc,

Commander, U.S. Coast Guard, Acting Captain of the Port San Diego.

[FR Doc. 2010–6029 Filed 3–18–10; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 63

[WC Docket No. 04–36; FCC 09–40]

IP-Enabled Services

AGENCY: Federal Communications Commission

ACTION: Final rule; announcement of effective date.

SUMMARY: The Commission amended part 63 in order to extend to providers of interconnected Voice over Internet Protocol (VoIP) service the discontinuance obligations that apply to domestic non-dominant telecommunications carriers under section 214 of the Communications Act. The amendments to the rules in § 63.60 required Office of Management and Budget approval and the Commission stated previously in its **Federal Register** publication that it would announce the effective date of the rules when approved. This document announces the effective date of the rules.

DATES: The amendments to 47 CFR 63.60(a) and (f), published on August 7, 2009 (74 FR 39551), were approved by the Office of Management and Budget on December 1, 2009 and are effective March 19, 2010.

FOR FURTHER INFORMATION CONTACT: Rodney McDonald, (202) 418–7513, Wireline Competition Bureau.

SUPPLEMENTARY INFORMATION: The FCC published a document in the **Federal Register**, 74 FR 39551, August 7, 2009, that sets forth an effective date of September 8, 2009, except for the amendments to §§ 63.60(a) and (f) which affect information collection requirements that are not effective until approved by the Office of Management and Budget (OMB). The document stated that the Commission will publish a document in the **Federal Register** announcing the effective date of these rules. On December 1, 2009, OMB approved the information collection requirements contained in these rules pursuant to OMB Control No. 3060–0149. Accordingly, the information collection requirements contained in these rules are now effective. The expiration date for the information collection is December 31, 2012.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2010–6093 Filed 3–18–10; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 10–275; MB Docket No. 09–187; RM–11576]

FM Table of Allotments, Buffalo and Centerville, Texas

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division grants a rulemaking petition filed by Kaherine Pyeatt, the permittee of Station KKLB(FM), Madisonville, Texas, to substitute FM Channel 278A for vacant Channel 299A at Buffalo, Texas, and Channel 267A for vacant Channel 278A at Centerville, Texas.

DATES: Effective April 5, 2010.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MB Docket No. 09–187, adopted February 17, 2010, and released February 19, 2010. The full text of this Commission document is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, 800–378–3160 or via the company's Web site, <http://www.bcpiweb.com>.

The Notice of Proposed Rule Making stated that Pyeatt's rulemaking petition was filed as part of a hybrid application and rulemaking proceeding. See 74 FR 57281, published November 5, 2009. In the application (File No. BMPH–20090831ADM), Pyeatt proposes the substitution of FM Channel 299A for Channel 267A at Madisonville, Texas, and the modification of the construction permit for Station KKLB(FM), Madisonville, to specify operation on Channel 299A.

The Report and Order states that the channel substitutions at Buffalo and Centerville, Texas, serve the public interest because they will accommodate grant of the hybrid application, enabling Station KKLB(FM) to change channels at a tower site located closer to its community of license. The reference coordinates for Channel 278A at Buffalo, Texas, are 31–21–09 NL and 95–59–47 WL. The reference coordinates for Channel 267A at Centerville, Texas, are 31–14–17 NL and 96–05–34 WL. The Report and Order also grants Pyeatt's hybrid application.

Currently, Channel 278A is not listed in the FM Table of Allotments under Centerville, Texas, but is a vacant FM allotment at that community. Channel 278A was allotted at Centerville in MM Docket No. 99–257. See 64 FR 59124, published November 2, 1999. A construction permit for Channel 278A at Centerville was issued to Station KKEV(FM). See File No. BNPH–20060310AA1. As a result of the issuance of the construction permit, Channel 278A at Centerville was removed from the FM Table of Allotments in MB Docket 05–210. See 71 FR 76208, published December 20, 2006. However, the Station KKEV(FM) construction permit was cancelled on May 24, 2009, making the Channel 278A allotment vacant. As stated above, we are substituting Channel 267A for vacant Channel 278A at Centerville to accommodate the Station KKLB(FM) hybrid application.

This document does not contain any information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4).

The Commission will send a copy of this Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ As stated in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

■ 2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 299A and adding Channel 278A at Buffalo and by adding Channel 267A at Centerville.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 2010–6019 Filed 3–18–10; 8:45 am]

BILLING CODE 6712–01–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 10–233, MB Docket No. 08–228, RM–11481]

FM Table of Allotments, Port Angeles, Washington

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Audio Division grants a rulemaking petition filed by Jodesha Broadcasting, Inc., the licensee of Station KANY(FM), Ocean Shores, Washington, and the permittee of Station KSWW(FM), Montesano, Washington, to substitute FM Channel 271A for vacant Channel 229A at Port Angeles, Washington.

DATES: Effective March 22, 2010.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MB Docket No. 08–228, adopted February 3, 2010, and released February 5, 2010. The full text of this Commission document is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, 800–378–3160 or via the company's Web site, <http://www.bcpiweb.com>.

The Notice of Proposed Rule Making stated that Jodesha Broadcasting's rulemaking petition was filed as part of a hybrid application and rulemaking proposal involving two minor change applications. See 73 FR 75631, published December 12, 2008. In the first application (File No. BPH–20080710AJA), Jodesha proposes the upgrade of Channel 229C3 to Channel 229C0 at Ocean Shores, the reallotment of Channel 229C0 to Montesano, Washington, and the associated modification of the Station KANY(FM) license. In the second application (File No. BPH–20080710AJE), Jodesha proposes the downgrade of Channel 271C2 to Channel 271C3 at Montesano, the reallotment of Channel 271C3 to Ocean Shores, and the modification of the Station KSWW(FM) construction permit, accordingly.

The Report and Order states that the channel substitution at Port Angeles serves the public interest because it will accommodate the grant of the hybrid applications, enabling Station KANY(FM) to provide a gain in its population served. The Report and Order also grants the two applications filed by Jodesha. The reference coordinates for Channel 271A at Port Angeles are 48–06–54 NL and 123–26–36 WL.

This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4).

The Commission will send a copy of this Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ As stated in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

Section 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Washington, is amended by removing Channel 229A at Port Angeles and adding Channel 271A at Port Angeles.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 2010–6017 Filed 3–18–10; 8:45 am]

BILLING CODE 6712–01–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 10–395; MB Docket No. 10–19; RM–11589]

Television Broadcasting Services; Oklahoma City, OK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission grants a petition for rulemaking filed by Griffin Licensing, L.L.C., the licensee of KWTV–DT, channel 9, Oklahoma City, requesting the substitution of channel 39 for channel 9 at Oklahoma City.

DATES: This rule is effective March 19, 2010.

FOR FURTHER INFORMATION CONTACT: Adrienne Y. Denysyk, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MB Docket No. 10–19, adopted March 8, 2010, and released March 9, 2010. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC, 20554. This document will also be available via ECFS (*http://fjallfoss.fcc.gov/ecfs/*). This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–478–3160 or via the company's Web site, *http://www.bcipweb.com.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small

Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Television, Television broadcasting.

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.622 [Amended]

■ 2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Oklahoma, is amended by adding channel 39 and removing channel 9 at Oklahoma City.

Federal Communications Commission.

Clay C. Pendarvis,

Associate Chief, Video Division, Media Bureau.

[FR Doc. 2010–6092 Filed 3–18–10; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 0910131362–0087–02]

RIN 0648–XV32

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 in the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 620 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the B season allowance of the 2010 total allowable catch (TAC) of pollock for Statistical Area 620 in the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 16, 2010, through 1200 hrs, A.l.t., August 25, 2010.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The B season allowance of the 2010 TAC of pollock in Statistical Area 620 of the GOA is 9,925 metric tons (mt) as established by the final 2010 and 2011 harvest specifications for groundfish of the GOA (75 FR 11749, March 12, 2010).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the B season allowance of the 2010 TAC of pollock in Statistical Area 620 of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 9,800 mt, and is setting aside the remaining 125 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 620 of the GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), 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) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of pollock in Statistical Area 620 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 15, 2010.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: March 16, 2010.

Emily H. Menashes,

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

[FR Doc. 2010–6066 Filed 3–16–10; 4:15 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 75, No. 53
Friday, March 19, 2010

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1208

[Doc. No. AMS–FV–07–0077; FV–07–705–PR–2B]

RIN 0581–AC79

Processed Raspberry Promotion, Research, and Information Order; Delay of Referendum

AGENCY: Agricultural Marketing Service, Agriculture, USDA.

ACTION: Proposed rule and referendum order; delay of referendum.

SUMMARY: This action delays indefinitely the referendum to determine whether producers of raspberries for processing and importers of processed raspberries approve the issuance of the proposed Processed Raspberry Promotion, Research, and Information Order. The referendum was scheduled to be held March 22 through April 2, 2010. The Washington Red Raspberry Commission has asked for a delay in the referendum as it considers further modifications to its proposal.

FOR FURTHER INFORMATION CONTACT: Kimberly Coy, Marketing Specialist, Research and Promotion Branch, By, AMS, USDA, Stop 0244, Room 0634–S, 1400 Independence Avenue, SW., Washington, DC 20250–0244; telephone 202–720–9915 or (888) 720–9917 (toll free) or e-mail *kimberly.coy@usda.gov.*

SUPPLEMENTARY INFORMATION: On April 9, 2009, the Department published in the **Federal Register** a proposal to establish the proposed Processed Raspberry Promotion, Research, and Information Order (Proposed Order) (7 CFR part 1208) [74 FR 16266] and proposed referendum procedures [74 FR 16289]. A second proposal addressing the comments received for the Proposed Order was published in the February 8, 2010 issue of the **Federal Register** [75 FR 6131]. Included in that document was a Referendum Order for a referendum to be conducted among eligible producers of raspberries for processing and importers of processed raspberries to determine whether they favor issuance of the Proposed Order. The referendum was scheduled for the period March 22 through April 2, 2010. Notice of this Referendum Order was published in the February 8, 2010 issue of the **Federal Register** [75 FR 6131].

The Department of Agriculture (Department) received a request from the Washington Red Raspberry Commission (WRRC) on February 19, 2010 to delay the scheduled referendum. The WRRC has asked for a delay in the referendum as they consider further modifications to their proposal. Therefore, taking into consideration the WRRC request, the referendum scheduled for the period of March 22 through April 2, 2010 that appears in the Referendum Order published in the **Federal Register** on April 9, 2009 in 74 FR 16266 is hereby delayed indefinitely.

List of Subjects in 7 CFR Part 1208

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Processed raspberries, Promotion, Reporting and recordkeeping requirements.

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

Dated: March 11, 2010.

David R. Shipman,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2010–5757 Filed 3–18–10; 8:45 am]

BILLING CODE M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 35

[Docket No. NE128; Notice No. 35–06–01–SC]

Special Conditions: McCauley Propeller Systems, Model Propeller 3D15C1401/C80MWX–X

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions, withdrawal.

SUMMARY: The FAA is withdrawing a previously published notice that proposed special conditions for McCauley Propeller Systems for model propeller 3D15C1401/C80MWX–X. We are withdrawing the notice in response to McCauley Propeller Systems notification to cancel the application for certification.

FOR FURTHER INFORMATION CONTACT: Jay Turnberg, ANE–110, Engine and Propeller Directorate, Aircraft Certification Service, 12 New England Executive Park, Burlington, Massachusetts 01803–5299; telephone (781) 238–7116; facsimile (781) 238–7199; e-mail *jay.turnberg@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

On August 2, 2006, the FAA published a notice of proposed special conditions, Notice No. 35–06–01–SC, for McCauley Propeller Systems for model propeller 3D15C1401/C80MWX–X (71 FR 43674). On November 29, 2004, McCauley Propeller applied for type certification for a new model 3D15C1401/C80MWX–X propeller. The model propeller 3D15C1401/C80MWX–X has novel or unusual design features when compared to the state of technology described in the airworthiness standards under part 35. The design feature uses blades that are constructed of composite material. The blade has a carbon fiber spar, a shell composed of braided carbon fiber and fiberglass, and metallic leading edge erosion protection to give the material strength properties and durability. The material properties depend on the carbon fiber and fiberglass lay-up and the resin matrix material that bind the blade together. Composite materials introduce fatigue characteristics and failure modes that differ from metallic materials. The proposed special conditions pertain to the effects of novel or unusual design features such as effects on the structural performance of the propellers. We requested comments on these proposed special conditions by September 1, 2006.

Reason for Withdraw

We are withdrawing Notice No. 35–06–01–SC because McCauley Propeller Systems canceled the application for certification.

Conclusion

Withdrawal of Notice No. 35–06–01–SC does not preclude the FAA from

issuing another notice on the subject matter in the future or committing the agency to any future course of action. Issued in Burlington, Massachusetts on March 5, 2010.

Peter A. White,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2010–5902 Filed 3–18–10; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0286; Directorate Identifier 2010–CE–013–AD]

RIN 2120–AA64

Airworthiness Directives; SOCATA Model TBM 700 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

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

The Civil Aviation Authority of the United Kingdom (UK) has informed EASA that significant quantities of Halon 1211 gas, determined to be outside the required specification, have been supplied to the aviation industry for use in fire extinguishing equipment. Halon 1211 (BCF) is used in portable fire extinguishers, usually fitted or stowed in aircraft passenger cabins and flight decks.

EASA published Safety Information Bulletin (SIB) 2009–39 on 23 October 2009 to make the aviation community aware of this safety concern.

The results of the ongoing investigation have now established that LyonTech Engineering Ltd, a UK-based company, has supplied further consignments of Halon 1211 (BCF) to L'Hotellier that do not meet the required specification. This Halon 1211 has subsequently been used to fill certain P/N 863520–00 portable fire extinguishers that are now likely to be installed in or carried on certain TBM700 aeroplanes.

The contaminated nature of this gas, when used against a fire, may provide reduced fire suppression, endangering the safety of the aeroplane and its occupants. In addition, extinguisher activation may lead to release of toxic fumes, possibly causing injury to aeroplane occupants.

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

DATES: We must receive comments on this proposed AD by May 3, 2010.

ADDRESSES: You may send comments by any of the following methods:

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Albert Mercado, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; *telephone:* (816) 329–4119; *fax:* (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2010–0286; Directorate Identifier 2010–CE–013–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD No.: 2010–0012, dated February 5, 2010 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

The Civil Aviation Authority of the United Kingdom (UK) has informed EASA that significant quantities of Halon 1211 gas, determined to be outside the required specification, have been supplied to the aviation industry for use in fire extinguishing equipment. Halon 1211 (BCF) is used in portable fire extinguishers, usually fitted or stowed in aircraft passenger cabins and flight decks.

EASA published Safety Information Bulletin (SIB) 2009–39 on 23 October 2009 to make the aviation community aware of this safety concern.

The results of the ongoing investigation have now established that LyonTech Engineering Ltd, a UK-based company, has supplied further consignments of Halon 1211 (BCF) to L'Hotellier that do not meet the required specification. This Halon 1211 has subsequently been used to fill certain P/N 863520–00 portable fire extinguishers that are now likely to be installed in or carried on certain TBM700 aeroplanes.

The contaminated nature of this gas, when used against a fire, may provide reduced fire suppression, endangering the safety of the aeroplane and its occupants. In addition, extinguisher activation may lead to release of toxic fumes, possibly causing injury to aeroplane occupants.

For the reason described above, this EASA AD requires the identification and removal from service of certain batches of fire extinguishers and replacement with serviceable units.

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

Relevant Service Information

DAHER–SOCATA has issued TBM Aircraft Service Bulletin SB 70–183, dated January 2010.

L'Hotellier has issued Service Bulletin 863520–26–001, dated December 21, 2009.

The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the

MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This Proposed AD and the MCAI or Service Information

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

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

Costs of Compliance

We estimate that this proposed AD will affect 364 products of U.S. registry. We also estimate that it would take about .5 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $0 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $15,470, or $43 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new AD:

SOCATA: Docket No. FAA–2010–0286; Directorate Identifier 2010–CE–013–AD.

Comments Due Date

(a) We must receive comments by May 3, 2010.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Model TBM 700 airplanes, all serial numbers (SNs), that:

(1) Are certificated in any category; and

(2) Are equipped with part number (P/N) 863520–00 portable fire extinguishers, serial numbers (S/N) as listed in L'Hotellier Service Bulletin 863520–26–001, dated December 21, 2009.

Subject

(d) Air Transport Association of America (ATA) Code 26: Fire Protection.

Reason

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

The Civil Aviation Authority of the United Kingdom (UK) has informed EASA that significant quantities of Halon 1211 gas, determined to be outside the required specification, have been supplied to the aviation industry for use in fire extinguishing equipment. Halon 1211 (BCF) is used in portable fire extinguishers, usually fitted or stowed in aircraft passenger cabins and flight decks.

EASA published Safety Information Bulletin (SIB) 2009–39 on 23 October 2009 to make the aviation community aware of this safety concern.

The results of the ongoing investigation have now established that LyonTech Engineering Ltd, a UK-based company, has supplied further consignments of Halon 1211 (BCF) to L'Hotellier that do not meet the required specification. This Halon 1211 has subsequently been used to fill certain P/N 863520–00 portable fire extinguishers that are now likely to be installed in or carried on certain TBM700 aeroplanes.

The contaminated nature of this gas, when used against a fire, may provide reduced fire suppression, endangering the safety of the aeroplane and its occupants. In addition, extinguisher activation may lead to release of toxic fumes, possibly causing injury to aeroplane occupants.

For the reason described above, this EASA AD requires the identification and removal from service of certain batches of fire extinguishers and replacement with serviceable units.

Actions and Compliance

(f) Unless already done, within 3 months after the effective date of this AD, do the following in accordance with DAHER–SOCATA TBM Aircraft Service Bulletin SB 70–183, dated January 2010:

(1) Inspect the fire extinguisher(s) installed or carried on board the airplane for any P/N and S/N fire extinguisher listed in L'Hotellier Service Bulletin 863520–26–001, dated December 21, 2009; and

(2) If, as a result of the inspection required by paragraph (f)(1) of this AD, you find any fire extinguisher listed in L'Hotellier Service Bulletin 863520–26–001, dated December 21, 2009, before further flight, remove it from the airplane and replace it with a serviceable unit in accordance with L'Hotellier Service Bulletin 863520–26–001, dated December 21, 2009.

(3) As of the effective date of this AD, do not install any fire extinguisher listed in L'Hotellier Service Bulletin 863520–26–001, dated December 21, 2009, on any airplane, unless it has been overhauled with compliant Halon 1211 (BCF) and re-identified, in accordance with the instructions of L'Hotellier Service Bulletin 863520–26–001, dated December 21, 2009.

FAA AD Differences

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

Other FAA AD Provisions

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

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to *Attn:* Albert Mercado, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; *telephone:* (816) 329–4119; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to MCAI EASA AD No.: 2010–0012, dated February 5, 2010; DAHER–SOCATA TBM Aircraft Service Bulletin SB 70–183, dated January 2010; and L'Hotellier Service Bulletin 863520–26–001, dated December 21, 2009, for related information.

Issued in Kansas City, Missouri, on March 15, 2010.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2010–6091 Filed 3–18–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1140

[Docket No. FDA–2010–N–0136]

RIN 0910–AG33

Request for Comment on Implementation of the Family Smoking Prevention and Tobacco Control Act

AGENCY: Food and Drug Administration, HHS.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing this advance notice of proposed rulemaking to obtain information related to the regulation of outdoor advertising of cigarettes and smokeless tobacco. Elsewhere in this issue of the **Federal Register**, FDA is reissuing a final rule restricting the sale, distribution, and use of cigarettes and smokeless tobacco to protect children and adolescents as required by the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act). FDA has reserved a section of that final rule for future rulemaking on restrictions related to the outdoor advertising of cigarettes and smokeless tobacco. FDA is requesting comments, data, research, or other information on the regulation of outdoor advertising of cigarettes and smokeless tobacco.

DATES: Submit electronic or written comments by May 18, 2010.

ADDRESSES: You may submit comments, identified by Docket No. FDA–2010–N–0136 and/or RIN number 0910–AG33, by any of the following methods:

Electronic Submissions

Submit electronic comments in the following way:

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

Written Submissions

Submit written submissions in the following ways:

- *FAX:* 301–827–6870.
- *Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the agency name and docket number and Regulatory Information Number (RIN) for this rulemaking. All comments received may be posted without change to *http://www.regulations.gov*, including any personal information provided. For additional information on submitting comments, see the "Comments" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Annette Marthaler, Center for Tobacco Products, Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850–3229, 1–877–287–1373, *annette.marthaler@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Elsewhere in this issue of the **Federal Register**, FDA is reissuing a 1996 final rule that restricts the sale, distribution, and use of cigarettes and smokeless tobacco. The reissuance of the final rule is required under section 102 of the Tobacco Control Act (Public Law 111–31). More specifically, section 102 requires FDA to publish a final rule regarding cigarettes and smokeless tobacco identical in its provisions to the regulation promulgated by FDA in 1996 (61 FR 44396, August 28, 1996) (1996 final rule), with certain specified exceptions. Section 102 provides that the reissued 1996 final rule shall "include such modifications to section 897.30(b), if any, that the Secretary determines are appropriate in light of governing First Amendment case law, including the decision of the Supreme Court of the United States in Lorillard Tobacco Co. v. Reilly (533 U.S. 525 (2001))."

As published in 1996, § 897.30(b) stated that "[n]o outdoor advertising for cigarettes or smokeless tobacco, including billboards, posters, or placards, may be placed within 1,000 feet of the perimeter of any public playground or playground area in a public park (e.g., a public park with equipment such as swings and seesaws, baseball diamonds, or basketball courts), elementary school, or secondary school." In *Lorillard* the Supreme Court struck down as violative of the First Amendment regulations promulgated by Massachusetts that, among other things, banned outdoor tobacco advertisements within 1,000 feet of any school or playground. The Supreme Court concluded that Massachusetts had a substantial state interest in protecting children and adolescents from the harms of tobacco use and that the outdoor advertising restriction advanced that interest. However, the Court ruled that the regulation violated the First Amendment because it was not adequately tailored to achieve the substantial state interest of protecting children and adolescents from tobacco products.

To best determine what modifications to § 897.30(b), if any, are appropriate in light of governing First Amendment case law, FDA has determined that § 897.30(b) (now renumbered as § 1140.30(b)) should be reserved in the

final rule published elsewhere in this issue of the **Federal Register** and that the agency should request the submission of any comments, data, research, or other information pertaining to potential outdoor advertising restrictions for tobacco products that may have developed since the 1996 issuance of § 897.30(b). This approach enables the agency to implement a regulatory approach to outdoor advertising that reflects careful consideration of the U.S. Supreme Court's decision in *Lorillard*, other provisions in the Tobacco Control Act, and other developments and information, such as the Master Settlement Agreement between the State Attorneys General and the tobacco industry, that have occurred since the original publication of the 1996 final rule. FDA intends to use the information submitted in response to this document, along with information in the existing record and other information developed since the publication of the 1996 final rule, to inform its regulation of outdoor advertising of cigarettes and smokeless tobacco.

For example, since the publication of the 1996 rule, the U.S. National Cancer Institute (NCI) published its 19th monograph in the Tobacco Control Monograph Series, *The Role of the Media in Promoting and Reducing Tobacco Use* (Monograph 19). Monograph 19 is a "comprehensive distillation of the scientific literature on media communications in tobacco promotion and tobacco control." In examining tobacco advertising, Monograph 19 stated that "tobacco advertising forms part of an integrated marketing communications strategy combining sponsorship, brand merchandising, brand stretching, packaging, point-of-sale promotions, and product placement." The major conclusions of Monograph 19 included the following: (1) Cigarettes are among the most heavily marketed products in the United States; (2) the targeting of various population groups, including youth and young adults, "has been strategically important to the tobacco industry"; and (3) the weight of the evidence demonstrates a causal relationship between tobacco advertising and promotion and increased tobacco use. With respect to marketing of tobacco to children and adolescents, Monograph 19 concluded, among other things, that: (1) Tobacco advertising targets the psychological needs of adolescents (e.g., popularity) and "adolescents who believe that smoking can satisfy their psychological needs, or whose desired image of themselves is similar to their image of smokers, are more likely to smoke cigarettes"; and (2) even brief exposure to tobacco advertising influences adolescents' intentions to smoke.

Monograph 19 stated that "cigarette advertising and promotion are heavy in volume and high in visibility at the point of sale, particularly in convenience stores." Monograph 19 also stated "[i]n 2001, a cross-section of 586 California retailers was found to have more than 17 tobacco point-of-purchase ads, on average, in or around the store * * * 11% had large exterior signs—in violation of the [Master Settlement Agreement]." In addition, Monograph 19 cited a study involving 3,000 students in grades 9 to 12 who smoked, which found "their cigarette brand preferences correlated with the brands most heavily advertised in the convenience stores within a one-mile radius of their schools."

Monograph 19 contained an extensive discussion of the colors and symbols associated with cigarette brands and found that colors and symbols can be used in ways that facilitate the circumvention of tobacco advertising restrictions. Monograph 19 found that the "brand image of most tobacco products represents the end result of a multifaceted marketing effort involving brand identity * * * and the use of color. The development, enhancement, and reinforcement of this brand imagery are primary objectives of tobacco promotion."

II. Restrictions Under Consideration

The agency is considering several options, including a regulation proposing to (1) Prohibit or otherwise limit billboards located within 1,000 feet of any elementary or secondary school (k-12) and (2) prohibit or otherwise limit large signs or collections of advertisements greater than 14 square feet at retail establishments located in close proximity to any elementary or secondary school (e.g., within 350 feet or approximately one city block). As required by *Lorillard* and the governing First Amendment case law, any proposed restrictions would be more narrowly tailored than § 897.30(b), as published in 1996. The agency is considering whether the restrictions under consideration in this advance notice of proposed rulemaking that would differentiate between large and small advertisements would appropriately tailor the rule. For example, we are considering tailoring the distance requirement by leaving the 1,000 foot restriction for the largest and most prominent advertisements (billboards) and narrowing the distance to 350 feet (approximately one city block) for smaller advertisements that are not as prominent. Under this approach, the restrictions would limit advertising near schools only, rather than schools and playgrounds.

III. Request for Comments and Information

FDA is seeking data, research, information, and comments on whether restrictions on outdoor advertising of tobacco products are necessary to protect children and adolescents from the harms caused by tobacco use and, if they are, whether the restrictions under consideration, or close variations would be justified, lawful, and appropriate. FDA is also seeking data, research, information, and comments on other restrictions on outdoor advertising that, either in addition to or instead of the specific restrictions under consideration, would advance the public health goal of protecting children and adolescents from the harms caused by tobacco use.

FDA is seeking data, research, information, and comments related to the following:

- Would restrictions advance the public health goal of protecting children and adolescents from the harms caused by tobacco use?
- If so, could this public health goal be achieved with narrower restrictions? For example,
  - by prohibiting billboards located at some distance less than 1,000 feet of an elementary or secondary school?
  - by prohibiting signs or collections of advertisements that are larger than some size greater than 14 square feet at retail establishments located within 350 feet of an elementary or secondary school?
  - by prohibiting signs or collections of advertisements greater than 14 square feet at retail establishments located within some distance less than within 350 feet of an elementary or secondary school?
- Or would a broader prohibition be necessary to achieve the public health goal? For example,
  - by prohibiting other outdoor advertisements in addition to those described in section II of this document?
  - by prohibiting smaller notices on store windows?
  - by prohibiting advertisements, not only near schools, but also near playgrounds (and, if so, how should "playgrounds" be defined)?
- Should FDA consider requiring stores that sell tobacco products to post graphic anti-tobacco messages in order to counter the effects of advertisements on children?

FDA is also seeking data, research, information, and comments—not limited to the specific restrictions under consideration—related to the following:

- The impact and/or effect(s) of outdoor advertising restrictions on youth smoking behavior;
- The increased or decreased likelihood that persons exposed to outdoor advertising will start using tobacco products;
- The increased or decreased likelihood that persons exposed to outdoor advertising will continue to use tobacco products or will be less likely to stop using tobacco products;
- The impact of outdoor advertising restrictions based upon distance from schools in major metropolitan areas;
- The impact of outdoor advertising restrictions based upon distance from schools in rural, suburban, and urban areas and how the impact may differ in such areas;
- The impact of outdoor advertising restrictions based upon the size, type, or other characteristic of the advertisement;
- The impact of warnings included in promotional materials, including outdoor advertising;
- The impact of outdoor advertising restrictions on tobacco manufacturers or other sellers' ability to communicate with adult smokers;
- Restrictions on outdoor advertising that, either in addition to or instead of the specific restrictions under consideration, would advance the public health goal of protecting children and adolescents from the harms caused by tobacco use.

IV. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) electronic or written comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 11, 2010.

Margaret A. Hamburg,

Commissioner of Food and Drugs.

Dated: March 11, 2010.

Kathleen Sebelius,

Secretary of Health and Human Services.

[FR Doc. 2010–6086 Filed 3–18–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 1000

[Docket No. FR–5275–N–06]

Native American Housing Assistance and Self-Determination Reauthorization Act of 2008: Negotiated Rulemaking Committee Meeting

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of negotiated rulemaking committee meeting.

SUMMARY: This document announces a meeting of the negotiated rulemaking committee that was established pursuant to the Native American Housing Assistance and Self-Determination Reauthorization Act of 2008. The primary purpose of the committee is to discuss and negotiate a proposed rule that would change the regulations for the Indian Housing Block Grant (IHBG) program and the Title VI Loan Guarantee program.

DATES: The committee meeting will be held on Tuesday, March 30, 2010, Wednesday, March 31, and Thursday, April 1, 2010. On all three days the meeting will begin at 8 am and is scheduled to end at 5 pm.

ADDRESSES: The meeting will take place at the Doubletree Paradise Valley Resort, 5401 North Scottsdale Road, Scottsdale, Arizona 85250; telephone number 480–946–1524 (this is not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Rodger J. Boyd, Deputy Assistant Secretary for Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4126, Washington, DC 20410; telephone number 202–401–7914 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

The Native American Housing Assistance and Self-Determination Reauthorization Act of 2008 (Pub. L. 110–411, approved October 14, 2008) (NAHASDA Reauthorization) reauthorizes The Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*) (NAHASDA) through September 30, 2013, and makes a number of amendments to the statutory requirements governing the Indian Housing Block Grant Program (IHBG) and Title VI Loan Guarantee programs. For more information on the IHBG and Title VI of NAHASDA, please see the background section of the Notice of Negotiated Rulemaking Committee Meeting published on February 22, 2010 at (75 FR 7579). The NAHASDA Reauthorization amends section 106 of NAHASDA to provide that HUD shall initiate a negotiated rulemaking in order to implement aspects of the 2008 Reauthorization Act that require rulemaking. On January 5, 2010 (75 FR 423), HUD published a **Federal Register** notice announcing the final list of members of the negotiated rulemaking committee (the Native American Housing Assistance & Self-Determination Negotiated Rulemaking Committee). On February 22, 2010 (75 FR 7559), HUD published a **Federal Register** notice announcing the first meeting of the negotiated rulemaking committee.

II. Negotiated Rulemaking Committee Meeting

This document announces the second meeting of the Native American Housing Assistance & Self-Determination Negotiated Rulemaking Committee. The committee meeting will take place as described in the **DATES** and **ADDRESSES** sections of this document. The agenda planned for the meeting includes the discussion of protocols and the scope of the rulemaking process, as well as setting of future meetings. The meeting will be open to the public without advance registration. Public attendance may be limited to the space available. Members of the public may be allowed to make statements during the meeting, to the extent time permits, and to file written statements with the committee for its consideration. Written statements should be submitted to the address listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

Dated: March 12, 2010.

Sandra B. Henriquez,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 2010–6003 Filed 3–18–10; 8:45 am]

BILLING CODE 4210–67–P

Notices

Federal Register

Vol. 75, No. 53

Friday, March 19, 2010

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 15, 2010.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Forest Service

Title: Public Attitudes, Beliefs, and Values about National Forest System Land Management.

OMB Control Number: 0596–0205.

Summary of Collection: The National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321–4347), the National Forest Management Act of 1976, as amended (16 U.S.C. 1600) and the 2005 NFMA Planning Guide (36 CFR, Part 219) give legal authority for information collection in support of the forest plan revision process in the Southwestern Region. The purpose of this survey is to provide Southwestern Region natural forest land managers and planners with scientifically credible information from a broad and diverse representation of the public, as well as from specific stakeholder groups.

Need and Use of the Information: Information collected will focus on public attitudes, beliefs, and values that people have for public land and public land use, how those values are affected by public land management, and acceptable tradeoffs in developing alternative management plans. This information is critical to planning and implementing public policy related to national forests in the Southwestern Region. Data collected with these survey instruments will provide a baseline from which to monitor national forest use and management as affected by changes in social and economic conditions.

Description of Respondents: Individuals or households.

Number of Respondents: 20,202.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 6,734.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2010–6005 Filed 3–18–10; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 15, 2010.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number

Agricultural Marketing Service

Title: Data Collection Applicable to Cranberries Not Subject to the Cranberry Marketing Order, 7 CFR part 926.

OMB Control Number: 0581–0222.

Summary of Collection: The Code of Federal Regulations (CFR) 7 CFR part 926 was established to require producer-handlers, second-handlers, processors, brokers and importers of cranberries and cranberry products not subject to the Federal cranberry marketing order (7 CFR part 929) to report sales, acquisitions and inventory information to the Cranberry Marketing Committee

(Committee) and to maintain adequate records on such activities. The establishment of the data collection, reporting and recordkeeping requirements for entities not subject to the order is required pursuant to the Agricultural Marketing Agreement Act of 1937, as amended; 7 U.S.C. 601–674, and as further amended by Public Law 106–78, 113 Stat. 1171 (Act).

Need and Use of the Information: The Committee has developed forms ICIR A–D "Importer Cranberry Inventory Report" and HPCIR A–D "Second-Handler/Processor Cranberry Inventory Report" as a convenience to persons who are required to file information with the Committee relating to sales, acquisition, and inventory information needed to effectively carry out the administration of the program. These forms require the minimum information necessary (name, address, variety imported, variety acquired, amount sold to and received by brokers, processors, and handlers, domestic/foreign sales, acquisitions, and the beginning and ending inventories of cranberries held by the importer) to effectively carry out the requirements and fulfill the intent of the Act as expressed in Part 926.

Description of Respondents: Business or other for-profit.

Number of Respondents: 6.

Frequency of Responses: Reporting.

Total Burden Hours: 1.

Agricultural Marketing Service

Title: Almonds Grown in California (7 CFR part 981).

OMB Control Number: 0581–0242.

Summary of Collection: Marketing Order No. 981 (7 CFR part 981) regulates the handling of almonds grown in California and emanates from the Agricultural Marketing Agreement Act of 1937, (Act) Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674) to provide the respondents the type of service they request, and to administer the California almond marketing order program. The board has developed forms as a means for persons to file required information with the board relating to the treatment of almonds to reduce the potential for Salmonella bacteria prior to shipment.

Need and Use of the Information: Almond handlers are required to submit annual treatment plans to the board and inspection agency to ensure such plans are complete and auditable regarding how they plan to treat their almonds to reduce the potential for Salmonella. The plan will be approved by the Board and must address specific parameters for the handler to ship almonds. The Board also gathers information from entities interested in being almond process authorities that validate technologies, to accept and further process untreated almonds and entities interested in being auditors. The information collected would be used only by authorized representatives of USDA, including the Agricultural Marketing Service, Fruit and Vegetable Programs' regional and headquarters' staff, and authorized employees and agents of the board.

Description of Respondents: Business or other for-profit; Individuals.

Number of Respondents: 175.

Frequency of Responses: Recordkeeping; Reporting: Annually; On occasion.

Total Burden Hours: 4,200.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2010–6004 Filed 3–18–10; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Announcement of Funds Availability and Grant Application Deadlines

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of funds availability.

SUMMARY: The Rural Utilities Service (RUS), an agency of the United States Department of Agriculture (USDA), announces its Distance Learning and Telemedicine (DLT) grant program application window for Fiscal Year (FY) 2010. In addition to announcing the application window, RUS announces the anticipated amount of funding available, the minimum and maximum amounts for DLT grants applicable for the fiscal year, and a change in scoring necessitated by the expiration of the Empowerment Zone and Enterprise Community (EZ/EC) designations. Finally, the Agency notes that the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–234) expressly added the category of libraries under Sec. 2333 (c)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. S950aaa-2(a)(1)) in order to clearly establish that libraries are eligible to be recipients of DLT Loans and Grants. This confirms the longstanding Agency policy of considering libraries to be eligible entities under the DLT Program. The regulation for the DLT Grant Program can be found at 7 CFR 1703, subpart E.

DATES: You may submit completed applications for grants on paper or electronically in accordance with the following deadlines:

- *Paper submissions:* Paper copies must be postmarked and mailed, shipped, or sent overnight *no later* than May 18, 2010 to be eligible for FY 2010 grant funding. Late or incomplete applications will not be eligible for FY 2010 grant funding.

Electronic submissions: Electronic copies must be received by May 18, 2010 to be eligible for FY 2010 grant funding. Late or incomplete applications will not be eligible for FY 2010 grant funding.

ADDRESSES: Copies of the FY 2010 Application Guides and materials for the DLT grant program may be obtained at the following sources:

(1) The DLT Web site: *http://www.usda.gov/rus/telecom/dlt/dlt.htm,* and

(2) You may also request application guides and materials from RUS by contacting the DLT Program at 202–720–0413.

Completed applications may be submitted the following ways:

(1) *Paper:* Paper applications are to be submitted to the Rural Utilities Service, Telecommunications Program, 1400 Independence Ave., SW., Room 2845, STOP 1550, Washington, DC 20250–1550. Applications should be marked "Attention: Acting Director, Advanced Services Division."

(2) *Electronic:* Electronic applications may be submitted through Grants.gov. Information on how to submit applications electronically is available on the Grants.gov Web site (*http://www.grants.gov*). Applicants must successfully pre-register with Grants.gov to use the electronic applications option. Application information may be downloaded from Grants.gov without preregistration.

FOR FURTHER INFORMATION CONTACT: Acting Director, Advanced Services Division, Telecommunications Programs, Rural Utilities Service. *Telephone:* 202–720–0413, *fax:* 202–720–1051.

SUPPLEMENTARY INFORMATION:

Overview

Federal Agency: Rural Utilities Service (RUS)

Funding Opportunity Title: Distance Learning and Telemedicine Grants.

Announcement Type: Notice of Funds Availability.

Catalog of Federal Domestic Assistance (CFDA) Number: 10.855.

Dates: You may submit completed applications for grants on paper or electronically according to the following deadlines:

- Paper copies must be postmarked and mailed, shipped, or sent overnight no later than May 18, 2010 to be eligible for FY 2010 grant funding. Late or

incomplete applications are not eligible for FY 2010 grant funding.

Electronic copies must be received by May 18, 2010 to be eligible for FY 2010 grant funding. Late or incomplete applications are not eligible for FY 2010 grant funding.

Items in Supplementary Information:

I. *Funding Opportunity:* Brief introduction to the DLT program.

II. *Minimum and Maximum Application Amounts:* Projected Available Funding.

III. *Eligibility Information:* Who is eligible, what kinds of projects are eligible, what criteria determine basic eligibility.

IV. *Application and Submission Information:* Where to get application materials, what constitutes a completed application, how and where to submit applications, deadlines, items that are eligible.

V. *Application Review Information:* Considerations and preferences, scoring criteria, review standards, selection information.

VI. *Award Administration Information:* Award notice information, award recipient reporting requirements.

VII. *Agency Contacts:* Web, phone, fax, email, contact name.

I. Funding Opportunity

Distance learning and telemedicine grants are specifically designed to provide access to education, training and health care resources for people in rural America.

The Distance Learning and Telemedicine (DLT) Program provides financial assistance to encourage and improve telemedicine services and distance learning services in rural areas through the use of telecommunications, computer networks, and related advanced technologies to be used by students, teachers, medical professionals, and rural residents.

The grants, which are awarded through a competitive process, may be used to fund telecommunications-enabled information, audio and video equipment and related advanced technologies which extend educational and medical applications into rural locations. Grants are made for projects where the benefit is primarily delivered to end users that are not at the same location as the source of the education or health care service.

As in years past, the FY 2010 grant Application Guide has been updated based on Program experience. Details of changes from the FY 2009 Application Guide are highlighted throughout this Notice and are described in full in the FY 2010 Application Guide. All applicants must carefully review and *exactly* follow the FY 2010 Application Guide and sample materials when compiling a DLT grant application.

II. Maximum and Minimum Amount of Applications

Under 7 CFR 1703.124, the Administrator has determined the maximum amount of a grant to be made available to an application in FY 2010 is $500,000, and the minimum amount of a grant is $50,000. The anticipated amount available to fund grant awards in FY 2010 is $30,255,000.

The Agency will make awards and execute documents appropriate to the project prior to any advance of funds to successful applicants.

DLT grants cannot be renewed. Award documents specify the term of each award. The Agency will make awards and execute documents appropriate to the project prior to any advance of funds to successful applicants. Applications from existing DLT awardees are acceptable (grant applications must be submitted during the application window) and will be evaluated as new applications.

III. Eligibility Information

A. Who is eligible for a grant ? (See 7 CFR 1703.103.)

1. Only entities legally organized as one of the following are eligible for DLT financial assistance:

a. An incorporated organization or partnership,

b. An Indian tribe or tribal organization, as defined in 25 USC 450b (b) and (c),

c. A State or local unit of government,

d. A consortium, as defined in 7 CFR 1703.102, or

e. Other legal entity, including a private corporation organized on a for-profit or not-for-profit basis.

2. Individuals are not eligible for DLT program financial assistance directly.

3. Electric and telecommunications borrowers under the Rural Electrification Act of 1936 (7 U.S.C. 950aaa *et seq.*) are not eligible for grants.

B. What are the basic eligibility requirements for a project?

1. Required matching contributions for grants: *See* 7 CFR 1703.125(g) and the FY 2010 Application Guide for information on required matching contributions.

a. Grant applicants must demonstrate matching contributions, in cash or in kind (new, non-depreciated items), of at least fifteen (15) percent of the total amount of financial assistance requested. Matching contributions *must* be used for eligible purposes of DLT grant assistance (*see* 7 CFR 1703.121, paragraphs IV.H.1.b of this Notice and the FY 2010 Application Guide).

b. Greater amounts of eligible matching contributions may increase an applicant's score (see 7 CFR 1703.126(b)(4), paragraph V.B.2.c of this notice, and the FY 2010 Application Guide).

c. Applications that do not provide evidence of the required fifteen percent match will be declared ineligible and returned. *See* paragraphs IV.H.1.c and V.B.2.c of this Notice, and the FY 2010 Application Guide for specific information on documentation of matching contributions.

d. Applications that do not document all matching contributions in form and substance satisfactory to the Agency as described in the Application Guide are subject to budgetary adjustment by the Agency, which may result in rejection of an application as ineligible due to insufficient match.

2. The DLT grant program is designed to bring the benefits of distance learning and telemedicine to residents of rural America (*see* 7 CFR 1703.103(a)(2)). Therefore, in order to be eligible, applicants must:

a. Operate a rural community facility; or

b. Deliver distance learning or telemedicine services to entities that operate a rural community facility or to residents of rural areas, at rates calculated to ensure that the benefit of the financial assistance is passed through to such entities or to residents of rural areas.

3. Rurality.

a. All projects proposed for DLT grant assistance must meet a minimum rurality threshold, to ensure that benefits from the projects flow to rural residents. The minimum eligibility score is 20 points. *Please see* Section IV of this notice, 7 CFR 1703.126(a)(2), and the FY 2010 Application Guide for an explanation of the rurality scoring and eligibility criterion.

b. Each application must apply the following criteria to each of its end-user sites, and hubs that are also proposed as end-user sites, in order to determine a rurality score. The rurality score is the average of all end-user sites' rurality scores.

Criterion	Character	Population	DLT points
Exceptionally Rural Area	Area not within an Urbanized Area or Urban Cluster	≤ 5000	45

Criterion	Character	Population	DLT points
Rural Area	Area in an Urban Cluster	> 5000 and ≤ 10,000	30
Mid-Rural Area	Area in an Urban Cluster	>10,000 and ≤ 20,000	15
Urban Area	Area in an Urbanized Area or Urban Cluster	> 20,000	0

c. The rurality score is one of the competitive scoring criteria applied to grant applications.

4. Projects located in areas covered by the Coastal Barrier Resources Act (16 U.S.C. 3501 *et seq.*) are not eligible for financial assistance from the DLT Program. *Please see* 7 CFR 1703.123(a)(11), 7 CFR 1703.132(a)(5), and 7 CFR 1703.142(b)(3).

C. Where To Find Full Discussion of a Complete Application

See Section IV of this Notice and the FY 2010 Application Guide for a discussion of the items that comprise a complete application. For requirements of completed applications you may also refer to 7 CFR 1703.125 for grant applications. The FY 2010 Application Guide provides specific, detailed instructions for each item that constitutes a complete application. The Agency strongly emphasizes the importance of *including every required item* (as explained in the FY 2010 Application Guide) and strongly encourages applicants to follow the instructions *carefully,* using the examples and illustrations in the FY 2010 Application Guide. Applications which do not include all items that determine project eligibility and applicant eligibility by the application deadline will be returned as ineligible. Scoring and eligibility information not provided by the application deadline will not be solicited or considered by the Agency. Applications that do not include all items necessary for scoring will be scored as is. *Please see* the FY 2010 Application Guide for a full discussion of each required item and for samples and illustrations.

IV. Application and Submission Information

A. Where To Get Application Information

FY 2010 Application Guides, copies of necessary forms and samples, and the DLT Program regulation are available from these sources:

1. The Internet: *http://www.usda.gov/rus/telecom/dlt/dlt.htm.*

2. The DLT Program for paper copies of these materials: 202–720–0413.

B. New and Emphasized in FY 2010

1. The USDA designations of Empowerment Zone and Enterprise Community (EZ/EC) expired on December 31, 2009. As a consequence, unless there is a statutory extension, the EZ/EC scoring category, will no longer award points under these designations. Please refer to the FY 2010 Application Guide for complete details on this change.

2. Applicants are reminded that end user sites are to be rural facilities. *See* 7 CFR 1703.102, Definitions, "End User" and "End User Site". We have experienced an increase in the number of applications which attempt to include urban educational and medical facilities as end user sites. Urban facilities can serve as hub sites, but not end user sites. For projects with non-fixed end user sites, only those end user sites outside urban areas can be funded. The FY 2010 Application Guide again contains clarifying language to elaborate on this provision of the regulation.

3. If a grant application includes a site that is included in any other DLT grant application for FY 2010, or a site that has been included in any DLT grant funded in FY 2009 or FY 2008, the application should contain a detailed explanation of the related applications or grants. The Agency must make a nonduplication finding for each grant approved, and apparent but unexplained duplication of funding for a site can prevent such a finding.

C. What Constitutes a Completed Application?

1. For DLT Grants:

a. Detailed information on each item in the table in paragraph IV.C.1.g. of this Notice can be found in the sections of the DLT Program regulation listed in the table, and the DLT grant Application Guide. Applicants are strongly encouraged to read and apply both the regulation and the Applications Guide, which elaborates and explains the regulation.

(1). When the table refers to a narrative, it means a written statement, description or other written material prepared by the applicant, for which no form exists. The Agency recognizes that each project is unique and requests narratives to allow applicants to explain their request for financial assistance.

(2). When documentation is requested, it means letters, certifications, legal documents or other third-party documentation that provide evidence that the applicant meets the listed requirement. For example, to confirm Champion Community designations, applicants use printouts from the official USDA website. Leveraging documentation generally will be letters of commitment from the funding sources. In-kind matches must be items purchased after the application deadline date that are essential to the project and documentation from the donor must demonstrate the relationship of each item to the project's function. Evidence of legal existence is sometimes proven by submitting articles of incorporation. The examples here are not intended to limit the types of documentation that must be submitted to fulfill a requirement. DLT Program regulations and the Application Guide provide specific guidance on each of the items in the table.

b. The DLT Application Guide and ancillary materials provide all necessary sample forms and worksheets.

c. While the table in paragraph IV.C.1.g of this Notice includes all items of a completed application, the Agency may ask for additional or clarifying information for applications which, as submitted by the deadline, appear to clearly demonstrate that they meet eligibility requirements. The Agency will not solicit or accept eligibility or scoring information submitted after the application deadline.

d. Submit the required application items in the order provided in the FY 2010 Application Guide. The FY 2010 Application Guide specifies the format and order of all required items. Applications that are not assembled and tabbed in the order specified prevent timely determination of eligibility. Given the high volume of program interest, incorrectly assembled applications, and applications with inconsistency among submitted copies, will be returned as ineligible.

e. DUNS Number. As required by the OMB, all applicants for grants must supply a Dun and Bradstreet Data Universal Numbering System (DUNS) number when applying. The Standard Form 424 (SF–424) contains a field for you to use when supplying your DUNS number. Obtaining a DUNS number costs nothing and requires a short telephone call to Dun and Bradstreet. *Please see http://www.grants.gov/applicants/request_duns_number.jsp* for more information on how to obtain a

DUNS number or how to verify your organization's number.

f. Compliance with other Federal statutes. The applicant must provide evidence of compliance with other Federal statutes and regulations, including, but not limited to the following:

(i) 7 CFR part 15, subpart A—Nondiscrimination in Federally Assisted Programs of the Department of Agriculture—Effectuation of Title VI of the Civil Rights Act of 1964.

(ii) 7 CFR part 3015—Uniform Federal Assistance Regulations.

(iii) 7 CFR part 3017— Government-wide Debarment and Suspension (Non-procurement).

(iv) 7 CFR part 3018—New Restrictions on Lobbying.

(v) 7 CFR part 3021—Government-wide Requirements for Drug-Free Workplace.

g. Table of Required Elements of a Completed Grant Application.

Application item	Required items	
	Grants (7 CFR 1703.125 and 7 CFR 1703.126)	Comment
SF–424 (Application for Federal Assistance form)	Yes	*Completely* filled out.
Site Worksheet	Yes	Agency worksheet.
Survey on Ensuring Equal Opportunity for Applicants	Optional	OMB Form.
Evidence of Legal Authority to Contract with the Government	Yes	Documentation.
Evidence of Legal Existence	Yes	Documentation.
Executive Summary	Yes	Narrative.
Telecommunications System Plan and Scope of Work	Yes	Narrative & documentation such as maps and diagrams.
Budget	Yes	Agency Worksheets with documentation.
Financial Information/Sustainability	Yes	Narrative.
Statement of Experience	Yes	Narrative 3-page, single-spaced limit.
Rurality Worksheet	Yes	Agency worksheet with documentation.
National School Lunch Program (NSLP) Worksheet	Yes	Agency worksheet with documentation.
Leveraging Evidence and Funding Commitments from all Sources.	Yes	Agency worksheet and source documentation.
Champion Communities designation	Yes	Documentation.
Request for Additional NSLP	Optional	Agency Worksheet and narrative.
Need for and Benefits derived from Project	Yes	Narrative & documentation.
Innovativeness of the Project	Yes	Narrative & documentation.
Cost Effectiveness of Project	Yes	Narrative & documentation.
Consultation with the USDA State Director, Rural Development, and evidence that application conforms to State Strategic Plan, if any.	Yes	Documentation.
Certifications:		
Equal Opportunity and Nondiscrimination	Yes	Recommend using Agency's sample form.
Architectural Barriers	Yes	Recommend using Agency's sample form.
Flood Hazard Area Precautions	Yes	Recommend using Agency's sample form.
Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.	Yes	Recommend using Agency's sample form.
Drug-Free Workplace	Yes	Recommend using Agency's sample form.
Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions.	Yes	Recommend using Agency's sample form.
Lobbying for Contracts, Grants, Loans, and Cooperative Agreements.	Yes	Recommend using Agency's sample form.
Non-Duplication of Services	Yes	Recommend using Agency's sample form.
Environmental Impact/Historic Preservation Certification	Yes	Recommend using Agency's sample form.

D. How many copies of an application are required?

1. Applications submitted on paper.

a. Submit the original application and two (2) copies to RUS.

b. Submit one (1) additional copy to the state government single point of contact (SPOC) (if one has been designated) at the same time as you submit the application to the Agency. See *http://www.whitehouse.gov/omb/grants/spoc.html* for an updated listing of State government single points of contact.

2. Electronically submitted applications. Grant applications may be submitted electronically. Please carefully read the FY 2010 Application Guide for guidance on submitting an electronic application. In particular, we ask that you identify and number each page in the same way you would a paper application so that we can assemble them as you intended.

a. The additional paper copies are not necessary if you submit the application electronically through Grants.gov.

b. Submit one (1) copy to the state government single point of contact (if one has been designated) at the same time as you submit the application to the Agency. See *http://www.whitehouse.gov/omb/grants/spoc.html* for an updated listing of State government single points of contact.

E. How and Where To Submit an Application

Grant applications may be submitted on paper or electronically.

1. Submitting applications on paper.

a. Address paper applications to the Telecommunications Program, RUS, United States Department of Agriculture, 1400 Independence Ave., SW., Room 2845, STOP 1550, Washington, DC 20250–1550. Applications should be marked

"Attention: Director, Advanced Services Division."

b. Paper grant applications must show proof of mailing or shipping by the deadline consisting of one of the following:

(i) A legibly dated U.S. Postal Service (USPS) postmark;

(ii) A legible mail receipt with the date of mailing stamped by the USPS; or

(iii) A dated shipping label, invoice, or receipt from a commercial carrier.

c. Due to screening procedures at the Department of Agriculture, packages arriving via regular mail through the USPS are irradiated, which can damage the contents and delay delivery to the DLT Program. RUS encourages applicants to consider the impact of this procedure in selecting their application delivery method.

2. Electronically submitted applications.

a. Applications will not be accepted via fax or electronic mail.

b. Electronic applications for grants will be accepted if submitted through the Federal government's Grants.gov initiative at *http://www.grants.gov.*

c. How to use Grants.gov.

(i) Grants.gov contains full instructions on all required passwords, credentialing and software.

(ii) Central Contractor Registry. Submitting an application through Grants.gov requires that you list your organization in the Central Contractor Registry (CCR). Setting up a CCR listing takes up to five business days, so the Agency strongly recommends that you obtain your organization's DUNS number and CCR listing well in advance of the deadline specified in this notice.

(iii) Credentialing and authorization of applicants. Grants.gov will also require some credentialing and online authentication procedures. These procedures may take several business days to complete, further emphasizing the need for early action by applicants to complete the sign-up, credentialing and authorization procedures at Grants.gov before you submit an application at that Web site.

(iv) Some or all of the CCR and Grants.gov registration, credentialing and authorizations require updates. If you have previously registered at Grants.gov to submit applications electronically, please ensure that your registration, credentialing and authorizations are up to date well in advance of the grant application deadline.

d. RUS encourages applicants who wish to apply through Grants.gov to submit their applications in advance of the deadlines.

e. If a system problem occurs or you have technical difficulties with an electronic application, please use the customer support resources available at the Grants.gov Web site.

F. Deadlines

1. Paper grant applications must be postmarked and mailed, shipped, or sent overnight no later than May 18, 2010 to be eligible for FY 2010 grant funding. Late applications, applications which do not include proof of mailing or shipping as described in paragraph IV.E.1.b., and incomplete applications are not eligible for FY 2010 grant funding.

2. Electronic grant applications must be received by May 18, 2010 to be eligible for FY 2010 funding. Late or incomplete applications will not be eligible for FY 2010 grant funding.

G. Intergovernmental Review

The DLT grant program is subject to Executive Order 12372, "Intergovernmental Review of Federal Programs." As stated in paragraph IV.D.1. of this Notice, a copy of a DLT grant application must be submitted to the State single point of contact if one has been designated. Please see *http://www.whitehouse.gov/omb/grants/spoc.html* to determine whether your state has a single point of contact.

H. Funding Restrictions

1. Eligible purposes.

a. For grants, rural end-user sites may receive financial assistance; hub sites (rural or non-rural) may also receive financial assistance if they are necessary to provide DLT services to end-user sites. Please see the Application Guide and 7 CFR 1703.101(h).

b. To fulfill the policy goals laid out for the DLT Program in 7 CFR 1703.101, the following table lists purposes for financial assistance and whether each purpose is generally considered to be eligible for the form of financial assistance. Please consult the FY 2010 Application Guide and the regulations (7 CFR 1703.102 for definitions, in combination with the portions of the regulation cited in the table) for detailed requirements for the items in the table. RUS *strongly* recommends that applicants exclude ineligible items from the grant and match portions of grant application budgets. However, some items ineligible for funding or matching contributions may be vital to the project. RUS encourages applicants to document those costs in the application's budget. Please see the FY 2010 Application Guide for a recommended budget format, and detailed budget compilation instructions.

	Grants
Lease or purchase of eligible DLT equipment and facilities	Yes, equipment only.
Acquire instructional programming that is capital asset	Yes.
Technical assistance, develop instructional programming that is a capital asset, engineering or environmental studies.	Yes, up to 10% of the grant.
Medical or education equipment or facilities necessary to the project	Yes.
Vehicles using distance learning or telemedicine technology to deliver services	No.
Teacher-student links located at the same facility.	No.
Links between medical professionals located at the same facility	No.
Site development or building alteration	No.
Land of building purchase	No.
Building Construction	No.
Acquiring telecommunications transmission facilities.	No.
Internet services, telecommunications services or other forms of connectivity	No.
Salaries, wages, benefits for medical or educational personnel	No.
Salaries or administrative expenses of applicant or project	No.
Recurring project costs or operating expenses	No, (equipment & facility leases are not recurring project costs).
Internet services, telecom services, and other forms of connectivity	No.
Equipment to be owned by the LEC or other telecommunications service provider, if the provider is the applicant.	No.
Duplicative distance learning or telemedicine services	No.

	Grants
Any project that for its success depends on additional DLT financial assistance or other financial assistance that is not assured.	No.
Application Preparation Costs	No.
Other project costs not in regulation	No.
Cost (amount) of facilities providing distance learning broadcasting	No.
Reimburse applicants or others for costs incurred prior to RUS receipt of completed application	No.

c. Discounts. The DLT Program regulation has long stated that manufacturers' and service providers' discounts are not eligible matches. The Agency will not consider as eligible any proposed match from a vendor, manufacturer, or service provider whose products or services will be used in the DLT project as described in the application. In recent years, the Agency has noted a trend of vendors, manufacturers and other service providers offering their own products and services as in-kind matches for a project when their products or services will also be purchased with either grant or cash match funds for that project. Such activity is a discount and is therefore not an eligible match. Similarly, if a vendor, manufacturer or other service provider proposes a cash match (or any in-kind match) when their products or services will be purchased with grant or match funds, such activity is a discount and is not an eligible match. The Agency actively discourages such matching proposals and will adjust budgets as necessary to remove any such matches, which may reduce an application's score or result in the application's ineligibility due to insufficient match.

2. Eligible Equipment & Facilities. Please see the FY 2010 Application Guide which supplies a wealth of information and examples of eligible and ineligible items. In addition, *see* 7 CFR 1703.102 for definitions of eligible equipment, eligible facilities and telecommunications transmission facilities as used in the table above.

3. Apportioning budget items. Many DLT applications propose to use items for a blend of specific DLT eligible project purposes and other purposes. RUS will now fund such items, if the applicants attribute the proportion (by percentage of use) of the costs of each item to the project's DLT purpose or to other purposes to enable consideration for a grant of the portion of the item that is for DLT usage. *See* the FY 2010 Application Guide for detailed information on how to apportion use and apportioning illustrations.

V. Application Review Information

A. Special Considerations or Preferences

1. American Samoa, Guam, Virgin Islands, and Northern Mariana Islands applications are exempt from the matching requirement up to a match amount of $200,000 (*see* 48 U.S.C. 1469a; 91 Stat. 1164).

2. 7 CFR 1703.112 directs that RUS Telecommunications Borrowers receive expedited consideration of a loan application or advance under the Rural Electrification Act of 1936 (7 U.S.C. 901–950aa, *et seq.*) if the loan funds in question are to be used in conjunction with a DLT grant (*See* 7 CFR 1737 for loans and 7 CFR 1744 for advances).

B. Criteria

1. Grant application scoring criteria (total possible points: 215). *See* 7 CFR 1703.125 for the items that will be reviewed during scoring, and 7 CFR 1703.126 for scoring criteria.

2. Grant applications are scored competitively subject to the criteria listed below.

a. Rurality category —Rurality of the proposed service area (up to 45 points).

b. NSLP category —percentage of students eligible for the NSLP in the proposed service area (objectively demonstrates economic need of the area) (up to 35 points).

c. Leveraging category—matching funds above the required matching level (up to 35 points). Please see paragraph III.B of this Notice for a brief explanation of matching contributions.

d. EZ/EC category—project overlap with Empowerment Zone (EZ), Enterprise Communities (EC) or Champion Communities (CC) designations current as of the application deadline, May 18, 2010. In the past, an applicant could earn up to 15 points in this category; 10 points for one or more sites located in either an EZ or EC and 5 points for one or more sites located in a Champion Community. However, the USDA designations of Empowerment Zone and Enterprise Community expired on December 31, 2009. The Champion Community designation continues. As a consequence, unless there is a statutory extension of the EZ and/or EC designations that becomes law before the application deadline, the 10 points previously earned for an EZ or EC designation will not be awarded. Most of the Champion Community designations have expired. Those that have made arrangements with USDA to maintain an active designation continue to be listed. The 5 points for a site in an existing CC will continue to be awarded. Please refer to the FY 2010 Application Guide for complete details on this change.

e. Need for services proposed in the application, and the benefits that will be derived if the application receives a grant (up to 55 points).

(i) Additional NSLP category—up to 10 of the possible 55 possible points are to recognize economic need not reflected in the project's National School Lunch Program (NSLP) score, and can be earned only by applications whose overall NSLP eligibility is less than 50 percent. To be eligible to receive points under this, the application must include an affirmative request for consideration of the possible 10 points, and compelling documentation of reasons why the NSLP eligibility percentage does not represent the economic need of the proposed project beneficiaries.

(ii) Needs and Benefits category—up to 45 of the 55 possible points under this criterion are available to all applicants. Points are awarded based on the required narrative crafted by the applicant. RUS encourages applicants to carefully read the cited portions of the Program regulation and the FY 2010 Application Guide for full discussions of this criterion.

f. Innovativeness category—level of innovation demonstrated by the project (up to 15 points).

g. Cost Effectiveness category—system cost-effectiveness (up to 35 points).

C. Grant Review Standards

1. In addition to the scoring criteria that rank applications against each other, the Agency evaluates grant applications for possible awards on the following items, according to 7 CFR 1703.127:

a. Financial feasibility.

b. Technical considerations. If the application contains flaws that would prevent the successful implementation,

operation or sustainability of a project, the Agency will not award a grant.

c. Other aspects of proposals that contain inadequacies that would undermine the ability of the project to comply with the policies of the DLT Program.

2. Applications which do not include all items that determine project eligibility and applicant eligibility by the application deadline will be returned as ineligible. Applications that do not include all items necessary for scoring will be scored as is. Please see the FY 2010 Application Guide for a full discussion of each required item and for samples and illustrations. The Agency will not solicit or consider eligibility or scoring information submitted after the application deadline.

3. The FY 2010 grant Application Guide specifies the format and order of all required items. Applications that are not assembled and tabbed in the order specified and incorrectly assembled applications will be returned as ineligible.

4. Most DLT grant projects contain numerous project sites. The Agency requires that site information be consistent throughout an application. Sites must be referred to by the same designation throughout all parts of an application. The Agency has provided a site worksheet that requests the necessary information, and can be used as a guide by applicants. RUS strongly recommends that applicants complete the site worksheet, listing all requested information for each site. Applications without consistent site information will be returned as ineligible.

5. DLT grant applications which have non-fixed end-user sites, such as ambulance and home health care services, are now scored using a simplified scoring method that finds the relative rurality of the applicant's entire service area. *See* the FY 2010 Application Guide for specific guidance on this method of scoring. When an application contains non-fixed sites, it must be scored using the non-fixed site scoring method.

D. Selection Process

1. Grants. Applications are ranked by final score, and by application purpose (education or medical). RUS selects applications based on those rankings, subject to the availability of funds. RUS may allocate grant awards between medical and educational purposes, but is not required to do so. In addition, the Agency has the authority to limit the number of applications selected in any one State, or for one project, during a fiscal year. See 7 CFR 1703.127.

VI. Award Administration Information

A. Award Notices

RUS generally notifies by mail applicants whose projects are selected for awards. The Agency follows the award letter with an agreement that contains all the terms and conditions for the grant.

RUS recognizes that each funded project is unique, and therefore may attach conditions to different projects' award documents. An applicant must execute and return the agreement, accompanied by any additional items required by the agreement, within the number of days shown in the selection notice letter.

B. Administrative and National Policy Requirements

The items listed in Section IV of this notice, and the DLT Program regulation, FY 2010 Application Guide and accompanying materials implement the appropriate administrative and national policy requirements.

C. Reporting

1. Performance reporting. All recipients of DLT financial assistance must provide annual performance activity reports to RUS until the project is complete and the funds are expended. A final performance report is also required; the final report may serve as the last annual report. The final report must include an evaluation of the success of the project in meeting DLT Program objectives. *See* 7 CFR 1703.107.

2. Financial reporting. All recipients of DLT financial assistance must provide an annual audit, beginning with the first year in which a portion of the financial assistance is expended. Audits are governed by United States Department of Agriculture audit regulations. *Please see* 7 CFR 1703.108.

3. Record Keeping and Accounting. The grant contract will contain provisions relating to record keeping and accounting requirements.

VII. Agency Contacts

A. *Web site: http://www.usda.gov/rus/telecom/dlt/dlt.htm.* The DLT Web site maintains up-to-date resources and contact information for DLT programs.

B. *Telephone:* 202–720–0423.

C. *Fax:* 202–720–1051.

D. *E-mail: dltinfo@wdc.usda.gov.*

E. *Main point of contact:* Director, Advanced Services Division, Telecommunications Program, Rural Utilities Service.

Dated: March 12, 2010.

Jonathan Adelstein,

Administrator, Rural Utilities Service.

[FR Doc. 2010–6007 Filed 3–18–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Mineral County Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393, as amended by H.R. 1424 January 3, 2008) the Lolo National Forest's Mineral County Resource Advisory Committee will meet on April 6, May 4 and May 12, 2010 at 6 p.m. until 8:30 p.m. in Superior, Montana for a business meeting. The meeting is open to the public.

DATES: April 6, 2010, May 4, 2010 and May 12, 2010.

ADDRESSES: The meetings will be held at the Superior Ranger District Office, 209 W. Riverside Ave. Superior, MT 59872.

FOR FURTHER INFORMATION CONTACT: Sharon Sweeney, Designated Federal Official (DFO), District Ranger, Superior District, Lob National Forest at (406) 822–4233.

SUPPLEMENTARY INFORMATION: Agenda topics for these meeting include the presentation of new project proposals and selection of proposals. If the meeting location is changed, notice will be posted in local newspapers, including the Mineral Independent.

Dated: March 3, 2010.

Sharon Sweeney,

Designated Federal Official.

[FR Doc. 2010–6034 Filed 3–18–10; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Lincoln County Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Public Law

106–393) the Kootenai National Forest's Lincoln County Resource Advisory Committee will meet on Wednesday, March 24, 2010 at 6 p.m. at the Forest Supervisor's Office in Libby, Montana, for a business meeting. The meeting is open to the public.

DATES: March 24, 2010.

ADDRESSES: Forest Supervisor's Office, 31374 US Hwy 2, Libby, Montana.

FOR FURTHER INFORMATION CONTACT: Janette Turk, Committee Coordinator, Kootenai National Forest at (406) 283–7764, or e-mail *jturk@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Agenda will include new member introductions, review of last year project status, 2009 project proposals, Title II budget allocations and receiving public comment. If the meeting date or location is changed, notice will be posted in the local newspapers, including the Daily Interlake based in Kalispell, Montana.

Dated: March 10, 2010.

Paul Bradford,

Forest Supervisor.

[FR Doc. 2010–5903 Filed 3–18–10; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Mendocino Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Mendocino County Resource Advisory Committee will meet May 7, 2010 (RAC) in Willits, California. Agenda items to be covered include: (1) Approval of minutes, (2) Handout Discussion, (3) Public Comment, (4) Financial Report, (5) Sub-committees, (6) Matters before the group, (7) Discussion approval of projects, (8) Next agenda and meeting date.

DATES: The meeting will be held on May 14, 2010, from 9 a.m. until 12 noon.

ADDRESSES: The meeting will be held at the Mendocino County Museum, located at 400 E. Commercial St., Willits, California.

FOR FURTHER INFORMATION CONTACT: Roberta Hurt, Committee Coordinator, USDA, Mendocino National Forest, Covelo Ranger District, 78150 Covelo Road, Covelo, CA 95428. (707) 983–6658; e–mail *windmill@willitsonline.com.*

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Persons who wish to bring matters to the attention of the Committee may file written statements with the Committee staff by May 4, 2010 Public comment will have the opportunity to address the committee at the meeting.

Lee Johnson,

Designated Federal Official.

[FR Doc. 2010–5972 Filed 3–18–10; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Deschutes Provincial Advisory Committee (DPAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Deschutes Provincial Advisory Committee will meet on March 30, 2010 to review the status and components of the Provincial Advisory Committee charter in anticipation of rechartering and to provide subcommittee updates on forest restoration, sustainable recreation, travel management, and the Lower Deschutes River. Members will meet at the Deschutes National Forest Supervisor's office (1001 SW. Emkay Drive, Bend, Oregon) from 9 a.m. until 1 p.m. All Deschutes Province Advisory Committee meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: Michael Keown, Province Liaison, Sisters Ranger District, Pine Street and Highway 20, Sisters, Oregon, 97759, Phone (541) 549–7735.

John Allen,

Deschutes National Forest Supervisor.

[FR Doc. 2010–6031 Filed 3–18–10; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Lake Tahoe Basin Federal Advisory Committee (LTFAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Lake Tahoe Basin Federal Advisory Committee will hold a meeting on April 12, 2010 at the U.S. Forest Service Office, 35 College Drive, South Lake Tahoe, CA 96150. This Committee, established by the Secretary of Agriculture on December 15, 1998 (64 FR 2876), is chartered to provide advice to the Secretary on implementing the terms of the Federal Interagency Partnership on the Lake Tahoe Region and other matters raised by the Secretary.

DATES: The meetings will be held April 12, 2010, beginning at 1 p.m. and ending at 4 p.m.

ADDRESSES: The meeting will be held at the U.S. Forest Service Office, 35 College Drive, South Lake Tahoe, CA 96150.

For Further Information or to Request an Accommodation (one week prior to meeting date) Contact: Arla Hams, Lake Tahoe Basin Management Unit, Forest Service, 35 College Drive, South Lake Tahoe, CA 96150, (530) 543–2773.

SUPPLEMENTARY INFORMATION: Items to be covered on the agenda: (1) Review and discuss public comments and congressional input on LTFAC's preliminary recommendation of Lake Tahoe Southern Nevada Public Land Management Act (SNPLMA) Round 11 capital projects and science themes; (2) develop a final LTFAC recommendation for the Lake Tahoe SNPLMA Round 10 capital projects and science themes, and (3) public comment. All Lake Tahoe Basin Federal Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend at the above address. Issues may be brought to the attention of the Committee during the open public comment period at the meeting or by filing written statements with the secretary for the Committee before or after the meeting. Please refer any written comments to the Lake Tahoe Basin Management Unit at the contact address stated above.

Dated: March 11, 2010.

Terri Marceron,

Forest Supervisor.

[FR Doc. 2010–5969 Filed 3–18–10; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Oregon Coast Provincial Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Oregon Coast Province Advisory Committee will meet at the Siuslaw National Forest Headquarters. The agenda includes: Economic Stimulus, Secure Rural Schools, BLM Update, Budget, Timber Sale Plan, Oregon Dunes Designated Routes, Rural Job Creation, 30-mile OHV Loop, Expansion of Oregon Dunes and Salmon River Estuary.

DATES: The meeting will be held April 1, 2010 beginning at 9 a.m.

ADDRESSES: Siuslaw National Forest, 4077 SW Research Way, Corvallis, Oregon 97333.

FOR FURTHER INFORMATION CONTACT: Joni Quarnstrom, Public Affairs Specialist, Siuslaw National Forest, 541–750–7075, or write to Siuslaw National Forest Supervisor, 4077 SW Research Way, Corvallis, OR 97333.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Council Discussion is limited to Forest Service/BLM staff and Council Members. Lunch will be on your own. A public input session will be at 2:30 p.m. for fifteen minutes. The meeting is expected to adjourn around 2:45 p.m.

Dated: March 11, 2010.

Jeremiah C. Ingersoll,

Forest Supervisor.

[FR Doc. 2010–5973 Filed 3–18–10; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Plan Revision for Lake Tahoe Basin Management Unit, Alpine, El Dorado, and Placer Counties, CA; Douglas and Washoe Counties, and Carson City, NV

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to revise the forest plan.

SUMMARY: As directed by the National Forest Management Act, the USDA Forest Service is preparing the Lake Tahoe Basin Management Unit (referred to as the LTBMU) revised land management plan (forest plan) and will also prepare an environmental impact statement (EIS) for this revised plan. This notice briefly describes the nature of the decision to be made, the need for change, and information concerning public participation. It also provides estimated dates for filing the EIS and the names and addresses of the responsible agency official and the individuals who can provide additional information. Finally, this notice briefly describes the applicable planning rule and how work done on the plan revision under the 2008 planning rule will be used or modified for completing this plan revision.

The revised forest plan will supersede the forest plan previously approved by the Regional Forester on Dec. 2, 1988. The current forest plan has been amended ten times since its approval, including the Sierra Nevada Forest Plan Amendment (January 2004). This amended Plan remains in effect until the revision takes effect.

DATES: Comments concerning the need for change provided in this notice will be most useful in the development of the draft revised forest plan and draft environmental impact statement if received by April 30, 2010. The agency expects to release a draft revised forest plan and draft EIS for formal comment by fall, 2010 and a final revised forest plan and final EIS by summer, 2011. Public meetings to gather additional input on potential alternatives to the proposed action are scheduled for spring, 2010. The dates, times, and locations of these meetings will be sent to members of the plan revision notification list and posted on the LTBMU Web site: *http://fs.usda.gov/ltbmu.*

ADDRESSES: Send written comments to LTBMU Forest Plan Revision Team, 35 College Drive, South Lake Tahoe, CA 96150. Comments may also be sent via: e-mail, *comments-pacificsouthwest-ltbmu@fs.fed.us* (subject line: Forest Plan Revision), or facsimile: (530) 543–2693.

FOR FURTHER INFORMATION CONTACT: Robert King, Forest Plan Revision Team Leader, 35 College Drive, South Lake Tahoe, CA 96150. (530) 543–2600. Information regarding this revision is also available at the LTBMU Plan Revision Web page, *http://fs.usda.gov/ltbmu;* select Land & Resources Management, and then Planning. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339 between 8 a.m. and 8 p.m., Eastern Time Monday through Friday.

SUPPLEMENTARY INFORMATION:

Name and Address of the Responsible Official

Randy Moore, Regional Forester, Pacific Southwest Region, 1323 Club Drive, Vallejo, CA 94592.

Nature of the Decision To Be Made

The Lake Tahoe Basin Management Unit is preparing an EIS to revise the current forest plan. The EIS process is meant to inform the Regional Forester's decision about which alternative best meets the need for quality land management under the sustainable multiple-use management concept as required by the National Forest Management Act and the Multiple Use Sustained Yield Act. This concept seeks to meet the diverse needs of people while protecting the forests' resources.

The revised forest plan will describe the strategic intent of managing the Lake Tahoe Basin Management Unit into the next 10 to 15 years, and will address the need for change described below. The revised forest plan will provide management direction in the form of goals (desired conditions), objectives, suitability determinations, standards, guidelines, and a monitoring plan. It may also make new special area recommendations for wilderness, research natural areas, and other special areas.

As important as the decisions to be made, is the identification of the types of decisions that will not be made within the revised forest plan. The authorization of project-level activities on the unit is not a decision made in the forest plan, but occurs through subsequent project specific decision-making. The designation of routes and trails are not considered during plan revision, but are addressed in separate planning processes on the Lake Tahoe Basin Management Unit. Some issues, although important, are beyond the authority or control of the Lake Tahoe Basin Management Unit or the Forest Service and will not be considered. In addition, some decisions and determinations, such as wild and scenic river suitability determinations, have been accomplished through a separate process.

Need for Change

According to the National Forest Management Act, forest plans are to be revised on a 10 to 15 year cycle. The need to revise the current forest plan are (1) the forest plan is greater than 20 years old, and (2) since the forest plan was approved in 1988, there have been changes in economic, social, and ecological conditions, new policies and priorities, and new information based on monitoring and scientific research. The need for change in the current forest plan has been identified through extensive collaboration with partner land management agencies, the public and intra-agency coordination.

The plan revision need for change is organized into three forest plan revision themes: (1) *Restoration of Watersheds and Aquatic Habitats,* (2) *Management of Hazardous Fuels, Forest Health and Terrestrial Habitat,* and (3) *Adapting to Changing Recreation Trends.* The need for change document, the "CER" (Nov 2006) is available online at: *http://fs.usda.gov/ltbmu;* select Land & Resources Management, and then Projects. A hard copy may be obtained by contacting the LTBMU Forest Plan Revision Team.

Public Involvement

Extensive public involvement and collaboration has already occurred. The LTBMU began the forest plan revision process in late 2004. Many of these activities were conducted in a collaborative inter-agency process called Pathway 2007 (Pathway), in cooperation with three other key Lake Tahoe Basin agencies: The Tahoe Regional Planning Agency, California's Lahontan Regional Water Quality Control Board and the Nevada Division of Environmental Protection.

Pathway activities included 5 public visioning workshops, a series of phone surveys, 8 focus group meetings, 12 community place-based workshops and more than 40 Pathway Forum stakeholder group meetings.

More recent public involvement focused on a series of five workshops covering further topics of interest specific to forest health, wildlife habitat and fuels reduction; fuels reduction and water quality; and recreation opportunities.

This input, along with science-based evaluations, was used to determine the need for change identified above and will be incorporated into developing the draft plan and draft EIS. Additional meetings, correspondence, news releases, and other tools will be utilized periods to gather feedback from the public, forest employees, tribal governments, federal and state agencies, and local governments.

The LTBMU will continue regular and meaningful consultation and collaboration with tribal nations on a government-to-government basis. The agency will work with tribal governments to address issues concerning Indian tribal self government and sovereignty, natural and cultural resources held in trust, Indian tribal treaty and Executive order rights, and any issues that significantly or uniquely affect their communities.

The LTBMU desires to continue collaborative efforts with members of the public, who are interested in forest management, as well as federal and state agencies, local governments, and private organizations. Public meetings to gather input on potential alternatives to the proposed action are scheduled for spring, 2010. The dates, times, and locations of these meetings will be posted on the forests' Web site: *http://fs.usda.gov/ltbmu.*

The information gathered at these meetings, as well as other feedback, will be used to inform the draft EIS. At this time, the LTBMU is seeking focused input on the need for change and feedback: Did we miss any substantive issues or concerns? It is important that reviewers provide their comments at such times and in such a way that they are useful to the agency's preparation of the revised forest plan and the EIS. Therefore, comments on the need for change will be most valuable if received by April 30, 2010 and should clearly articulate the reviewer's concerns. The submission of timely and specific comments can affect a reviewer's ability to participate in subsequent administrative or judicial review. At this time, we anticipate using the 2000 planning rule pre-decisional objection process (36 CFR 219.32) for administrative review. Comments received in response to this solicitation, including the names and addresses of those who comment will be part of the public record. Comments submitted anonymously will be accepted and considered.

Applicable Planning Rule

Preparation of the revised forest plan was underway when the 2008 National Forest System land management planning rule (planning rule) was enjoined on June 30, 2009, by the United States District Court for the Northern District of California (*Citizens for Better Forestry* v. *United States Department of Agriculture, No. C 08–1927 CW [N.D. Cal. June 30, 2009]*). The Department of Agriculture has determined that the 2000 Planning Rule is once again in effect. The 2000 Planning Rule's transition provisions (36 CFR 219.35) —amended in 2002 and 2003, and clarified by interpretative rules issued in 2001 and 2004— allow use of the provisions of the planning rule in effect prior to the effective date of the 2000 Rule (November 9, 2000), commonly called the 1982 Planning Rule, to amend or revise forest plans. The Lake Tahoe Basin Management Unit has elected to use the provisions of the 1982 Planning Rule, including the requirement to prepare an EIS, to complete its plan revision.

The plan revision effort was formally initiated on Feb. 5, 2007 with the publication of the Notice of Intent (FR Vol. 72, No. 23, p. 5264), and the availability of the "Comprehensive Evaluation Report (CER)" and request for public and partner agency comments specific to the unit's need for change.

Development of the Proposed Plan was halted on March 30, 2007, with the injunction of 2005 Planning Rule. The 2008 Planning Rule (36 CFR Part 219) was implemented on April 21, 2008, allowing the plan revision process to be resumed. The LTBMU formally resumed development of the Proposed Plan with the publication of the Notice of Adjustment on June 2, 2008 (FR Vol. 73, No. 106, p. 31429), and continuation of revised Plan content and public collaboration, prior to the court injunction of the 2008 Planning Rule on June 30, 2009.

Although the 2008 planning rule is no longer in effect, information and data gathered prior to the court's injunction is still useful for completing the Plan revision using the provisions of the 1982 planning rule. As necessary or appropriate, this material will be further adjusted as part of the planning process.

(Authority: 16 U.S.C. 1600–1614; 36 CFR 219.35)

Dated: March 15, 2010.

Eliseo Ilano,

Deputy Forest Supervisor, Lake Tahoe Basin Management Unit.

[FR Doc. 2010–6030 Filed 3–18–10; 8:45 am]

BILLING CODE 3410–11–P

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given that the meeting of the Advisory Committee on Voluntary Foreign Aid (ACVFA) scheduled for Wednesday, March 31, 2010 has been rescheduled.

Date: Wednesday, April 21, 2010 (9 a.m. to 3 p.m., times may be adjusted).

Location: Jack Morton Auditorium, Media and Public Affairs Building, George Washington University, 805 21st Street, NW., Washington, DC 20052.

Please note that this is the *anticipated* agenda and is subject to change.

Keynote

The Administrator will present an update from the front office of USAID, presenting his vision of USAID's role in the development world, plus an update on the Haiti humanitarian efforts.

There will also be a panel discussion on innovating to 2015 and accelerating development through science, technology and innovation.

Stakeholders

The meeting is free and open to the public. Persons wishing to attend the meeting can register online at *http://www.usaid.gov/about_usaid/acvfa.* For additional information, Ben Hubbard, the Executive Director, can be reached at *acvfa@aid.gov* or 202–712–4040.

Dated: March 10, 2010.

Deborah Lewis,

U.S. Agency for International Development.

[FR Doc. 2010–6032 Filed 3–18–10; 8:45 am]

BILLING CODE 6116–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–957]

Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People's Republic of China: Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination

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

SUMMARY: The Department of Commerce (the "Department") is aligning the final determination in this countervailing duty investigation of certain seamless carbon and alloy steel standard, line, and pressure pipe ("seamless pipe") from the People's Republic of China ("PRC") with the final determination in the companion antidumping duty investigation.

EFFECTIVE DATE: March 19, 2010.

FOR FURTHER INFORMATION CONTACT: Shane Subler, Yasmin Nair, Joseph Shuler, or Matthew Jordan, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0189, (202) 482–3813, (202) 482–1293, or (202) 482–1540, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 6, 2010, the Department simultaneously initiated antidumping and countervailing duty investigations of seamless pipe from the PRC. *See Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From the People's Republic of China: Initiation of Antidumping Duty Investigation*, 74 FR 52744 (October 14, 2009) and *Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 74 FR 52945 (October 15, 2009).

On March, 1, 2010, the Department published the preliminary affirmative countervailing duty determination pertaining to seamless pipe from the PRC. *See Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination, Preliminary Affirmative Critical Circumstances Determination*, 75 FR 9163 (March 1, 2010). Also on March 1, 2010, the petitioners (United States Steel Corporation, V&M Star L.P., TMK IPSCO, and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union) requested alignment of the final countervailing duty determination with the final determination in the companion antidumping duty investigation of seamless pipe from the PRC, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended ("the Act"), and 19 CFR 351.210(b)(4).

Therefore, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), we are aligning the final countervailing duty determination of seamless pipe from the PRC with the final determination in the companion antidumping duty investigation of seamless pipe from the PRC. The final countervailing duty determination will be issued on the same date as the final antidumping duty determination, which is currently scheduled for July 6, 2010.

This notice is issued and published pursuant to section 705(a)(1) of the Act.

Dated: March 15, 2010.

Kim Glas,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–6098 Filed 3–18–10; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XU83

Endangered Species; File No. 15338

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that David N. Hata, Ph.D., Virginia Polytechnic Institute and State University (Virginia Tech), has applied in due form for a permit pursuant to the Endangered Species Act of 1973, as amended (ESA). The Permit application is for the incidental take of ESA-listed sea turtles and shortnose sturgeon associated with otherwise lawful research to assess horseshoe crab abundance from the southern coast of Long Island, New York through the Eastern Shore, Virginia, and in Delaware Bay. The duration of the proposed Permit is 10 years. NMFS is furnishing this notice in order to allow other agencies and the public an opportunity to review and comment on this document. All comments received will become part of the public record and will be available for review.

DATES: Written comments must be received at the appropriate address or fax number (see **ADDRESSES**) on or before April 19, 2010.

ADDRESSES: The application is available for download and review at *http://www.nmfs.noaa.gov/pr/permits/esa_review.htm*, found under the section heading ESA Section 10(a)(1)(B) Permits and Applications.

The application is also available upon written request or by appointment in the following office: Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2322; fax (301)713–4060.

Written comments should be addressed to Sara McNulty, Marine Mammal and Sea Turtle Conservation Division, NMFS Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD, 20910; or by fax (301)713–4060, or by e-mail at: *NMFS.15338@noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Sara McNulty (ph. 301–713–2322, fax 301–713–4060).

SUPPLEMENTARY INFORMATION: Section 9 of the ESA and Federal regulations prohibit the "taking" of a species listed as endangered or threatened. The term "take" is defined under the ESA to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. NMFS may issue permits, under limited circumstances, to take listed species incidental to, and not the purpose of, otherwise lawful activities. Section 10(a)(1)(B) of the ESA provides for authorizing incidental take of listed species. NMFS regulations governing permits for threatened and endangered species are promulgated at 50 CFR 222.307.

Species Covered in This Notice

The following species are included in the conservation plan and Permit application: Shortnose sturgeon (*Acipenser brevirostrum*), loggerhead (*Caretta caretta*), green (*Chelonia mydas*), leatherback (*Dermochelys coriacea*), hawksbill (*Eretmochelys imbricata*) and Kemp's ridley (*Lepidochelys kempii*) sea turtles. In addition, Atlantic sturgeon (*Acipenser oxyrinchus*), a candidate species for listing, may be affected.

Background

NMFS received an application from Dr. Hata on August 26, 2009. Based on

a review of the application, NMFS determined that the application was incomplete and requested further information. The applicant submitted a revised application on January 19, 2010. The application is for incidental take of ESA-listed species that may result from proposed research. The proposed research activity will consist of annual horseshoe crab abundance monitoring trawl surveys along the coastal mid-Atlantic and Delaware Bay. The coastal mid-Atlantic survey will consist of two regional surveys; (1) The Coastal Delaware Bay Area survey, which extends from shore out 22.2 kilometers (12 nautical miles), and from the Eastern Shore of Virginia (37° 10' N) north to Atlantic City, New Jersey (39° 20' N), and (2) The New York Apex survey, which extend from shore out 22.2 kilometers (12 nautical miles), and from 39° 20' N north along the New Jersey coast and east along the southern coast of Long Island to Montauk Point, New York (71° 50' W). The Delaware Bay survey will be conducted in Delaware and New Jersey state jurisdictional waters deeper than three meters (10 feet) in Delaware Bay west of the territorial sea demarcation line. The annual trawl surveys will provide abundance, distribution and demographic information in support of the horseshoe crab Fishery Management Plan of the Atlantic States Marine Fisheries Commission. Sampling will consist of approximately 27 days at sea annually, for a total of 140 tows deploying flounder and whelk trawls intended to capture horseshoe crabs for examination and enumeration. Tows will be no longer than 15 minutes of bottom time and will be conducted at night, when horseshoe crabs are more susceptible to the gear. However, boat traffic and the presence of fixed fishing gear may restrict sampling to daylight hours, depending on the location. The proposed activity will be conducted in the fall, between early September and mid-November. Turtle excluder devices will not be installed in the trawl gear because these devices may hinder capture of horseshoe crabs. Thus, it is anticipated that fish and sea turtles will be captured by the unmodified gears.

The application anticipates that the coastal trawl survey effort will annually capture 24 loggerhead, 21 Kemp's ridley, and 4 green sea turtles, with up to one sea turtle mortality each year. Additionally, the application anticipates 7 loggerhead, 6 Kemp's ridley, and 1 green sea turtle will be captured in the Delaware Bay trawl survey, with no mortalities expected. The tow times described in the application will not exceed a 15 minute bottom time -- a submergence period that sea turtles are able to survive. Thus, the mortality estimates are low. Based on available data, the application does not anticipate the capture of shortnose sturgeon in the coastal or Delaware Bay trawl survey effort. The application anticipates the annual capture of 11 Atlantic sturgeon, in the coastal trawl survey effort and 9 Atlantic sturgeon in the Delaware Bay trawl survey, with near 100% survival.

Conservation Plan

The conservation plan prepared by the applicant describes measures designed to monitor, minimize, and mitigate the incidental takes of ESA-listed sea turtles. The conservation plan includes limiting sampling effort in areas and times where sea turtles are likely to be present; avoiding coral and rock habitats associated with hawksbills and areas of submerged aquatic vegetation associated with green turtles; using minimal tow durations; avoiding areas of high fishing vessel activity which may attract foraging sea turtles and may increase the chance of multiple captures.

All activities will be conducted under the direct supervision of scientific parties from Virginia Tech. Sampling will not be conducted when sea turtles are observed in the area. If a sea turtle is captured, all efforts will be made to release the turtle as quickly as possible with minimal trauma. If necessary, resuscitation will be attempted as proscribed by 50 CFR 223.206. Scientific parties will be familiarized with resuscitation techniques prior to surveys, and a copy of the resuscitation guidelines will be carried aboard the vessel during survey activities. In the event resuscitation is unsuccessful, the sea turtle will be transferred to the sea turtle stranding network of the appropriate jurisdiction. Other monitoring or mitigation actions will be undertaken as required.

The applicant considered and rejected three other alternatives, not applying for a permit, conducting the research in an area where ESA-listed species do not occur, or using different sampling gear when developing their conservation plan.

This notice is provided pursuant to section 10(c) of the ESA and the National Environmental Policy Act (NEPA) regulations (40 CFR 1506.6). NMFS will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of the NEPA regulations and section 10(a) of the ESA. If it is determined that the requirements are met, a permit will be issued for incidental takes of ESA-listed sea turtles under the jurisdiction of NMFS. The final NEPA and permit determinations will not be completed until after the end of the 30–day comment period and will fully consider all public comments received during the comment period. NMFS will publish a record of its final action in the **Federal Register**.

Dated: March 11, 2010.

David Cottingham,

Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2010–5982 Filed 3–18–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XV28

Endangered Species; File No. 14176

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the United States Fish and Wildlife Service (USFWS), Maryland Fishery Resources Office, 177 Admiral Cochrane Drive, Annapolis, MD 21401 (Michael Mangold, Responsible Party), has applied in due form for a permit to take shortnose sturgeon (*Acipenser brevirostrum*) for purposes of scientific research.

DATES: Written, telefaxed, or e-mail comments must be received on or before April 19, 2010.

ADDRESSES: The application and related documents are available for review by selecting "Records Open for Public Comment" from the Features box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov/*, and then selecting File No. 14176 from the list of available applications. The application 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
- Northeast Region, NMFS, Protected Resources Division, 55 Great Republic Drive, Gloucester, MA 01930; phone (978) 281–9328; fax (978) 281–9394.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301) 713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is *NMFS.Pr1Comments@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: File No. 14176.

FOR FURTHER INFORMATION CONTACT: Malcolm Mohead or Kate Swails, (301) 713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

The applicant is seeking a five year permit to assess biological and life history information on shortnose sturgeon in the Potomac River. Primary objectives of the study would be: (1) capturing and tracking acoustically tagged sturgeon to determine seasonal movements, habitat selection, spawning success and spawning periodicity; and (2) characterizing the genetics of Potomac River shortnose sturgeon. To accomplish these goals, up to 30 fish annually would be non-lethally sampled with gill nets, measured, weighed, PIT and Floy tagged, and tissue sampled. Of these, up to 10 adult shortnose sturgeon each year would be acoustically tagged five internally and five externally and released. Additionally, researchers propose to use D-nets to collect up to 20 shortnose sturgeon in early life stages annually to estimate spawning success and periodicity.

Dated: March 15, 2010.

P. Michael Payne,

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

[FR Doc. 2010–6084 Filed 3–18–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XS13

Marine Mammals; File No. 87–1743

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

ACTION: Notice; receipt of application for permit amendment.

SUMMARY: Notice is hereby given that Daniel P. Costa, Ph.D., Long Marine Laboratory, University of California at Santa Cruz, 100 Shaffer Road, Santa Cruz, California 95060, has applied for an amendment to Scientific Research Permit No. 87–1743–05.

DATES: Written, telefaxed, or e-mail comments must be received on or before April 19, 2010.

ADDRESSES: The application and related documents are available for review by selecting "Records Open for Public Comment" from the Features box on the Applications and Permits for Protected Species home page, *https://apps.nmfs.noaa.gov*, and then selecting File No. 87–1743 from the list of available applications.

These documents are also available upon written request or by appointment in the following office(s):

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

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4001; fax (562)980–4018.

Written comments on this application should be submitted to the Chief, Permits, Conservation and Education Division, at the address listed above. Comments may also be submitted by facsimile to (301)713–0376, or by email to *NMFS.Pr1Comments@noaa.gov*. Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits, Conservation and Education Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Dr. Tammy Adams, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No.87–1743–05 is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

Permit No. 87–1743–05, issued on September 29, 2009 (74 FR 52184), authorizes the permit holder to conduct long-term behavioral, physiological, and life history research studies on northern elephant seals (*Mirounga angustirostris*) in California. The permit expires on September 30, 2010. The permit holder is requesting an amendment to increase the number of weaned elephant seal pups weighed, measured, and flipper tagged by 100 animals in order to study the effects of a current El Nino event on weaned pup size and survival. The amendment would be valid for the duration of the permit.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a supplemental environmental assessment (SEA) was prepared to analyze the effects of issuing Permit No. 87–1743–05, and a finding of no significant impact was signed on September 30, 2009. Based on the analysis in the SEA, NMFS has determined that issuance of Permit No. 87–1743–06 would not significantly impact the quality of the human environment and that preparation of an environmental impact statement is not required.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: March 15, 2010.

P. Michael Payne,

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

[FR Doc. 2010–6083 Filed 3–18–10; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–839]

Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order

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

SUMMARY: On November 2, 2009, the Department of Commerce (the Department) initiated a sunset review of the countervailing duty (CVD) order on Carbazole Violet Pigment 23 (CVP–23)

from India pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). *See Initiation of Five-year (Sunset) Review*, 74 FR 56593 (November 2, 2009) (*Initiation Notice*). On the bases of a notice of intent to participate and an adequate response filed on behalf of domestic interested parties, and in this case no response from any respondent interested party, the Department conducted an expedited sunset review of the CVD order pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(B). As a result of this review, the Department finds that revocation of the CVD order would likely lead to continuation or recurrence of countervailable subsidies at the levels indicated in the "Final Results of Review" section of this notice.

EFFECTIVE DATE: March 19, 2010.

FOR FURTHER INFORMATION CONTACT: Martha Douthit or Mark Hoadley, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230; telephone: (202) 482–5050 or (202) 482–3148, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published in the **Federal Register** the notice of initiation of the first five-year sunset review of the CVD order on CVP–23 from India, pursuant to section 751(c) of the Act. *See Initiation Notice*. The Department received notice of intent to participate from domestic interested parties and Petitioners in the original investigation, Nation Ford Chemical Company and Sun Chemical Corporation (collectively, Petitioners). On December 2, 2009, Petitioners submitted a timely substantive response in accordance with 19 CFR 351.218(d)(1)(i). Petitioners claimed interested party status as U.S. producers of the domestic like product, pursuant to section 771(9)(C) of the Act. The Department did not receive a response from the Government of India or any other respondent interested party in this proceeding. In accordance with 19 CFR 351.218(e)(1)(ii)(C)(1), the Department notified the International Trade Commission (ITC) that respondent interested parties provided inadequate responses to the *Initiation Notice. See* Letter from Edward C. Yang, Senior Executive Coordinator, AD/CVD Operations, Office 9, Import Administration, to Ms. DeFilippo, Director, Office of Investigations, ITC, dated December 22, 2009. As a result, pursuant to 19 CFR 51.218(e)(1)(ii)(B) and (C)(2), the Department conducted an expedited review of this order.

Scope of the Order

The merchandise covered by this order is CVP–23 identified as Color Index No. 51319 and Chemical Abstract No. 6358–30–1, with the chemical name of diindolo [3,2–b:3',2'-m] triphenodioxazine, 8,18–dichloro–5,15–diethy–5,15–dihydro-, and molecular formula of $C^{34}H^{22}Cl^{2}N^{4}O^{2}$.[1] The subject merchandise includes the crude pigment in any form (*e.g.*, dry powder, paste, wet cake) and finished pigment in the form of presscake and dry color. Pigment dispersions in any form (*e.g.*, pigments dispersed in oleoresins, flammable solvents, water) are not included within the scope of the order. The merchandise subject to this order is classifiable under subheading 3204.17.9040 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under the order is dispositive.

Analysis of Comments Received

A complete discussion of all issues raised in this review is addressed in the accompanying Issues and Decision Memorandum (Decision Memorandum), from John M. Andersen, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, dated concurrently with this notice, which is hereby adopted by this notice. Parties can obtain a public copy of the Decision Memorandum on file in the Central Records Unit, room 1117, of the main Commerce building. In addition, a complete public version of the Decision Memorandum can be accessed directly on the Web at http://ia.ita.doc.gov/frn. The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Review

The Department determines that revocation of the CVD order would be likely to lead to continuation or recurrence of a countervailable subsidy at the rates listed below:

PRODUCER/EXPORTER	NET SUBSIDY RATE
Alpanil Industries Ltd	17.57% ad valorem
Pidilite Industries Ltd	17.33% ad valorem
AMI Pigments Pvt. Ltd ..	33.61% ad valorem
All Others	20.55% ad valorem

[1] The bracketed section of the product description, [3,2-b:3',2'-m], is not business proprietary information. In this case, the brackets are simply part of the chemical nomenclature. *See* December 4, 2003 amendment to petition (supplemental petition) at 8.

Notification Regarding Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing these results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: March 9, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–6090 Filed 3–18–10; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Announcing a Meeting of the Information Security and Privacy Advisory Board

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that the Information Security and Privacy Advisory Board (ISPAB) will meet Wednesday, April 7, 2010, from 9 a.m. until 5 p.m., Thursday, April 8, 2010, from 8:30 a.m. until 5 p.m., and Friday, April 9, 2010 from 8 a.m. until 12:30 p.m. All sessions will be open to the public.

DATES: The meeting will be held on Wednesday, April 7, 2010, from 9 a.m. until 5 p.m., Thursday, April 8, 2010, from 8:30 a.m. until 5 p.m., and Friday, April 9, 2010 from 8 a.m. until 12:30 p.m.

ADDRESSES: The meeting will take place at Washington Marriott Wardman Park Conference Center, 2660 Woodley Road, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Pauline Bowen, ISPAB Secretariat, Information Technology Laboratory, National Institute of Standards and Technology, 100 Bureau Drive, Stop 8930, Gaithersburg, MD 20899–8930, *telephone:* (301) 975–2938.

SUPPLEMENTARY INFORMATION: The ISPAB was established by the Computer Security Act of 1987 (Pub. L. 100–235) and amended by the Federal Information Security Management Act of 2002 (Pub. L. 107–347) to advise the Secretary of Commerce, the Director of NIST, and the Director of OMB on information security and privacy issues pertaining to Federal government information systems. Details regarding the ISPAB's activities are available at *http://csrc.nist.gov/groups/SMA/ispab/index.html/.*

Agenda:

—Cloud Computing Implementations
—Health IT
—OpenID
—Pending Cyber Security Legislation
—NIST Issues—research, key escrow, SCAP, common criteria
—OMB Update/Metrics
—Update from NIST FY10 Activities
—Cyber Coordinator Discussion
—National Protection and Programs Directorate Discussion
—Security Issues in Broadband Plan

Note that agenda items may change without notice because of possible unexpected schedule conflicts of presenters. The final agenda will be posted on the website indicated above.

Public Participation: The ISPAB agenda will include a period of time, not to exceed thirty minutes, for oral comments from the public (Thursday April 8, 2009, at 3–3:30 p.m.). Each speaker will be limited to five minutes. Members of the public who are interested in speaking are asked to contact the ISPAB Secretariat at the telephone number indicated above. The board is interested in public comments on the agenda as a whole with specific interest in the following topics due to their impact on information security and privacy as new technologies, potential areas of success for the US Government if conducted properly and their current significant relevance to the Federal Government. Approximately 15 seats will be available for the public and media.

—OpenID
—Cloud Computing Implementations
—Security Issues in Broadband Plan
—NIST Issues—research, key escrow, SCAP, common criteria

In addition, written statements are invited and may be submitted to the ISPAB at any time. Written statements should be directed to the ISPAB Secretariat, Information Technology Laboratory, 100 Bureau Drive, Stop 8930, National Institute of Standards and Technology, Gaithersburg, MD 20899–8930.

Dated: March 1, 2010.

Marc G. Stanley,

Acting Deputy Director.

[FR Doc. 2010–6075 Filed 3–18–10; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

NOAA Is Hosting a Series of Informational Webinars for Individuals and Organizations To Learn About the Proposed NOAA Climate Service

AGENCY: Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public webinar meetings.

SUMMARY: On February 8, 2010, the Department of Commerce and the National Oceanic and Atmospheric Administration (NOAA) announced their intent to establish a new NOAA Climate Service. The proposed reorganization of existing agency assets is intended to help NOAA better work with our partners to respond to the growing demands for climate information from the public, business, industry, and decision makers. NOAA is hosting a series of informational webinars for individuals and organizations to learn about the proposed NOAA Climate Service and to provide an opportunity for to answer questions, and obtain feedback. Each webinar is targeted to a specific sector, and will begin with a presentation from Tom Karl, Director, NOAA National Climatic Data Center, and Transitional Director, NOAA Climate service, and will be followed by a question and answer session.

DATES: The webinar meeting dates are:

1. March 25, 2010, 2:30 p.m. to 4 p.m. EST, for non-governmental and non-profit organizations.
2. April 1, 2010, 2:30 p.m. to 4 p.m. EST, for the academic research community.
3. April 12, 2010, 1 p.m. to 2:30 p.m. EST, for state and local government officials.
4. April 13, 2010, 1 p.m. to 2:30 p.m. EST, for the corporate and business community.

For specific instructions about registering for each webinar, please visit *http://www.noaa.gov/climateresources/meetings.* Additional information about the announcement to create a new NOAA Climate Service, including questions and answers can be found at *http://www.noaa.gov/climate.*

FOR FURTHER INFORMATION CONTACT: Brady Phillips, NOAA Office of Communications and External Affairs, 14th and Constitution Avenue, NW., Washington, DC 20230. (*Phone:* 202–482–2365, *Fax:* 202–482–3154, *E-mail: brady.phillips@noaa.gov*); or visit *http://www.noaa.gov/climateresources/meetings.*

Dated: March 16, 2010.

Mark E. Brown,

Chief Financial Officer/Chief Administrative Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2010–6085 Filed 3–18–10; 8:45 am]

BILLING CODE 3510–KB–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Docket No. 100305127–0127–01

Public Telecommunications Facilities Program: New Closing Date

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice; to re-open competitive solicitation for applications to increase digital power levels of public radio stations.

SUMMARY: The National Telecommunications and Information Administration (NTIA) hereby announces that it will re-open the solicitation for Public Telecommunications Facilities Program (PTFP) applications until Thursday, April 22, 2010, to accommodate the increase in digital power levels of radio stations, as allowed by the provisions of the January 29, 2010, Order announced by the Federal Communications Commission (FCC).[1]

DATES: Applications to increase digital power levels of radio stations, as allowed by the provisions of the FCC January 29, 2010, Order, must be received prior to 5:00 p.m. Eastern Daylight Time (hereinafter "New Closing Time"), Thursday, April 22, 2010

[1] In the matter of Digital Audio Broadcasting Systems and Their Impact on the Terrestrial Radio Broadcast Service, MB Docket No. 99-325, Order, DA 10-208, (January 29, 2010).

(hereinafter "New Closing Date"). Applications submitted by facsimile are not acceptable. If an application is received after the New Closing Date due to (1) carrier error, when the carrier accepted the package with a guarantee for delivery by the New Closing Date and New Closing Time, (2) significant weather delays or natural disasters, or (3) delays due to national security issues, NTIA will, upon receipt of proper documentation, consider the application as having been received by the deadline. NTIA will not accept applications posted on the New Closing Date or later and received after this deadline.

ADDRESSES: To obtain a printed application package, submit completed applications, or send any other correspondence, write to PTFP at the following address: NTIA/PTFP, Room H–4812, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230. Application materials may be obtained electronically via the Internet at *www.ntia.doc.gov/ptfp* or *www.grants.gov.*

FOR FURTHER INFORMATION CONTACT: William Cooperman, Director, Public Broadcasting Division, telephone: (202) 482–5802; fax: (202) 482–2156. Information about the PTFP also can be obtained electronically via the Internet at *www.ntia.doc.gov/ptfp.*

SUPPLEMENTARY INFORMATION: On December 2, 2009, NTIA began the fiscal year (FY) 2010 PTFP grant round with publication of a Notice of Closing Date for Solicitation of Applications in the **Federal Register**.[2] The Notice established February 4, 2010, as the Closing Date (hereinafter "Original Closing Date") for receipt of applications for most projects, and February 26, 2010, as the Closing Date (hereinafter "Second Closing Date") for receipt of applications for projects filed at the FCC during the FCC's February 19–26 FM Window. NTIA established this Second Closing Date because PTFP's primary legislative mandate is to "extend delivery of public telecommunications services to as many citizens of the United States as possible."[3] The FCC's February FM Window provides interested parties with the first opportunity in many years to submit noncommercial educational FM applications for new stations.

NTIA also posted a Federal Funding Opportunity (FFO) Notice regarding the FY 2010 PTFP grant round on the grants.gov and PTFP websites on the same date.[4] In the FFO, NTIA noted that the FCC was considering changing the permitted power levels of digital radio facilities (a hybrid analog/digital In-Band-On-Channel (IBOC) system). NTIA indicated that it would not provide funds for transmitters to operate at IBOC power levels higher than those authorized by the FCC for the station at the time of award. If the FCC subsequently authorized IBOC higher power levels, grantees would be permitted to add non-Federal funds to purchase a higher-power transmitter that is partially funded by the PTFP grant.

On January 29, 2010, the FCC released an Order permitting radio stations broadcasting a hybrid analog/digital signal to increase the effective radiated power (ERP) of the digital portion of their transmission.[5] In the January 29, 2010, Order, the FCC found that:

13. *Voluntary Increases Up to 6 dB.* Virtually all of the licensees of the nearly 1,500 commercial and NCE FM stations currently operating hybrid FM digital facilities have concluded that the coverage resulting from their operations at maximum permissible FM Digital ERP levels does not replicate analog coverage, and that indoor and portable coverage are particularly and significantly diminished. Both the iBiquity and NPR studies confirm these service limitations. Moreover, the number of notifications of the commencement of hybrid FM digital operations has dropped significantly over the past two years. Based on these findings, we conclude that it is important to increase FM Digital ERP to improve FM digital coverage and to eliminate regulatory impediments to FM digital radio's ability to meet its full potential and deliver its promised benefits.

Through the Order, the FCC acknowledged the inadequacy of the former digital power levels to duplicate the service areas of a station's analog signal. The clarifications contained in the FCC Order now provide additional technical guidance to stations that desire to provide multicasting service to serve their communities, but delayed investing in multicasting due to inadequate digital signal coverage.

The FCC's adoption of the Order was released on January 29, 2010, less than a week before the Original Closing Date for receipt of PTFP applications. Because of the importance the PTFP statute places on extending service to as many citizens of the United States as possible, NTIA is re-opening the solicitation period for digital radio power increase applications until April 22, 2010, so stations may apply for financial assistance necessary to build facilities as allowed by the new FCC Rules. Those digital radio stations that applied by the Original Closing Date and that are seeking to increase power pursuant to the new FCC Rules may amend their application. Those digital radio stations that did not apply by the Original Closing Date and that are seeking to increase power pursuant to the new FCC Rules may now apply. Applicants for digital power increase applications must follow the procedures described in the next two sections.

Submit New Applications for Multicasting Projects

Due to this recent FCC action regarding the power level of digital radio, NTIA now has a further opportunity to extend delivery of public telecommunications services during the FY 2010 grant cycle. An important feature of digital radio is the ability of a station to broadcast several program services on a single broadcast frequency, analogous to the multicasting capability of digital television stations. These additional program services are broadcast on discrete subchannels of the stations and are usually referred to as channels HD–1, HD–2, etc. Through multicasting on digital radio, stations can provide additional programming resources to unserved and underserved communities within their coverage area.[6] Because a multicast digital signal uses the infrastructure of an analog station, the cost of activating additional programming services on digital radio are much less than the cost of constructing a new station. Further, stations can add additional programming services on HD channels in communities where it would be impossible to construct an additional station due to lack of available frequencies.

Since a station's primary digital program stream must duplicate its analog programming, the programming distributed via additional multicast channels is, by its very nature, an additional service to the community.

[2] 74 Fed. Reg. 63120.

[3] 47 U.S.C. § 390.

[4] The FY 2010 FFO can be found at http://www.ntia.doc.gov/ptfp/attachments/FFO__Notice__10.html.

[5] *See supra* note 1, Appendix C, Final Rule Changes, at § 73.404.

[6] For example, KPCC-FM, Pasadena, CA, provides English language news and information on its HD–1 channel, a Spanish language service on its HD–2 channel, and alternative music on its HD–3 channel. WJCT-FM, Jacksonville, FL, provides primarily news and information on its HD–1 channel, classical music and arts on its HD–2 channel, and NOAA weather information on its HD–3 channel.

The PTFP Rules place additional service projects in Priority 4A, "The establishment of public broadcasting facilities to serve a geographic area already receiving public telecommunications services. The applicant must demonstrate that it will address underserved needs in an area which significantly differentiates its service from what is already available in its service area."[7]

NTIA will accept *new applications* for digital power increase projects for Priority 4A projects from stations that:

1. Are currently broadcasting in digital and will add an additional program service (HD channel) by multicasting. These applicants can request funding for a digital power increase, for equipment required to broadcast an additional digital channel, and for production equipment required to program the additional channel(s); or

2. Are currently broadcasting more than one program service via a digital multicast signal. These applicants can request funding for a digital power increase. They may also request funds for equipment required to produce programming and broadcast an additional digital channel to expand their service.

Applicants for digital power increase projects requesting Priority 4A consideration must:

1. Submit a complete application as required by the December 2, 2009, **Federal Register** Notice and FFO;

2. Demonstrate that the multicast program service will address underserved needs in a way that significantly differentiates the service from what is already available in the proposed coverage area or on the station's analog channel;

3. Include in Exhibits A (Inventory) and B (Equipment Justification) thorough descriptions of the analog and digital transmission system and combining system in place and the modifications required for the power increase, as well as any production/programming equipment requested to support the additional channels;

4. Submit a copy of the station's FCC request if the project proposes any increase in FM Digital ERP beyond 6 dB; and

5. Certify at time of project close out that the station is broadcasting diverse program services as proposed in the application.

Amend Existing Applications for Single Channel Digital Projects

NTIA recognizes that applications for digital FM transmitters were submitted by the February 4, 2010, Original Closing Date that did not involve power increases for multicasting. These applications include requests for transmitter replacements, digital conversion projects, and the construction of new stations. Since the change in the FCC Rules occurred less than a week prior to the Original Closing Date, few applicants had the opportunity to submit applications for transmission equipment at the newly authorized higher digital power levels.

NTIA believes that it is a disservice to the stations and their listeners, and unproductive for NTIA to expend its staff resources and grant funds in processing applications for less than a station's desired and authorized transmitter power. In keeping with the intent of the statute, NTIA intends to fund the highest power desired by a station and permitted by the FCC so a station can serve the maximum number of people in its coverage area. Since the FCC increased permitted digital power only a week before the February 4, 2010, Original Closing Date, NTIA believes it would be fair to all FY 2010 applicants for digital radio transmission systems to have an equal opportunity to request funding for full power transmission equipment.

NTIA, therefore, will permit stations that submitted an application and requested digital radio transmission equipment by the February 4, 2010, Original Closing Date to amend their applications. The following are the procedures for amending a FY 2010 radio application requesting digital transmission equipment:

1. Applicants must file an amended application by Thursday, April 22, 2010.

2. Applicants must email their PTFP program officer a notice of their intent to amend their application so the PTFP application software (Online Fillable Form) can be unlocked and they can revise their request.

3. The amended application must:

a. Include a revised SF–424 form, with the revised project amount and Federal funds requested, and signed by an authorized representative of the applicant;

b. Contain the application number assigned by PTFP for the original submission;

c. Include a revised list of equipment requested;

d. Include revised Exhibits A (Inventory) and B (Equipment Justification) that contains thorough descriptions of the analog and/or digital transmission system and combining system in place and modifications that may be required for the power increase; and

e. Submit a copy of the station's FCC request if the project proposes any increase in FM Digital ERP beyond 6 dB.

NTIA will only accept applications that meet the criteria discussed in this Notice. NTIA will return an application for a Priority 4A digital power increase or amendment that does not meet the criteria of the above two sections.

Applicants are reminded that no grant will be awarded until NTIA has received confirmation from the FCC that any necessary authorization will be issued.

Applications submitted in response to the April 22, 2010, New Closing Date will utilize the same forms, and undergo the same review and evaluation process contained in the December 2, 2009, Notice. On January 13, 2010, NTIA published a Notice of Availability of Funds in the **Federal Register** announcing that $18 million has been appropriated for FY 2010 grants.[8]

Dated: March 15, 2010.

Dr. Bernadette McGuire-Rivera,

Associate Administrator, Office of Telecommunications and Information Applications.

[FR Doc. 2010–6044 Filed 3–18–10; 8:45 am]

BILLING CODE 3510–60–S

[7] 15 CFR 2301.4(b)(4)(ii).

[8] 75 Fed. Reg. 1775.

DEPARTMENT OF COMMERCE

Foreign–Trade Zones Board

[Order No. 1668]

Reorganization of Foreign–Trade Zone 260 under Alternative Site Framework, Lubbock, Texas

Pursuant to its authority under the Foreign–Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign–Trade Zones Board (the Board) adopts the following Order:

Whereas, the Board adopted the alternative site framework (ASF) in December 2008 (74 FR 1170, 01/12/09; correction 74 FR 3987, 01/22/09) as an option for the establishment or reorganization of general–purpose zones;

Whereas, the City of Lubbock, Texas, grantee of Foreign–Trade Zone 260, submitted an application to the Board (FTZ Docket 28–2009, filed 7/15/2009) for authority to reorganize under the ASF with a service area of Garza, Hale, Hockley, Lubbock and Terry Counties, Texas, in and adjacent to the Lubbock Customs and Border Protection port of entry, FTZ 260's existing Sites 1 and 2 would be categorized as magnet sites,

and the grantee proposes two initial usage–driven sites (Sites 4 and 5);

Whereas, notice inviting public comment was given in the **Federal Register** (74 FR 36166, 7/22/09) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendation of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to reorganize FTZ 260 under the alternative site framework is approved, subject to the FTZ Act and the Board's regulations, including Section 400.28, to the Board's standard 2,000–acre activation limit for the overall general–purpose zone project, to a five-year ASF sunset provision for magnet sites that would terminate authority for Site 2 if not activated by February 28, 2015, and to a three-year ASF sunset provision for usage–driven sites that would terminate authority for Sites 4 and 5 if no foreign–status merchandise is admitted for a bona fide customs purpose by February 28, 2013.

Signed at Washington, DC, this 23rd day of February 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration, Alternate Chairman, Foreign–Trade Zones Board.

Attest:

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2010–6094 Filed 3–18–10; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Reporting on Offsets Agreements in Sales of Weapon Systems or Defense-Related Items to Foreign Countries or Foreign Firms for Calendar Year 2009

AGENCY: Bureau of Industry and Security, Department of Commerce.

ACTION: Notice.

SUMMARY: This notice is to remind the public that U.S. firms are required to report annually to the Department of Commerce (Commerce) on contracts for the sale of defense-related items or defense-related services to foreign countries or foreign firms that are subject to offsets agreements exceeding $5,000,000 in value. U.S. firms are also required to report annually to Commerce on offsets transactions completed in performance of existing offsets commitments for which offsets credit of $250,000 or more has been claimed from the foreign representative. Such reports must be submitted to Commerce no later than June 15, 2010.

ADDRESSES: Reports should be addressed to "Offsets Program Manager, U.S. Department of Commerce, Office of Strategic Industries and Economic Security, Bureau of Industry and Security, Room 3878, Washington, DC 20230."

FOR FURTHER INFORMATION CONTACT: Ronald DeMarines, Office of Strategic Industries and Economic Security, Bureau of Industry and Security, U.S. Department of Commerce, *telephone:* 202–482–3755; *fax:* 202–482–5650; *e-mail: rdemarin@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

In 1984, the Congress enacted amendments to the Defense Production Act (DPA), including the addition of section 309, which addresses offsets in defense trade (*See* 50 U.S.C. app. § 2099). Offsets are compensation practices required as a condition of purchase in either government-to-government or commercial sales of defense articles and/or defense services, as defined by the Arms Export Control Act and the International Traffic in Arms Regulations.

Section 309(a)(1) requires the President to submit an annual report to the Congress on the impact of offsets on the U.S. defense industrial base. In 1992, section 309 was amended to direct the Secretary of Commerce (Secretary) to function as the President's executive agent for carrying out the responsibilities set forth in that section. Specifically, section 309 authorizes the Secretary to develop and administer the regulations necessary to collect offsets data from U.S. defense exporters.

The authorities of the Secretary regarding offsets have been redelegated to the Under Secretary of the Bureau of Industry and Security (BIS). The regulations associated with offsets reporting are set forth in Part 701 of title 15 of the Code of Federal Regulations. The offsets regulations of Part 701 set forth the obligations of U.S. industry to report to BIS, no later than June 15 of each year, offsets agreement and transaction data for the previous calendar year.

As described in section 701.1 of the regulations, U.S. firms are required to report on contracts for the sale of defense-related items or defense-related services to foreign countries or foreign firms that are subject to offsets agreements exceeding $5,000,000 in value. U.S. firms are also required to report annually on offsets transactions completed in performance of existing offsets commitments for which offsets credit of $250,000 or more has been claimed from the foreign representative. The required data elements and filing procedures for such reports are outlined in section 701.4 of title 15, Code of Federal Regulations. Please note that on December 23, 2009, BIS published a final rule to amend Part 701 (74 FR 68136). Companies are required to incorporate the changes made to the required data elements by this final rule in their submissions to BIS this year.

The Department's annual report to Congress includes an aggregated summary of the data reported by industry in accordance with the offsets regulation and the DPA. As provided by section 309(c) of the DPA, BIS will not publicly disclose the information it receives through offsets reporting unless the firm furnishing the information specifically authorizes public disclosure. The information collected is sorted and organized into an aggregate report of national offsets data, and therefore does not identify company-specific information.

Required information must be submitted to BIS no later than June 15, 2010.

Dated: March 15, 2010.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

[FR Doc. 2010–6079 Filed 3–18–10; 8:45 am]

BILLING CODE 3510–JT–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 the Procurement List.

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

DATES: *Effective Date:* April 19, 2010.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely

Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Patricia Briscoe, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 1/11/2010 (75 FR 1354–1355) and 1/15/2010 (75 FR 2510), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to furnish the product and service and impact of the additions on the current or most recent contractors, the Committee has determined that the product and service 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 product and service to the Government.

2. The action will result in authorizing small entities to furnish the product and 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 product and service proposed for addition to the Procurement List.

End of Certification

Accordingly, the following product and service are added to the Procurement List:

Product

NSN: 8540–00–266–9898—Paper, Doily.
NPA: L.C. Industries for the Blind, Inc., Durham, NC.
Contracting Activity: Federal Acquisition Service, GSA/FSS OFC SUP CTR—Paper Products, New York, NY.
Coverage: B-List for the broad government requirement as aggregated by the General Services Administration.

Service

Service Type/Location: Custodial and Grounds Maintenance Services, Federal Building & U.S. Courthouse, 100 N. Church St., Las Cruces, NM.
NPA: Tresco, Inc., Las Cruces, NM.
Contracting Activity: GSA Public Buildings Service, PBS OK/NM Section, Albuquerque, NM.

Deletions

On 1/11/2010 (75 FR 1354–1355), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the services 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 provide 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 deleted from the Procurement List.

End of Certification

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

Services

Service Type/Location: Grounds Maintenance, Federal Aviation Administration, 1100 South Service Road, Airway Facilities Sector, Atlanta, GA.
NPA: WORKTEC, Jonesboro, GA.
Contracting Activity: Dept of Trans, Federal Aviation Administration, College Park, GA.

Service Type/Location: Food Service Attendant, Jacksonville Air National Guard, 14300 Fang Drive, Jacksonville, FL.
NPA: GINFL Services, Inc., Jacksonville, FL.
Contracting Activity: Dept of the Army, XRA W7M2 USPFO Activity FL ARNG, ST Augustine, FL.

Service Type/Location: Disposal Support Services, Eglin Air Force Base, East of Memorial Trail (excluding the airfield), Eglin, FL.
NPA: Lakeview Center, Inc., Pensacola, FL.
Contracting Activity: Defense Logistics Agency, DLA Support Services—DSS, Fort Belvoir, VA.

Patricia Briscoe,
Deputy Director, Business Operations.

[FR Doc. 2010–6021 Filed 3–18–10; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Additions

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

ACTION: Proposed Additions to the Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List products to be furnished by the nonprofit agency employing persons who are blind or have other severe disabilities.

Comments Must Be Received on or Before: April 19, 2010.

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

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Patricia Briscoe, 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 action.

Addition

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the products listed below from the nonprofit agency employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

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

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

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

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

Gloves, Mechanic's

NSN: 8415–01–501–1557—Extra-Extra-Large, Black—1 PR
NSN: 8415–01–497–5987—Extra-Large, Black—1 PR
NSN: 8415–01–497–5389—Large, Black—1 PR
NSN: 8415–01–497–5384—Medium, Black—1 PR
NSN: 8415–01–497–5381—Small, Black—1 PR
NPA: South Texas Lighthouse for the Blind, Corpus Christi, TX
Contracting Activity: Department of Veterans Affairs, NAC, Hines, IL
Coverage: C–List for the government requirements for the Department of Veterans Affairs, Hines, IL.

Patricia Briscoe,

Deputy Director, Business Operations.

[FR Doc. 2010–6022 Filed 3–18–10; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Department of the Army

Final Environmental Impact Statement (FEIS) for Training Land Acquisition at Fort Polk, LA

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: The Department of the Army has prepared an FEIS that analyzes environmental and socioeconomic impacts connected with the proposed acquisition (hereinafter to mean including purchase and lease) and use of up to 100,000 additional acres of commercial and private lands for training in the vicinity of Fort Polk, Louisiana. This Proposed Action to acquire additional lands supports the training requirements of the Joint Readiness Training Center (JRTC) and Fort Polk's current and future resident units. The FEIS analyzes three alternatives that are deemed feasible and meet the purpose and need for this Proposed Action.

DATES: The waiting period will end 30 days after the publication of a notice of availability in the **Federal Register** by the U.S. Environmental Protection Agency.

ADDRESSES: To request a copy of the FEIS contact Ms. Susan Walker, Fort Polk Public Affairs Office (PAO) at 7073 Radio Road, Fort Polk, LA 71459–5342.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Walker at (337) 531-9125 during normal business hours from 9AM to 5PM CST or e-mail *Susan.T.Walker@conus.army.mil* for specific questions regarding the FEIS.

SUPPLEMENTARY INFORMATION: Fort Polk, located in west-central Louisiana, Is one of the Army's premier power projection platforms and also the home of the JRTC. Fort Polk is currently comprised of approximately 198,130 acres of U.S. Army-owned land and lands utilized under a special use permit with the U.S. Forest Service. In order to improve and enhance the training of Fort Polk's units and the JRTC, the Army has proposed to acquire up to 100,000 acres of additional land. Additional training lands will allow Soldiers of the JRTC to train on brigade-level combat maneuver training tasks while simultaneously allowing Fort Polk's resident units to conduct maneuver and live-fire training. This additional land will enhance training for Fort Polk units and units deploying to JRTC, will reduce the need for training work arounds, and will allow Soldiers to train to more realistic standards in preparation for operational deployment.

The Fort Polk FEIS analyzes the environmental and socioeconomic impacts of several acquisition location alternatives, each of which could include the acquisition of up to 100,000 acres of land. Alternative I considers the acquisition of lands directly adjacent to Fort Polk's existing training areas to the south of Peason Ridge and directly north and east of the main post. As part of Alternative 1, units would continue to lease lands to convoy to Peason Ridge to access training areas. Alternative 2 considers the acquisition of the land considered in Alternative 1, and, in addition, considers the acquisition of parcels that connect Peason Ridge with Fort Polk's main post. Alternative 3 has been designated by the Army as the Preferred Alternative. Alternative 3 considers the acquisition of those lands considered in Alternative 2, and, in addition, considers the acquisition of lands to the east of Fort Polk in Rapides Parish. The FEIS also analyzes the No Action Alternative, which evaluates the impacts of taking no action to acquire or use additional training land around Fort Polk.

The Army has determined that significant impacts may possibly occur in regard to land use and noise for each of the three alternatives being considered. The Army projects that moderate impacts would occur to soil resources, water resources, wetlands, biological resources, cultural resources, and socio-economics as a result of implementing the Proposed Action. Substantive compliance with the National Historic Preservation Act (NHPA) will be accomplished through adherence to the Installation Cultural Resource Management Plan (ICRMP), which together with the FEIS outline cultural resource management practices that would be applied to newly acquired lands. Compliance with Section 106 of the NHPA is being accomplished as part of this EIS process.

A copy of the FEIS is available at *http://www.jrtc-polk.army.mil/LandPurchase/index.html.*

Dated: March 5, 2010.

Addison D. Davis, IV,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health).

[FR Doc. 2010–5896 Filed 3–18–10; 8:45 am]

BILLING CODE M

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Board of Advisors (BOA) to the President, Naval Postgraduate School (NPS)

AGENCY: Department of the Navy, DoD.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of The Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meeting of the Board of Advisors to the President, Naval Postgraduate School will be held. This meeting will be open to the public.

DATES: The meeting will be held on Tuesday, April 27, 2010, from 8 a.m. to 4 p.m. and on Wednesday, April 28, 2010, from 8 a.m. to 12 p.m., Pacific Time Zone.

ADDRESSES: The meeting will be held at the Naval Postgraduate School, Herrmann Hall, 1 University Circle, Room M–9, Monterey, CA.

FOR FURTHER INFORMATION CONTACT: Ms. Jaye Panza, Naval Postgraduate School, Monterey, CA 93943–5001, telephone number (831) 656–2514.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to elicit the

advice of the Board on the Naval Service's Postgraduate Education Program and the collaborative exchange and partnership between NPS and the Air Force Institute of Technology (AFIT). The board examines the effectiveness with which the NPS is accomplishing its mission. To this end, the board will inquire into the curricula; instruction; physical equipment; administration; state of morale of the student body, faculty, and staff; fiscal affairs; and any other matters relating to the operation of the NPS as the board considers pertinent. Individuals without a DoD government/CAC card require an escort at the meeting location. For access, information, or to send written comments regarding the NPS BOA, contact Ms. Jaye Panza, Naval Postgraduate School, 1 University Circle, Monterey, CA 93943–5001, or by fax (831) 656–3145 by April 19, 2010.

A.M. Vallandingham,

Lieutenant Commander, Judge Advocate Generals Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2010–6033 Filed 3–18–10; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

National Board for Education Sciences

AGENCY: Institute of Education Sciences, Department of Education.

ACTION: Notice of an open meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of an upcoming meeting of the National Board for Education Sciences. The notice also describes the functions of the Committee. Notice of this meeting is required by Section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of their opportunity to attend the open portion of the meeting.

DATES: April 7 and 8, 2010.

TIME: April 7, 1 p.m. to 5:30 p.m.; April 8, 8:30 a.m. to 12:30 p.m.

ADDRESSES: 80 F Street, NW., Room 100, Washington, DC 20208.

FOR FURTHER INFORMATION CONTACT: Norma Garza, Executive Director, National Board for Education Sciences, 555 New Jersey Ave., NW., Room 602 K, Washington, DC 20208; *phone:* (202) 219–2195; *fax:* (202) 219–1466; *e-mail: Norma.Garza@ed.gov.*

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The National Board for Education Sciences is authorized by Section 116 of the Education Sciences Reform Act of 2002 (ESRA). The Board advises the Director of the Institute of Education Sciences (IES) on the establishment of activities to be supported by the Institute, on the funding for applications for grants, contracts, and cooperative agreements for research after the completion of peer review, and reviews and evaluates the work of the Institute. At this time, the Board consists of six of fifteen appointed members due to the expirations of the terms of nine members. The Board shall meet and can carry out official business as provided by the ESRA which states that a majority of the voting members serving at the time of a meeting constitutes a quorum.

On April 7 from 1 p.m. to 1:15 p.m., the Board will approve the agenda and hear remarks from the chair and the executive director. From 1:15 p.m. to 2:15 p.m., IES director John Easton will discuss priorities for the Institute, followed by a Board discussion until 3 p.m. After a break ending at 3:15 p.m., the Board will conduct an overview of the agencies represented by ex-officio members. Presentations will follow from 4 p.m. to 5:30 p.m. from U.S. Department of Education officials. The meeting will recess at 5:30 p.m.

On April 8, the meeting will begin at 8:30 a.m. with a review of the prior day's activity and a review of the agenda. At 8:45 a.m. IES commissioners and staff will give an update on the IES Centers. This will conclude at 9:45 a.m. Following a break until 10 a.m. the Board will hear presentations on recently released IES studies. There will be an update on the What Works Clearinghouse from 11:30 a.m. until 12:15 p.m., followed by an open discussion and a consideration of next steps. The meeting will adjourn at 12:30 p.m.

A final agenda will be available from Norma Garza (see contact information above) on March 29. Individuals who will need accommodations for a disability in order to attend the meeting (*e.g.,* interpreting services, assistance listening devices, or materials in alternative format) should notify Norma Garza no later than March 29. We will attempt to meet requests for accommodations after this date but cannot guarantee their availability. The meeting site is accessible to individuals with disabilities.

Records are kept of all Committee proceedings and are available for public inspection at 555 New Jersey Ave., NW., Room 602 K, Washington, DC 20208, from the hours of 9 a.m. to 5 p.m., Eastern Standard Time Monday through Friday.

Electronic Access to This Document: You may 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/fed-register/index.html.*

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 1–866–512–1830; or in the Washington, DC, area at (202) 512–0000.

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.*

John Q. Easton,

Director, Institute of Education Sciences.

[FR Doc. 2010–6088 Filed 3–18–10; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Request for Public Comment on Maintenance of Expenditure (MOE) Proposed Policy as Amended on 2–19–10

AGENCY: United States Election Assistance Commission.

ACTION: Notice: Request for Public Comment.

SUMMARY: The EAC seeks public comment on a Maintenance of Expenditure (MOE) Proposed Policy as Amended on 2–19–10. This advisory would supersede Advisories 07–003 and 07–003A and fulfill the Election Assistance Commission's (EAC) ongoing responsibility to provide information on the management of Federal funds provided under the Help America Vote Act (HAVA). EAC issues this notice according to a policy adopted on September 18, 2008 that requires EAC to provide notice and an opportunity for public comment on, among other things, advisories being considered for adoption by the U.S. Election Assistance Commission.

DATES: Comments must be received by 5 p.m. EST on April 19, 2010.

ADDRESSES: Comments may be submitted: Via e-mail at *havacomments@eac.gov,* and

Via mail addressed to the U.S. Election Assistance Commission, 1201 New York Ave, NW., Suite 300,

Washington, DC 20005, or by fax at 202/566–3127.

Commenters are encouraged to submit comments electronically and include "MOE" in the subject line, to ensure timely receipt and consideration. All comments must be *received* by the EAC by the date specified above.

SUPPLEMENTARY INFORMATION: The following is the complete text of the Maintenance of Expenditure (MOE) Proposed Policy as Amended on 2–19–10.

Notice: Request for Public Comment on Maintenance of Expenditure (MOE) Proposed Policy as Amended on 2–19–10

Policy Overview Statement

The Help America Vote Act of 2002 (HAVA) requires States to meet an annual Maintenance of Expenditure (MOE) (also known as Maintenance of Effort) based on State expenditures for activities allowable under Title III of HAVA in the fiscal year prior to November 2000. HAVA requires that States establish a baseline spending level and then meet that spending level each year HAVA section 251 funds are spent by the State. The following questions and answers provide details on what is required to meet HAVA's MOE requirement and how the U.S. Election Assistance Commission (EAC) will work with States to ensure they have a realistic, auditable plan for managing MOE requirements.

1. What Is the Purpose of the Maintenance of Expenditures (MOE) Requirement Mandated by HAVA?

The purpose of MOE is to ensure that recipients of Section 251 funds (requirements payments) use the payments to meet the added requirements placed on States by HAVA, while maintaining the level of non-Federal funding that was available for those activities during the fiscal year ending prior to November 2000.

2. Where in HAVA Is the MOE Requirement?

Section 254 of HAVA details what must be in the State plan. An MOE description is one of the pre-conditions for receipt of a requirements payment disbursement. Section 254(a)(7) requires States to identify in their plans:

"[H]ow 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." 42 U.S.C. 15404(a)(7) (emphasis added).

3. What Does This MOE Policy Do?

The purpose of this policy is to facilitate State compliance with the maintenance of effort (MOE) requirement in HAVA.

This policy supersedes EAC Advisory drafts 07–003 and 07–003A. This policy provides guidelines and assistance for States to develop detailed, voluntary plans for identifying a baseline MOE level and maintaining that level in subsequent years.

4. Who Is Covered by This Policy?

This policy applies directly to the 50 States, four U.S. Territories and the District of Columbia (referred to as States) that are eligible to receive Requirements Payments. This policy may also impact "lower tier" recipients indirectly (*see* below). However, States are ultimately responsible for demonstrating compliance with MOE.

5. What Does the EAC Mean by the Term "Lower Tier" Recipients?

A lower tier recipient is political subdivision of a State. Depending on the State, lower tier recipients may include, but are not limited to, counties, cities, townships, and other jurisdictions.

6. Do States Need To Account for Lower Tier (Local) Spending During the Base Year in Calculating MOE?

MOE tracks State expenditures on a prescribed set of Federal election activities (*see* question 7), which includes any funds appropriated by the State to lower tier entities to support those activities. Under this MOE policy, States may exclude lower tier spending from MOE when the funds used by the lower tier entities are not derived from a State appropriation or expenditure.

7. What Types of Expenditures Must Be Used To Calculate the MOE Baseline Amount and Are Eligible To Count Towards Our Annual MOE Contribution?

States must use all election expenditures that are allowable under Section 251 of HAVA, and that were funded directly by the State, or through a State appropriation to a lower tier entity in the base year, to calculate the baseline MOE. All allowable uses under Section 251 of HAVA, including: (1) Purchase of voting equipment; (2) development and operation of a statewide voter registration list; (3) development and implementation of provisional voting for Federal elections; (4) provision of information to voters at the polling place on election day; (5) verification of information provided by persons seeking to register to vote; and, (6) improvement of the administration of elections for Federal office should be included in the baseline MOE.

For example, State X appropriates $10 million for election activities eligible for funding under section 251 of HAVA. $2 million of the $10 million was appropriated to county Y to provide Federal provisional ballots on Election Day. The State's MOE is $10 million because it includes all funds appropriated to counties for that year as part of its aggregate MOE.

8. When Would the EAC Like To Receive the Voluntary State MOE Plans and What Is the Process for Submission?

EAC would like to receive MOE plans that can be submitted outside of the State plan by December 1, 2010. Once your plan is received, EAC's grants department will work with your State to develop your MOE plan. EAC's hope is to have MOE plans developed by each State that chooses to participate in the process in place by January 31, 2011. EAC will provide technical assistance, including easy to use templates and checklists for developing State MOE plans, by early summer 2010.

9. Does This Policy Include a Set of Uniform Requirements That States Must Comply With To Establish a Baseline MOE and Meet Annual MOE Requirements?

While this policy does call for a plan with specific elements for establishing, maintaining and reporting on MOE, EAC recognizes that the financing and administration of elections includes a particularly diverse set of practices that vary from State to State. As such, this policy calls for development of State-derived, flexible plans designed to meet each individual State's circumstances.

10. Our State Plan Already Acknowledges That We Will Meet the MOE Requirements. Do We Still Need To Submit the MOE Plan Discussed in This Policy?

All States have acknowledged in their State plans that they intend to meet their MOE requirements. However, these statements do not contain information sufficient enough to guide an audit of how the State is meeting its MOE requirement. States adoption of detailed MOE plans will help ensure that States capture an accurate, defensible baseline MOE and are meeting annual MOE requirements. The plans will set the basis for auditing MOE and will help ensure that EAC resolution of any State-specific audit finding associated with MOE will be

consistent with how that State has proposed to meet its MOE requirement. Submission of the MOE plan described in this document is, however, voluntary and may not be the only means of satisfying section 254a(7) HAVA.

11. What Should a State Include in Its MOE Plan?

A State's MOE plan should:

1. Provide the date parameters for the 'fiscal year ending prior to November 2000' as described in HAVA. This base year will be used to set the baseline MOE for the State.

2. Provide the specific cost factors that make up the baseline MOE, or proposed alternative method(s) for determining the baseline MOE.

3. Establish an MOE baseline dollar level that is an aggregation of MOE from all eligible jurisdictions.

4. Require collection of annual MOE levels from all eligible jurisdictions and outline a plan and timeline for collecting this information.

5. Describe the back-up documentation that States and eligible lower tier jurisdictions must maintain and make available for inspection by EAC upon request in order to substantiate the State's MOE claim. Documentation must include a tracking sheet that shows MOE baseline and annual MOE levels at the State and eligible lower tier recipient levels.

6. Clearly state the roles and responsibilities of both State and eligible lower tier fund recipients for reporting MOE and keeping appropriate documentation to substantiate or validate yearly MOE levels. Note that both States and eligible lower tier recipients should do an annual certification of their MOE contribution.

12. What Is a Baseline MOE?

The baseline MOE is a dollar amount that captures the level of State spending for a particular program or activity in the base year. In the case of HAVA, the baseline is the State spending level for a set of election's activities (*see* question 11 below) that was in place in the fiscal year ending prior to November 2000.

13. What Dates Should a State Use To Calculate MOE?

HAVA requires that States use the fiscal year ending prior to November 2000 to determine the MOE baseline. States may choose the Federal fiscal year, which runs from October 1, 1999 through September 30, 2000; or the State fiscal year, if it is different from the Federal fiscal year.

14. How Do We Know If Our State or Lower Tier Recipient Have an MOE Requirement in a Given Year?

Each State has an MOE obligation in every fiscal year that it spends HAVA Requirements Payments funds. Eligible lower tier recipients may need to meet MOE in any fiscal year in which they receive Requirements Payments through the State, dependent upon how the State decides it wants to meet it's annual MOE contribution.

15. What Are the Reporting Requirements Associated With MOE Once a State Has an MOE Plan on File With the EAC?

Pursuant to section 254(a)(12) and section 258(3) of HAVA, each State is required to submit as part of its annual report a description and analysis of how it has met or exceeded its baseline MOE for the preceding fiscal year. Appropriate back-up documentation, as described in the State's MOE plan, must be kept on file and made available to EAC staff during site visits or to auditors or other officials during an audit or investigation.

16. Should Our State Provide a Single, Aggregate Baseline Amount for MOE, or a Series of MOE Baseline Amounts for Each Eligible Local Jurisdiction?

EAC's requirement is that States provide a single baseline and report an annual aggregate MOE amount. However, because States will have to substantiate MOE levels, tracking MOE for all eligible lower tier entities that are required by the State to contribute to the MOE is will probably be necessary.

17. Do States Have Any Flexibility in How Much Is Spent Annually in Each of the Cost Categories Identified by the Plan, or Do They Have To Maintain Expenditures in Each of the Categories?

A State's MOE plan should track expenditures by category to identify the MOE baseline and annual contributions. However, this policy does not require States and eligible lower tier fund recipients to maintain specific expenditures within the identified cost categories. This policy clarifies that only the aggregate State MOE level needs to be met on an annual basis.

In meeting the MOE baseline of spending, it is left to the State to determine how that baseline is met, as an aggregate. For example, a State spent HAVA 251 funds in 2008. In that fiscal year, that State may have chosen to expend more of its State funds on its voter registration database and less of its State funds on providing information to voters at the polls than it did in the fiscal year ending prior to November 2000. As long as the total baseline MOE is met by adding up all the categories, as an aggregate, individual spending for a single category does not have to equal the exact amount spent on that category in the fiscal year ending prior to November 2000.

18. What Happens If Our State Fails To Meet Its MOE?

Any audit findings related to a State not meeting its MOE requirements will be dealt with through EAC's Audit Resolution Process. All current and future audits and compliance site visits that review MOE will be guided by the State's MOE plan, from the point plan is accepted by the EAC forward.

19. How Can States Establish the Baseline MOE for Lower Tier Recipients Where Those Jurisdictions Lack the Records or Detailed Accounting Needed To Determine the Level of Spending on Elections in the Base Year?

States may propose an alternative measure for estimating spending in the base year, but only after demonstrating that accurate records are not attainable. Some alternative measures might include budgeted or appropriated amounts, contract amounts, or similar means compiled from available records from the base year. States might also estimate spending based on average increases over time, but must provide adequate justification and documentation to support the estimate.

20. Do These States Have To Collect MOE Information Every Year From Eligible Lower Tier Recipients?

Each State has the ability to determine how it wants to meet its MOE obligation. Once the baseline is established by the State, by identifying all expenditures with State funds in the base year that would have been allowable costs under HAVA, the State will need to determine how it would like to meet that MOE obligation on an annual basis. If lower tier entities are enlisted by the State to help meet MOE (similar to how some counties contribute to State match obligations for Requirement Payments) those enlisted entities will have to keep appropriate documentation to substantiate their MOE contributions. EAC will provide templates that allow for quick recording and roll-up of this information to the State level.

21. How Should States Address Capital Expenditures in the Base Year? For Example, Several Counties Purchased Equipment in the Base Year, Which Appears To Establish an Unreasonable MOE Baseline for Those Jurisdictions

For purposes of establishing the baseline MOE, HAVA does not make a distinction between capital expenditures and recurring costs associated with election administration that were incurred in the base year. However, when calculating MOE baselines, capital expenditures may be expensed in a manner consistent with IRS depreciation tables, over the expected life of the equipment purchased.

22. How Do States Establish a Baseline MOE When the Year Before FY 2000 Was Not an Election Year and the Election Administration Costs in That Year Were Lower Than in an Election Year?

HAVA is clear that the timeframe for setting the baseline MOE is the year before November 2000.

23. Does the EAC Have Any Suggestions for How To Enforce MOE Requirements With Eligible Lower Tier Fund Recipients?

States should have several mechanisms available to ensure compliance with MOE requirements. Sub-grant agreements should be modified to contain MOE requirements and instructions. Any agreements to buy and transfer equipment or services to lower tier jurisdictions should also contain such a requirement. Finally, States, as the legal recipient of HAVA funds, have authority to enforce MOE requirements through administrative action which could include withholding future requirement payments.

24. Can You Provide an Example of Another Federal Agency That Requires Tracking of MOE at This Detailed Level?

State and local education agencies are required to go through a similar process to meet their MOE requirements for Federal funding from the U.S. Department of Education.

25. What Type of Assistance and Training Can the States Expect From the EAC To Help Implement This Policy?

EAC grants staff will be available to provide guidance to States on their MOE plans. In addition, EAC plans to provide technical assistance to develop tools and templates to help capture and track MOE. EAC will also publish sample MOE plans from States willing to share their work with others as a best practices guideline.

26. What Authority in HAVA Allows EAC To Implement This Proposed Policy?

Section 254(a)(7) of HAVA requires States to include in their State plan an explanation of how they will meet their MOE obligations. Submitting a State plan and all of its required sections is a precondition for receiving a requirement payment. Section 258(3) requires States to submit a yearly report that includes an analysis and description of the activities funded with Section 251 funds, as well as how activities conform to the State Plan under Section 254. This policy defines MOE and provides States with a voluntary set of guidelines and practices for developing a baseline MOE and tracking yearly progress towards meeting that obligation. Section 202(4) of HAVA requires that EAC provide information and training on the management of payments and grants provided through HAVA.

Thomas R. Wilkey,

Executive Director, U.S. Election Assistance Commission.

[FR Doc. 2010–6006 Filed 3–18–10; 8:45 am]

BILLING CODE 6820–KF–P

DEPARTMENT OF ENERGY

Extension of the Public Comment Period for the Draft Tank Closure and Waste Management Environmental Impact Statement for the Hanford Site, Richland, WA

AGENCY: Department of Energy.

ACTION: Extension of the public comment period.

SUMMARY: The U.S. Department of Energy (DOE) is extending the public comment period for the *Draft Tank Closure and Waste Management Environmental Impact Statement for the Hanford Site, Richland, Washington* (Draft EIS, DOE/EIS–00391), made available for public comment on October 30, 2009 (74 FR 56194). The public comment period for the Draft EIS was to complete on March 19, 2010, and will be extended for 45 days. The new date for the close of the Public Comment period is now May 3, 2010. The extension is being made at the request of several reviewers.

ADDRESSES: The Draft EIS is available electronically through, and written comments can be submitted at, *TC&WMEIS@saic.com,* or by faxing to (888) 785–2865. Paper copies may be obtained by request to the EIS Web site or by contacting: Mary Beth Burandt, Document Manager, Office of River Protection, P.O. Box 1178, Richland, Washington, 99352, 888–829–6347. The Draft EIS is also available at DOE's National Environmental Policy Act (NEPA) Web site at *http://www.gc.energy.gov/nepa.*

FOR FURTHER INFORMATION CONTACT: For further information on the Draft EIS, contact Ms. Burandt at the address above or by telephone at 1–888–785–2865. For further information on DOE's NEPA process, contact Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance, Office of General Counsel, U.S. Department of Energy, Washington, DC 20585–0103, Telephone: (202) 586–4600, or leave a message at (800) 472–2756. Further information on the Draft EIS is also available through the Hanford Web site at: *http://www.hanford.gov/orp.*

Issued in Washington, DC, on March 15, 2010.

William M. Levitan,

Director, Office of Environmental Compliance, Office of Environmental Management.

[FR Doc. 2010–6046 Filed 3–18–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge Reservation. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, April 14, 2010, 6 p.m.

ADDRESSES: DOE Information Center, 475 Oak Ridge Turnpike, Oak Ridge, Tennessee.

FOR FURTHER INFORMATION CONTACT: Patricia J. Halsey, Federal Coordinator, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831. Phone (865) 576–4025; Fax (865) 576–2347 or e-mail: *halseypj@oro.doe.gov* or check the Web site at *http://www.oakridge.doe.gov/em/ssab.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration,

waste management, and related activities.

Tentative Agenda: The main meeting presentation will be an Overview of the Remediation Effectiveness Report.

Public Participation: The EM SSAB, Oak Ridge, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Patricia J. Halsey at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to the agenda item should contact Patricia J. Halsey at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Patricia J. Halsey at the address and phone number listed above. Minutes will also be available at the following Web site: *http://www.oakridge.doe.gov/em/ssab/minutes.htm.*

Issued at Washington, DC, on March 16, 2010.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. 2010–6049 Filed 3–18–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Hanford

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Hanford. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, April 8, 2010, 9 a.m.–5 p.m., Friday, April 9, 2010, 8:30 a.m.–4 p.m.

ADDRESSES: Red Lion Hotel on the River, Jantzen Beach, 909 North Hayden Island Drive, Portland, OR 97217.

FOR FURTHER INFORMATION CONTACT: Paula Call, Federal Coordinator, Department of Energy Richland Operations Office, 825 Jadwin Avenue, P.O. Box 550, A7–75, Richland, WA 99352; Phone: (509) 376–2048; or E-mail: *Paula_K_Call@rl.gov.*

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

- Agency Updates, including progress on the American Recovery and Reinvestment Act (Department of Energy Office of River Protection and Richland Operations Office; Washington State Department of Ecology; U.S. Environmental Protection Agency)
- Committee Updates, including: Tank Waste Committee; River and Plateau Committee; Health, Safety and Environmental Protection Committee; Public Involvement Committee; and Budgets and Contracts Committee
- Draft Advice on Long-Term Stewardship Plan
- Draft Advice on the Use of Terms Unrestricted Surface Use or Unrestricted Use
- Board Business

Public Participation: The meeting is open to the public. The EM SSAB, Hanford, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Paula Call at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Paula Call at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Paula Call's office at the address or phone number listed above. Minutes will also be available at the following website: *http://www.hanford.gov/page.cfm/hab.*

Issued at Washington, DC on March 15, 2010.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. 2010–6050 Filed 3–18–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Nuclear Energy Advisory Committee

AGENCY: Department of Energy, Office of Nuclear Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Nuclear Energy Advisory Committee (NEAC). The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, April 29, 2010, from 8:30 a.m.–4:30 p.m.

ADDRESSES: L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Kenneth Chuck Wade, Designated Federal Officer, U.S. Department of Energy, 19901 Germantown Rd, Germantown, MD 20874; telephone (301) 903–6509; e-mail *Kenneth.wade@nuclear.energy.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Nuclear Energy Advisory Committee (NEAC), formerly the Nuclear Energy Research Advisory Committee (NERAC), was established in 1998 by the U.S. Department of Energy (DOE) to provide advice on complex scientific, technical, and policy issues that arise in the planning, managing, and implementation of DOE's civilian nuclear energy research programs. The committee is composed of 16 individuals of diverse backgrounds selected for their technical expertise and experience, established records of distinguished professional service, and their knowledge of issues that pertain to nuclear energy.

Purpose of the Meeting: To inform the committee of recent developments and current status of research programs and projects pursued by the Department of Energy's Office of Nuclear Energy and receive advice and comments in return from the committee.

Tentative Agenda: The meeting is expected to include presentations that cover such topics as the Office of Nuclear Energy's FY2010 Budget and FY2010 Budget Request, overview of Nuclear Energy's Advanced Modeling and Simulations Activities, overview of the Idaho National Laboratory's progress

to achieving world class status, and an overview of several new program proposals for FY2011. The agenda may change to accommodate committee business. For updates, one is directed the NEAC Web site: *http://www.ne.doe.gov/neac/neNeacMeetings.html.*

Public Participation: Individuals and representatives of organizations who would like to offer comments and suggestions may do so on the day of the meeting, Thursday, April 29, 2010. Approximately thirty minutes will be reserved for public comments. Time allotted per speaker will depend on the number who wish to speak but is not expected to exceed 5 minutes. Anyone who is not able to make the meeting or has had insufficient time to address the committee is invited to send a written statement to Kenneth Chuck Wade, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, or e-mail *Kenneth.wade@nuclear.energy.gov.*

Minutes: The minutes of the meeting will be available by contacting Mr. Wade at the address above or on the Department of Energy, Office of Nuclear Energy Web site at *http://www.ne.doe.gov/neac/neNeacMeetings.html.*

Issued in Washington, DC, on March 16, 2010.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. 2010–6048 Filed 3–18–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

State Energy Advisory Board (STEAB)

AGENCY: Department of Energy.

ACTION: Notice of open teleconference.

SUMMARY: This notice announces a meeting of the State Energy Advisory Board (STEAB). The Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat.770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, April 15, 2010 1 to 2 p.m. EST

FOR FURTHER INFORMATION CONTACT: Gary Burch, STEAB Designated Federal Officer, Senior Management Technical Advisor, Intergovernmental Projects, Golden Field Office, U.S. Department of Energy, 1617 Cole Boulevard, Golden, CO 80401, Telephone 303–275–4801.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: To make recommendations to the Assistant Secretary for the Office of Energy Efficiency and Renewable Energy regarding goals and objectives, programmatic and administrative policies, and to otherwise carry out the Board's responsibilities as designated in the State Energy Efficiency Programs Improvement Act of 1990 (Pub. L. 101–440).

Tentative Agenda: Discuss ways STEAB can continue to support DOE's implementation of the Economic Recovery Act, conduct follow-up discussion regarding presentations given at the March live Board meeting, discuss the draft of Resolution 10–02, begin thinking about the June Board meeting, and update members of the Board on routine business matters.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Gary Burch at the address or telephone number listed above. Requests to make oral comments must be received five days prior to the meeting; reasonable provision will be made to include requested topic(s) on the agenda. The Chair of the Board is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: The minutes of the meeting will be available for public review and copying within 60 days on the STEAB Web site, *http://www.steab.org.*

Issued at Washington, DC, on March 15, 2010.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. 2010–6047 Filed 3–18–10; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12841–001]

Ute Water Conservancy District; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, Protests, Recommendations, and Terms and Conditions

March 12, 2010.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Conduit Exemption.

b. *Project No.:* P–12841–001.

c. *Date filed:* February 23, 2010.

d. *Applicant:* Ute Water Conservancy District.

e. *Name of Project:* Plateau Creek Hydroelectric Project.

f. *Location:* The Plateau Creek Hydroelectric Project would be located on the Plateau Creek Pipeline at the Rapid Creek Water Treatment Plant, in Mesa County, Colorado. The land in which all the project structures are located is owned by the applicant.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Larry Clever, General Manager, Ute Water Conservancy District, 560 25 Road, P.O. Box 460, Grand Junction, CO 81502; *lclever@utewater.org.*

i. *FERC Contact:* Kelly Houff, (202) 502–6393, *Kelly.Houff@ferc.gov.*

j. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

k. *Deadline for filing responsive documents:* Due to the small size and location of the proposed project in a closed system, as well as the resource agency consultation letters filed with the application, the 60-day timeframe specified in 18 CFR 4.43(b) for filing all comments, motions to intervene, protests, recommendations, terms and conditions, and prescriptions is shortened to 30 days from the issuance date of this notice. All reply comments filed in response to comments submitted by any resource agency, Indian tribe, or person, must be filed with the Commission within 45 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 under the "e-Filing" link. The Commission strongly encourages electronic filings.

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 in 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.

l. Description of Project: The proposed Plateau Creek Hydroelectric Project consists of: (1) A proposed turbine generating unit having an installed capacity of 610 kilowatts at the

existing flow control vault of the Rapid Creek Water Treatment Plant; and (2) appurtenant facilities. The project would have an estimated annual generation of 2,400 megawatt-hours that would be used on-site with any excess being sold to a local utility.

m. This filing is available for review and reproduction at the Commission in the Public Reference Room, Room 2A, 888 First Street, NE., Washington, DC 20426. The filing may also be viewed on the Web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number, here P–12841–001, in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for review and reproduction at the address in item h above.

n. Development Application—Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified deadline date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified deadline date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit a competing development application. A notice of intent must be served on the applicant(s) named in this public notice.

p. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests 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 protests or motions to intervene must be received on or before the specified deadline date for the particular application.

p. All filings must (1) bear in all capital letters the title "PROTEST", "MOTION TO INTERVENE", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "COMMENTS", "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and eight copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Office of Energy Projects, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–6012 Filed 3–18–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER10–842–000]

Energy Plus Holdings LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

March 11, 2010.

This is a supplemental notice in the above-referenced proceeding, of Energy Plus Holdings LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is March 31, 2010.

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(s) 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. 2010–6008 Filed 3–18–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER10–825–000]

Day County Wind, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

March 11, 2010.

This is a supplemental notice in the above-referenced proceeding, of Day County Wind, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability is March 31, 2010.

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(s) 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. 2010–6010 Filed 3–18–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER10–812–000]

Power Choice, Inc.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

March 11, 2010.

This is a supplemental notice in the above-referenced proceeding, of Power Choice, 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 March 31, 2010.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The filings in the above-referenced proceeding(s) 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. 2010–6009 Filed 3–18–10; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD10–1–006]

Review of Cost Submittals by Other Federal Agencies for Administering Part I of the Federal Power Act; Notice of Technical Conference

March 11, 2010.

In an order issued on October 8, 2004, the Commission set forth a guideline for Other Federal Agencies (OFAs) to submit their costs related to Administering Part I of the Federal Power Act. *Order on Rehearing Consolidating Administrative Annual Charges Bill Appeals and Modifying Annual Charges Billing Procedures,* 109 FERC ¶ 61,040 (2004) (October 8 Order). The Commission required OFAs to submit their costs using the OFA Cost Submission Form. The October 8 Order also announced that a technical conference would be held for the purpose of reviewing the submitted cost forms and detailed supporting documentation.

The Commission will hold a technical conference for reviewing the submitted OFA costs. The purpose of the conference will be for OFAs and licensees to discuss costs reported in the forms and any other supporting documentation or analyses.

The technical conference will be held on April 14, 2010, in Hearing Room 2 at the Commission's headquarters, 888 First Street, NE., Washington, DC. The technical conference will begin at 2 p.m. (EST).

The technical conference will also be transcribed. Those interested in obtaining a copy of the transcript

immediately for a fee should contact the Ace-Federal Reporters, Inc., at 202–347–3700, or 1–800–336–6646. Two weeks after the post-forum meeting, the transcript will be available for free on the Commission's e-library system. Anyone without access to the Commission's Web site or who has questions about the technical conference should contact W. Doug Foster at (202) 502–6118 or via e-mail at *annualcharges@ferc.gov.*

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice), (202) 208–8659 (TTY), or send a FAX to (202) 208–2106 with the required accommodations.

Kimberly D. Bose,

Secretary.

[FR Doc. 2010–6011 Filed 3–18–10; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–RCRA–2009–0758; FRL–9128–6]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Solid Waste Disposal Facility Criteria (Renewal); EPA ICR No. 1381.09, OMB Control No. 2050–0122

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces 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 April 23, 2010.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–RCRA–2009–0758, to (1) EPA online using *www.regulations.gov* (our preferred method), by e-mail to *rcra-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, RCRA Docket (28221T), 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB by mail to: 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: Craig Dufficy, Materials Recovery and Waste Management Division, Office of Resource Conservation and Recovery, Mail Code 5304P, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; *telephone number:* 703–308–9037; *fax number:* 703–308–8686; *e-mail address: dufficy.craig@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 November 5, 2009 (74 FR 57311), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–RCRA–2009–0758, which is available for online viewing at *www.regulations.gov,* or in person viewing at the RCRA Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the RCRA Docket is 202–566–0270.

Use EPA's electronic docket and comment system at *www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select "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 at *www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: Solid Waste Disposal Facility Criteria (Renewal).

ICR Numbers: EPA ICR No. 1381.09, OMB Control No. 2050–0122.

ICR Status: This ICR is scheduled to expire on March 31, 2010. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. 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: In order to effectively implement and enforce final changes to 40 CFR Part 258 on a State level, owners/operators of municipal solid waste landfills have to comply with the final reporting and recordkeeping requirements. Respondents include owners or operators of new municipal solid waste landfills (MSWLFs), existing MSWLFs, and lateral expansions of existing MSWLFs. The respondents, in complying with 40 CFR Part 258, are required to record information in the facility operating record, pursuant to § 258.29, as it becomes available. The operating record must be supplied to the State as requested until the end of the post-closure care period of the MSWLF. The information collected will be used by the State Director to confirm owner or operator compliance with the regulations under Part 258. These owners or operators could include Federal, State, and local governments, and private waste management companies. Facilities in NAICS codes 9221, 5622, 3252, 3251 and 3253 may be affected by this rule.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 54 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to

respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: owners or operators of municipal solid waste landfills, state agencies.

Estimated Number of Respondents: 1,950.

Frequency of Response: Annually, On occasion.

Estimated Total Annual Hour Burden: 204,748.

Estimated Total Annual Cost: $12,892,203, includes $1,831,333 annualized operation & maintenance and $379,520 annualized capital costs.

Changes in the Estimates: There is an increase of 240 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This is due to the increased number of states adopting the Research, Development, and Demonstration section since the last ICR update.

Dated: March 12, 2010.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2010–6105 Filed 3–18–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2009–0537; FRL–9128–5; EPA ICR Number 1926.05, OMB Control Number 2060–0450]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NSPS for Commercial and Industrial Solid Waste Incineration Units (Renewal)

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 collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before April 19, 2010.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2009–0537, to (1) EPA online using *http://www.regulations.gov* (our preferred method), or by e-mail to *docket.oeca@epa.gov*, or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 28221T, 1200 Pennsylvania Avenue, 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: Robert C. Marshall, Jr., Office of Compliance, Mail Code: 2223A, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; *telephone number:* (202) 564–7021; *fax number:* (202) 564–0050; *e-mail address: marshall.robert@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On July 30, 2009 (74 FR 38004), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2009–0537, which is available for public viewing online at *http://www.regulations.gov*, in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select "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 at *http://www.regulations.gov*, as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov.*

Title: NSPS for Commercial and Industrial Solid Waste Incineration Units (Renewal).

ICR Numbers: EPA ICR Number 1926.05, OMB Control Number 2060–0450.

ICR Status: This ICR is scheduled to expire on May 31, 2010. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The New Source Performance Standards (NSPS) for Commercial and Industrial Solid Waste Incineration Units (CISWI) were proposed on November 30, 1999, and promulgated on December 1, 2000. The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart CCCC.

Owners or operators of the affected facilities must make an initial notification, performance tests, periodic reports, and maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 239 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the

existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Commercial and industrial solid waste incineration units.

Estimated Number of Respondents: 31

Frequency of Response: Initially, occasionally, semiannually, and annually.

Estimated Total Annual Hour Burden: 11,246

Estimated Total Annual Cost: $1,029,921, which includes $1,021,351 in labor costs, $2,240 in capital/startup costs, and $6,330 in operation and maintenance (O&M) costs.

Changes in the Estimates: There are no changes in the estimates. This is due to two considerations. First, the regulations have not changed over the past three years and are not anticipated to change over the next three years. Secondly, the growth rate for the industry is very low, negative or non-existent. Therefore, the burden hour figures in the previous ICR reflect the current burden to the respondents and are reiterated in this ICR. It should be noted that there are some minor corrections due to calculations errors in the previous ICR.

Dated: March 12, 2010.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2010–6104 Filed 3–18–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8989–2]

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)© 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 or *http://www.epa.gov/compliance/nepa/.*

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated July 17, 2009 (74 FR 34754).

Notice

In accordance with Section 309(a) of the Clean Air Act, EPA is required to make its comments on EISs issued by other Federal agencies public. Historically, EPA has met this mandate by publishing weekly notices of availability of EPA comments, which includes a brief summary of EPA's comment letters, in the **Federal Register**. Since February 2008, EPA has been including its comment letters on EISs on its Web site at: *http://www.epa.gov/compliance/nepa/eisdata.html.*

Including the entire EIS comment letters on the Web site satisfies the Section 309(a) requirement to make EPA's comments on EISs available to the public. Accordingly, after March 31, 2010, EPA will discontinue the publication of this notice of availability of EPA comments in the **Federal Register**.

Draft EISs

EIS No. 20090438, ERP No. D–NPS–C61013–NY, Roosevelt-Vanderbilt National Historic Sites, General Management Plan, Implementation, Hyde Park, NY.

Summary: EPA does not object to the proposed action. Rating LO.

EIS No. 20100016, ERP No. D–USN–K11127–CA, Silver Strand Training Complex (SSTC) Project, Proposed Naval Training Activities, Cities of Coronado and Imperial Beach, San Diego County, CA.

Summary: EPA expressed environmental concerns about impacts to water resources and biological resources, and the need for waste minimization. Rating EC2.

Final EISs

EIS No. 20100023, ERP No. F–AFS–K65367–00, Klamath National Forest Motorized Route Designation, Motorized Travel Management, (Formerly Motorized Route Designation), Implementation, Siskiyou County, CA and Jackson County, OR.

Summary: EPA expressed environmental concerns about the scope of the travel management planning process and season of use and wet weather closures, and recommended the action include current roads and trails with known impacts and a thorough evaluation of all impacts to water resources.

EIS No. 20100055, ERP No. F–NPS–K61170–CA, Yosemite National Park Project, Construction of Yosemite Institute Environment Education Campus, Implementation, Mariposa County, CA.

Summary: No formal comment letter was sent to the preparing agency.

Dated: March 16, 2010.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2010–6078 Filed 3–18–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8989–2]

Environmental Impacts 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 03/08/2010 through 03/12/2010

Pursuant to 40 CFR 1506.9

Notice

In accordance with Section 309(a) of the Clean Air Act, EPA is required to make its comments on EISs issued by other Federal agencies public. Historically, EPA has met this mandate by publishing weekly notices of availability of EPA comments, which includes a brief summary of EPA's comment letters, in the **Federal Register.** Since February 2008, EPA has been including its comment letters on EISs on its Web site at: *http://www.epa.gov/compliance/nepa/eisdata.html.* Including the entire EIS comment letters on the Web site satisfies the Section 309(a) requirement to make EPA's comments on EISs available to the public. Accordingly, after March 31, 2010, EPA will discontinue the publication of this notice of availability of EPA comments in the **Federal Register.**

EIS No. 20100074, Draft EIS, FHWA, MO, First Tier—Future I–70 Kansas City Metro Project, Proposing to Improve I–70 Corridor from East of the Missouri and Kansas State Line to East of I–470 Interchange, Downtown Central Business Freeway Loop, Kansas City, Jackson County, MO, *Comment Period Ends:* 05/07/2010, *Contact:* Peggy Casey 573–636–7104.

EIS No. 20100075, Final EIS, USA, LA, Joint Readiness Training Center and Fort Polk Land Acquisition Program, Purchase and Lease Lands for Training and Management Activities, in the Parishes of Vernon, Sabine, Natchitoches, LA, *Wait Period Ends:*

04/19/2010, *Contact:* Kristin Evenstad, 703–692–6427.

EIS No. 20100076, Final EIS, FRBSF, WA, Federal Reserve Bank of San Francisco, Proposes to sell the Property at 1015 Second Avenue that is Eligible for Listing on the National Register of Historic Places, located in Seattle, WA, *Wait Period Ends:* 04/19/2010, *Contact:* Robert Kellar 415–974–2655.

EIS No. 20100077, Final EIS, USFWS, NV, Southeastern Lincoln County Habitat Conservation Plan, Application Package for Three Incidental Take Permits, Authorize the Take of Desert Tortoise (Gopherus agassizii) and Southwestern Williow Flycatcher (Empidonax traillii extimus), Implementation, Lincoln County, NV, *Wait Period Ends:* 05/03/2010, *Contact:* John Robles 916–414–6731.

EIS No. 20100078, Draft EIS, USACE, FL, Central and Southern Florida Project, Comprehensive Everglades Restoration Plan, Biscayne Bay Coastal Wetlands Phase I Project, To Restore the Natural Hydrology and Ecosystem in an Area Degraded by Drainage Systems and Land Development, Miami-Dade County, FL, *Comment Period Ends:* 05/03/2010, *Contact:* Brad Tarr 904–232–3582.

EIS No. 20100079, Revised Draft EIS, FRA, SC, Bay Area to Central Valley High-Speed Train (HST) Project, Additional Information and Analysis Needed for Compliance with the Court Judgement, Provide a Reliable High-Speed Electrified Train System to Link Bay Area Cities to the Central Valley, Sacramento, and South California, *Comment Period Ends:* 05/03/2010, *Contact:* Dan Leavitt 916–324–1541.

EIS No. 20100080, Final EIS, USFS, 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, *Wait Period Ends:* 04/19/2010, *Contact:* Mark Lemon 559–877–2218 Ext 3110.

EIS No. 20100081, Draft EIS, USFS, AZ, Coconino National Forest Travel Management Project, Proposes to Designate a System of Road and Motorized Travel, Implementation, Coconino and Yavapai County, AZ, *Comment Period Ends:* 05/17/2010, *Contact:* Jim Beard 928–527–3474.

EIS No. 20100082, Draft EIS, USFS, ID, Clear Prong Project, To Implement Silvicultural Activities, Including Thinning of Sub-Merchantable Trees, Prescribed Fires and Aspen Enhancement on 2,190 Acres, Bois National Forest, Cascade Ranger District, Valley County, ID, *Comment Period Ends:* 05/03/2010, *Contact:* Keith Dimmett 208–382–7400.

EIS No. 20100083, Draft EIS, BLM, NV, Amargosa Farm Road Solar Energy Project, Construction and Operation of Two Concentrated Solar Power Plant Facilities, Right-of-Way Application on Public Lands, Nye County, NV, *Comment Period Ends:* 05/03/2010, *Contact:* Gregory Helseth 702–515–5173.

EIS No. 20100084, Final EIS, USCG, AL, Bienville Offshore Energy Terminal (BOET) Deepwater Port License Application Amendment (Docket # USCG–2006–24644), Proposes to Construct and Operate a Liquefied Natural Gas Receiving and Regasification Facility, Outer Continental Shelf of the Gulf of Mexico, South of Fort Morgan, AL, *Wait Period Ends:* 04/30/2010, *Contact:* Lt. Hannah Kawamoto 202–372–1438.

EIS No. 20100085, Draft EIS, BLM, CA, Blythe Solar Power Project (09–AFC–6), Application for Right-of Way Grant to Construct and Operate, and Decommission a Solar Thermal Facility on Public Lands, Riverside County, CA, *Comment Period Ends:* 06/16/2010, *Contact:* Sandra McGinnis 916–978–4427.

EIS No. 20100086, Final EIS, NOAA, 00, Amendment 3 to the 2006 Consolidated Atlantic Highly Migratory Species (HMS), Fishery Management Plan, To Implement Management Measures that Prevent Overfishing and Rebuild Overfished Stocks, Implementation, *Wait Period Ends:* 04/19/2010, *Contact:* Margo Schulze-Haugen 301–713–2347.

Amended Notices

EIS No. 20100037, Second Draft Supplement, USFS, 00, Sierra Nevada Forest Plan Amendment, Proposes to Provide an Objective Comparison of all of the Alternatives for 2004 Final EIS, Amending Land and Resource Management Plans, Modoc, Lasser, Plumas, Tahoe, Eldorado, Stanislaus, Sequoia, Sierra, Inyo and Humboldt-Toiyabe National Forests, and the Lake Tahoe Basin Management Unit, Several Counties, CA and NV, *Comment Period Ends:* 05/05/2010, *Contact:* Randy Moore 707–562–8737, Revision to FR Notice Published 02/19/2010: Extending Comment Period from 04/05/2010 to 05/05/2010.

EIS No. 20100066, Final EIS, FHWA, FL, WITHDRAWN—Interstate 395 (I–395) Development and Environment Study Project, From I–95 to West Channel Bridges of the MacArthur Causeway at Biscayne Bay, City of Miami, Miami-Dade County, FL, *Wait Period Ends:* 04/12/2010, *Contact:* Linda K. Anderson 850–942–9650 Ext. 3053, Revision to FR Notice Published 03/12/2010: EIS is withdrawn due to Non-Distribution of the document.

Dated: March 16, 2010.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2010–6081 Filed 3–18–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0236; FRL–8817–1]

Pesticide Program Dialogue Committee; Notice of Public Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act, EPA gives notice of a public meeting of the Pesticide Program Dialogue Committee (PPDC) on April 29 and 30, 2010. A draft agenda is under development that will include reports from and discussions about current issues from the following PPDC work groups: Work Group on 21st Century Toxicology/New Integrated Testing Strategies; Work Group on Web-Distributed Labeling; and Work Group on Comparative Safety Statements for Pesticide Product Labeling. Discussion topics will also cover National Pollutant Discharge Elimination System permit issues regarding pesticides and current Endangered Species Act issues. PPDC work group meetings are also being scheduled and are open to the public. The PPDC PRIA Process Improvements Work Group will meet on April 28, 2010, from 1 p.m. to 4 p.m. Information about all PPDC work group meetings can be found on EPA's website at: *http://www.epa.gov/pesticides/ppdc*.

DATES: The PPDC meeting will be held on Thursday, April 29, 2010, from 9 a.m. to 5 p.m., and Friday, April 30, 2010, from 9 a.m. to noon.

To request accommodation of a disability, please contact the person listed under **FOR FURTHER INFORMATON CONTACT**, preferably at least 10 days

prior to the meeting, to give EPA as much time as possible to process your request.

ADDRESSES: The meeting will be held in the Conference Center on the lobby level at EPA's location at 1 Potomac Yard South, 2777 S. Crystal Drive, Arlington, VA. This location is approximately one mile from the Crystal City Metro Station.

FOR FURTHER INFORMATION CONTACT: Margie Fehrenbach, Office of Pesticide Programs (7501P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–4775; fax number: (703) 308–4776; e-mail address: *fehrenbach.margie@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of particular interest to persons who work in agricultural settings or persons who are concerned about implementation of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); the Federal Food, Drug, and Cosmetic Act (FFDCA); and the amendments to both of these major pesticide laws by the Food Quality Protection Act (FQPA) of 1996; and the Pesticide Registration Improvement Act (PRIA). Potentially affected entities may include, but are not limited to: Agricultural workers and farmers; pesticide industry and trade associations; environmental, consumer, and farmworker groups; pesticide users and growers; pest consultants; State, local and Tribal governments; academia; public health organizations; food processors; and the public. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2010–0236. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr*.

A draft agenda is being developed and will be posted by March 26, 2010, on EPA's web site at: *http://www.epa.gov/pesticides/ppdc/*.

II. Background

EPA's Office of Pesticide Programs (OPP) is entrusted with the responsibility to help ensure the safety of the American food supply, the education and protection from unreasonable risk of those who apply or are exposed to pesticides occupationally or through use of products, and general protection of the environment and special ecosystems from potential risks posed by pesticides.

The Charter for EPA's PPDC was established under the Federal Advisory Committee Act (FACA), Public Law 92–463, in September 1995, and has been renewed every 2 years since that time. PPDC's Charter was renewed October 30, 2009, for another 2–year period. The purpose of PPDC is to provide advice and recommendations to the EPA Administrator on issues associated with pesticide regulatory development and reform initiatives, evolving public policy and program implementation issues, and science issues associated with evaluating and reducing risks from use of pesticides. It is determined that PPDC is in the public interest in connection with the performance of duties imposed on the Agency by law. The following sectors are represented on the PPDC: Pesticide industry and trade associations; environmental/public interest, consumer, and animal rights groups; farm worker organizations; pesticide user, grower, and commodity groups; Federal and State/local/Tribal governments; the general public; academia; and public health organizations.

Copies of the PPDC Charter are filed with appropriate committees of Congress and the Library of Congress and are available upon request.

III. How Can I Request to Participate in this Meeting?

PPDC meetings are open to the public and seating is available on a first-come basis. Persons interested in attending do not need to register in advance of the meeting. Comments may be made during the public comment session of each meeting or in writing to the address listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection, Agricultural workers, Agriculture, Chemicals, Endangered species, Foods, Pesticide labels, Pesticides and pests, Public health.

Dated: March 12, 2010.

Steven Bradbury,

Acting Director, Office of Pesticide Programs.

[FR Doc. 2010–6077 Filed 3–18–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0012; FRL–8813–2]

Notice of Receipt of Several Pesticide Petitions Filed for Residues of Pesticide Chemicals in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the Agency's receipt of several initial filings of pesticide petitions proposing the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before April 19, 2010.

ADDRESSES: Submit your comments, identified by docket identification (ID) number and the pesticide petition number (PP) of interest as shown in the body of this document, by one of the following methods:

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

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

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

Instructions: Direct your comments to the docket ID number and the pesticide petition number of interest as shown in the body of this document. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: A contact person, with telephone number and e-mail address, is listed at the end of each pesticide petition summary. You may also reach each contact person by mail at Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

3. *Environmental justice*. EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have a typical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. What Action is the Agency Taking?

EPA is announcing its receipt of several pesticide petitions filed under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or modification of regulations in 40 CFR part 174 or part 180 for residues of pesticide chemicals in or on various food commodities. EPA has determined that the pesticide petitions described in this notice contain the data or information prescribed in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petitions. Additional data may be needed before EPA can make a final determination on these pesticide petitions.

Pursuant to 40 CFR 180.7(f), a summary of each of the petitions that are the subject of this notice, prepared by the petitioner, is included in a docket

EPA has created for each rulemaking. The docket for each of the petitions is available on-line at *http://www.regulations.gov*.

As specified in FFDCA section 408(d)(3), (21 U.S.C. 346a(d)(3)), EPA is publishing notice of the petition so that the public has an opportunity to comment on this request for the establishment or modification of regulations for residues of pesticides in or on food commodities. Further information on the petition may be obtained through the petition summary referenced in this unit.

New Tolerances

1. *PP 9E7554*. (EPA–HQ–OPP–2007–0099). Nichino America, Inc., 4550 New Linden Hill Road, Suite 501, Wilmington, DE 19808, proposes to establish a tolerance in 40 CFR part 180 for residues of the insecticide flubendiamide, (N^2-[1,1-dimethyl-2-(methylsulfonyl)ethyl]-3-iodo- N^1-[2-methyl-4-[1,2,2,2-tetrafluoro-1-(trifluoromethyl)ethyl]phenyl-1,2-benzenedicarboxamide, in or on rice, grain at 0.5 parts per million (ppm). Independently validated, analytical methods for crop matrices have been submitted for measuring flubendiamide. Typically, plant matrices samples are extracted, concentrated, and quantified by liquid chromatography/mass spectrometry/mass spectrometry (LC/MS/MS) using deuterated internal standards. Contact: Carmen Rodia, (703) 306–0327, e-mail address: *rodia.carmen@epa.gov*.

2. *PP 9E7652*. (EPA–HQ–OPP–2009–1008). The Interregional Research Project No. 4 (IR-4), 500 College Road East, Suite 201W, Princeton, NJ 08540, proposes to establish tolerances in 40 CFR part 180 for residues of the insecticide bifenthrin, (2-methyl [1,1′-biphenyl]-3-yl) methyl-3-(2-chloro-3,3,3,-trifluoro-1-propenyl)-2,2-dimethylcyclopropanecarboxylate), in or on tea (import tolerance) at 25 ppm; and tolerances with regional registrations in or on grass, forage at 2.5 ppm and grass, hay at 4.5 ppm. There is a practical analytical method for detecting and measuring levels of bifenthrin in or on food with a limit of detection (LOD) that allows monitoring of food with residues at or above the levels set in these tolerances: Gas chromatography with electron capture detection (GC/ECD). Contact: Laura Nollen, (703) 305–7390, e-mail address: *nollen.laura@epa.gov*.

3. *PP 9E7659*. (EPA–HQ–OPP–2009–1009). The Interregional Research Project No. 4 (IR-4), 500 College Road East, Suite 201W, Princeton, NJ 08540, proposes to establish tolerances in 40 CFR part 180 for the combined residues of the fungicide propiconazole, (1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl] methyl]-1H-1,2,4-triazole) and its metabolites determined as 2,4-dichlorobenzoic acid and expressed as parent compound, in or on onion, bulb, subgroup 3-07A at 0.2 ppm; onion, green, subgroup 3-07B at 9.0 ppm; caneberry subgroup 13-07A at 1.0 ppm; bushberry subgroup 13-07B at 1.0 ppm; and low growing berry subgroup 13-07G, except cranberry at 1.3 ppm. Analytical methods AG-626 and AG-454A were developed for the determination of residues of propiconazole and its metabolites containing the dichlorobenzoic acid (DCBA) moiety. Analytical method AG-626 has been accepted and published by EPA as the tolerance enforcement method for crops. The limit of quantitation (LOQ) for the method is 0.05 ppm. Contact: Andrew Ertman, (703) 308–9367, e-mail address: *ertman.andrew@epa.gov*.

4. *PP 9E7669*. (EPA–HQ–OPP–2010–0102). The Interregional Research Project No. 4 (IR-4), 500 College Road East, Suite 201W, Princeton, NJ 08540, proposes to establish tolerances in 40 CFR part 180 for residues of the herbicide, triflusulfuron methyl, 2 [[[[[4-(dimethylamino)-6-(2,2,2-trifluoroethoxy)-1,3,5-triazin-2-yl]amino]carbonyl]amino]sulfonyl]-3-methylbenzoate, in or on beet, garden, roots at 0.01 ppm; and beet, garden, tops at 0.02 ppm. A method for quantitation of triflusulfuron methyl in garden beets uses a high performance liquid chromatograph (HPLC) with eluent and column-switching and ultra-violet (UV) detection at 232 nanometer (nm) for the determination of triflusulfuron methyl residues in garden beet foliage and roots. Sample clean-up is achieved through reversed phase chromatography using eluent-switching. Column-switching provides the resolution required for quantitation of triflusulfuron methyl. The calculated LOQ values were 0.0069 ppm for roots and 0.0044 ppm on tops (leaves) respectively. Triflusulfuron methyl is detected at levels as low as 0.005 ppm. Triflusulfuron methyl recoveries averaged 99% for foliage and 110% for roots. Contact: Laura Nollen, (703) 305–7390, e-mail address: *nollen.laura@epa.gov*.

5. *PPs 9F7553 and 9F7555*. (EPA–HQ–OPP–2007–0099). Nichino America, Inc., 4550 New Linden Hill Road, Suite 501, Wilmington, DE 19808, proposes to establish tolerances in 40 CFR part 180 for residues of the insecticide flubendiamide, (N^2-[1,1-dimethyl-2-(methylsulfonyl)ethyl]-3-iodo- N^1-[2-methyl-4-[1,2,2,2-tetrafluoro-1-(trifluoromethyl)ethyl]phenyl-1,2-benzenedicarboxamide, in or on vegetable, legume, edible podded, subgroup 6A at 0.5 ppm; pea and bean, succulent shelled, subgroup 6B at 0.04 ppm; pea and bean, dried shelled, except soybean, subgroup 6C at 0.8 ppm; vegetable, foliage of legume, except soybean, subgroup 7A at 35 ppm; soybeans, aspirated grain fractions at 91 ppm; soybean, forage at 18 ppm; soybean, hay at 60 ppm; and soybean, hulls at 0.7 ppm (*9F7553*); and rice, straw as a rotational crop at 0.07 ppm (*9F7555*). Independently validated, analytical methods for crop matrices have been submitted for measuring flubendiamide. Typically, plant matrices samples are extracted, concentrated, and quantified by liquid chromatography/mass spectrometry/mass spectrometry (LC/MS/MS) using deuterated internal standards. Contact: Carmen Rodia, (703) 306–0327, e-mail address: *rodia.carmen@epa.gov*.

6. *PP 9F7655*. (EPA–HQ–OPP–2010–0031). Bayer CropScience, 2 T. W. Alexander Drive, Research Triangle Park, NC 27709, proposes to establish tolerances in 40 CFR part 180 for residues of the herbicide glufosinate ammonium and its metabolites expressed as butanoic acid, 2-amino-4-(hydroxymethylphosphinyl)-, monoammonium salt, 2-acetamido-4-methylphosphinico-butanoic acid (Hoe 099730 or N-Acetyl Glufosinate) and 3-methylphosphinico-propionic acid (Hoe 061517 or MPP) expressed as glufosinate free acid equivalents, in or on citrus fruit, crop group 10 (including varieties and/or hybrids) and all associated processed fractions at 0.05 ppm; pome fruits, crop group 11 and all associated processed fractions at 0.10 ppm; stone fruit, crop group 12 at 0.10 ppm; dried plums (dried prunes) at 0.2 ppm; and olives and the processed fraction olive oil at 0.05 ppm. The enforcement analytical method utilizes gas chromatography for detecting and measuring levels of glufosinate-ammonium and metabolites with a general limit of quantification of 0.05 ppm. This method allows detection of residues at or above the proposed tolerances. Contact: James Stone, (703) 305–7391, e-mail address: *stone.james@epa.gov*.

7. *PP 9F7667*. (EPA–HQ–OPP–2010–0122). Syngenta Crop Protection, Inc., PO Box 18300, Greensboro, NC 27419–8300, proposes to establish a tolerance in 40 CFR part 180 for residues of the herbicide sodium salt of fomesafen, 5-[2-cloro-4-(trifluoromethyl)phenoxy]-N-(methylsulfonyl)-2-nitrobenzamide, in or on peppers at 0.025 ppm. An

analytical method using chemical derivatization followed by gas chromatography with nitrogen-phosphorus detection (GC-NPD) has been developed and validated for residues of fomesafen in snap/dry beans, cotton seed and cotton gin byproducts, as well as for other crops. The LOQ is 0.025 ppm. Contact: Michael Walsh, (703) 308–2972, e-mail address: *walsh.michael@epa.gov*.

Amended Tolerance

PP 9E7659. (EPA–HQ–OPP–2009–1009). The Interregional Research Project No. 4 (IR-4), 500 College Road East, Suite 201W, Princeton, NJ 08540, proposes to amend the tolerances in 40 CFR 180.434 by increasing the tolerances for the combined residues of the fungicide propiconazole, (1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl] methyl]-1H-1,2,4-triazole) and its metabolites determined as 2,4-dichlorobenzoic acid and expressed as parent compound, in or on peppermint, tops and spearmint, tops from 3.5 ppm to 10 ppm; and by removing the tolerances for berry group 13 at 1.0 ppm; onion, bulb at 0.2 ppm; onion, green at 9.0 ppm and strawberry at 1.3 ppm. Analytical methods AG-626 and AG-454A were developed for the determination of residues of propiconazole and its metabolites containing the DCBA moiety. Analytical method AG-626 has been accepted and published by EPA as the tolerance enforcement method for crops. The limit of quantitation (LOQ) for the method is 0.05 ppm. Contact: Andrew Ertman, (703) 308–9367, e-mail address: *ertman.andrew@epa.gov*.

New Tolerance Exemptions

1. *PP 9E7631*. (EPA–HQ–OPP–2009–0098). Joint Inerts Task Force, Cluster Support Team 14, EPA Company Number 84946, c/o CropLife America, 1156 15th St., NW., Suite 400, Washington, DC 20005, proposes to establish an exemption from the requirement of a tolerance for residues of sodium and potassium salts of N-alkyl (C_8-C_{18})-β-iminodipropionic acid (SSNA) under 40 CFR 180.910 and 180.930 when used as inert ingredients in pesticide formulations, limited to a maximum of 30% by weight in end-use products for the following sodium and potassium salts of N-alkyl (C_8-C_{18})-beta-iminodipropionic acid where the C_8-C_{18} is linear and may be saturated and/or unsaturated: β-alanine, N-(2-carboxyethyl-N-octadecyl-, dipotassium salt (110676–19–2); β-alanine, N-(2-carboxyethyl)-N-dodecyl-disodium salt (3655–00–3); β-alanine, N-(2-carboxyethyl)-N-tallow alkyl derivatives-, disodium salts (61791–56–8); β-alanine, N-(2-carboxyethyl)-N-dodecyl-, monosodium salts (14960–06–6); β-alanine, N-(2-carboxyethyl)-N-dodecyl-, disodium salt (26256–79–1); β-alanine, N-(2-carboxyethyl)-N-coco alkyl derivatives, disodium salts (90170–43–7); β-alanine, N-(2-carboxyethyl)-N-(C_8-C_{18} and C_{18} unsaturated alkyl) derivatives, disodium salt (91696–17–2); β-alanine, N-(2-carboxyethyl)-N-(C_{14}-C_{18} and C_{18} unsaturated alkyl) derivatives, disodium salt (97862–48–1). The petitioner believes no analytical method is needed because requirements for an analytical method are not applicable to a request to establish an exemption from the requirement of a tolerance. Contact: Karen Samek, (703) 347–8825, e-mail address: *samek.karen@epa.gov*.

2. *PP 9E7636*. (EPA–HQ–OPP–2009–0098). Joint Inerts Task Force, Cluster Support Team 14, EPA Company Number 84946, c/o CropLife America, 1156 15th St., NW., Suite 400, Washington, DC 20005, proposes to establish an exemption from the requirement of a tolerance for residues of sodium and potassium salts of N-alkyl (C_8-C_{18})-β-iminodipropionic acid (SSNA) under 40 CFR 180.940 when used as inert ingredients in pesticide formulations, limited to a maximum of 30% by weight in end-use products for the following sodium and potassium salts of N-alkyl (C_8-C_{18})-β-iminodipropionic acid where the C_8-C_{18} is linear and may be saturated and/or unsaturated: β-alanine, N-(2-carboxyethyl-N-octadecyl-, dipotassium salt (110676–19–2); β-alanine, N-(2-carboxyethyl)-N-dodecyl-disodium salt (3655–00–3); β-alanine, N-(2-carboxyethyl)-N-tallow alkyl derivatives-, disodium salts (61791–56–8); β-alanine, N-(2-carboxyethyl)-N-dodecyl-, monosodium salts (14960–06–6); β-alanine, N-(2-carboxyethyl)-N-dodecyl-, disodium salt (26256–79–1); β-alanine, N-(2-carboxyethyl)-N-coco alkyl derivatives, disodium salts (90170–43–7); β-alanine, N-(2-carboxyethyl)-N-(C_8-C_{18} and C_{18} unsaturated alkyl) derivatives, disodium salt (91696–17–2); β-alanine, N-(2-carboxyethyl)-N-(C_{14}-C_{18} and C_{18} unsaturated alkyl) derivatives, disodium salt (97862–48–1). The petitioner believes no analytical method is needed because requirements for an analytical method are not applicable to a request to establish an exemption from the requirement of a tolerance. Contact: Karen Samek, (703) 347–8825, e-mail address: *samek.karen@epa.gov*.

3. *PP 9E7649*. (EPA–HQ–OPP–2010–0033). BASF Corporation, 100 Campus Drive, Florham Park, NJ 07932, proposes to establish an exemption from the requirement of a tolerance for residues of 2-Propenoic acid, polymer with 1,3-butadiene and ethenylbenzene (CAS No. 25085–39–6) under 40 CFR 180.960 when used as a pesticide inert ingredient as a surfactant in pesticide formulations without limits. The petitioner believes no analytical method is needed because requirements for an analytical method are not applicable to a request to establish an exemption from the requirement of a tolerance. Contact: Elizabeth Fertich, (703) 347–8560, e-mail address: *fertich.elizabeth@epa.gov*.

4. *PP 9E7647*. (EPA–HQ–OPP–2008–0739). Joint Inerts Task Force, Cluster Support Team 13, EPA Company Number 84949, c/o CropLife America, 1156 15th St., NW, Suite 400, Washington, DC 20005, proposes to establish an exemption from the requirement of a tolerance for residues of Sodium 1,4-dialkyl sulfosuccinates (SDSS) inert ingredients under 40 CFR 180.910 and 180.930 when used as a pesticide inert ingredient in pesticide formulations, including: Sodium 1,4-dihexyl sulfosuccinate (Butanedioic acid, sulfo, 1,4-bis dihexyl ester sodium salt) (3006–15–3); Sodium 1,4-diisobutyl sulfosuccinate (Butanedioic acid, sulfo, 1,4-bis diisobutyl ester, sodium salt) (127–39–9); Sodium 1,4-dipentyl sulfosuccinate (Butanedioic acid, sulfo, 1,4-bis dipentyl ester sodium salt) (922–80–5). The petitioner believes no analytical method is needed because requirements for an analytical method are not applicable to a request to establish an exemption from the requirement of a tolerance. Contact: Karen Samek, (703) 347–8825, e-mail address: *samek.karen@epa.gov*.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 10, 2010.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2010–6074 Filed 3–18–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0201; FRL–8815–2]

Fipronil; Receipt of Application for Emergency Exemption, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Oregon Department of Agriculture to use the pesticide fipronil (CAS No. 120068–37–3) to treat up to 600 acres of rutabagas and turnips to control the cabbage maggot.

The applicant proposes a use which is supported by the Interregional (IR)–4 program and has been requested in 5 or more previous years, and a petition for tolerance has not yet been submitted to the Agency. EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before April 5, 2010.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2010–0201, by one of the following methods:

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

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

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

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2010–0201. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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

FOR FURTHER INFORMATION CONTACT: Andrea Conrath, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9356; fax number: (703) 605–0781; e-mail address: *conrath.andrea@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

• Crop production (NAICS code 111).

• Animal production (NAICS code 112).

• Food manufacturing (NAICS code 311).

• Pesticide manufacturing (NAICS code 32532).

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

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through www.regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

3. *Environmental justice*. EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide(s) discussed in this document, compared to the general population.

II. What Action is the Agency Taking?

Under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), at the discretion of the Administrator, a Federal or State agency may be exempted from any provision of FIFRA if the Administrator determines that emergency conditions exist which require the exemption. The Oregon Department of Agriculture has requested the Administrator to issue a specific exemption for the use of fipronil on rutabagas and turnips to control the cabbage maggot. Information in accordance with 40 CFR part 166 was submitted as part of this request.

As part of this request, the applicant asserts that an emergency situation exists based upon three factors:

1. A severe increase in cabbage maggot populations;
2. Apparent increasing resistance of the maggot to the registered alternative;
3. Phytotoxicity of the registered alternative to emerging seedlings.

The applicant states that significant economic losses will be suffered without adequate control of the cabbage maggot in turnip and rutabaga production. The applicant indicates that fipronil has been shown to provide excellent crop safety, and overall provides better control than the registered alternative.

The Applicant proposes to make no more than one application at 4.16 fluid oz. of product per acre, to a maximum of 600 acres of rutabagas and turnips, for use of up to a potential maximum of 19.5 gallons of product. Applications would potentially be made from April 1 through September 30, 2010, in the Oregon counties of Clackimas, Marion, Multnomah, and Umatilla.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 of FIFRA require publication of a notice of receipt of an application for a specific exemption proposing a use which is supported by the IR-4 program and has been requested in 5 or more previous years, and a petition for tolerance has not yet been submitted to the Agency. The notice provides an opportunity for public comment on the application.

The Agency, will review and consider all comments received during the comment period in determining whether to issue the specific exemption requested by the Oregon Department of Agriculture.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: March 12, 2010.

Daniel J. Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2010–6225 Filed 3–19–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0008; FRL–8812–9]

Pesticide Products; Registration Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register new uses for pesticide products containing currently registered active ingredients, pursuant to the provisions of section 3(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. EPA is publishing this Notice of such applications, pursuant to section 3(c)(4) of FIFRA.

DATES: Comments must be received on or before April 19, 2010.

ADDRESSES: Submit your comments, identified by the docket identification (ID) number specified within the table below, by one of the following methods:

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

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

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

Instructions: Direct your comments to the docket ID number specified for the pesticide of interest as shown in the registration application summaries. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the

electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: A contact person is listed at the end of each registration application summary and may be contacted by telephone or e-mail. The mailing address for each contact person listed is: Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number). If you are commenting in a docket that addresses multiple products, please indicate to which registration number(s) your comment applies.

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Registration Applications

EPA received applications as follows to register pesticide products containing currently registered active ingredients pursuant to the provisions of section 3(c) of FIFRA, and is publishing this Notice of such applications pursuant to section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

1. *Registration Numbers*: 100–739, 100–1262, 100–1278, 100–1312, 100–1313, 100–1317, *Docket Number*: EPA–HQ–OPP–2009–0162. *Company name and address*: Syngenta Crop Protection, Inc., P.O. Box 18300, Greensboro, NC 27419. *Active ingredient*: Difenoconazole. *Proposed Uses*: Bulb vegetables, brassica (cole) leafy vegetables, cucurbit vegetables, citrus fruits, grapes, tree nuts, pistachios *Contact*: Rose Mary Kearns, (703) 305–5611, *kearns.rosemary@epa.gov*.

2. *Registration Numbers/File Symbol*: 100–936, 100–941, 100–RGAL, *Docket Number*: EPA–HQ–OPP–2010–0041. *Company name and address*: Syngenta Crop Protection, Inc., P.O. Box 18300, Greensboro, NC 27419. *Active ingredient*: Thiamethoxam. *Proposed Use*: Peanut seed treatment. *Contact*: Julie Chao, (703) 308–8735, *chao.julie@epa.gov*.

3. *Registration Numbers*: 100–1061, 100–1062. *Docket Number*: EPA–HQ–OPP–2009–0920. *Company name and address*: Syngenta Crop Protection, Inc., P.O. Box 18300, Greensboro, NC 27419. *Active ingredient*: Diquat Dibromide. *Proposed Use*: Preharvest (desiccation broadcast) application to Canola. *Contact*: Bethany Benbow, (703) 347–8072, *benbow.bethany@epa.gov*.

4. *Registration Numbers*: 264–645, 264–646, 264–829. *Docket Number*: EPA–HQ–OPP–2010–0031. *Company name and address*: Bayer CropScience, P.O. Box 12014, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709. *Active ingredient*: Glufosinate-ammonium. *Proposed Uses*: Citrus: lemon, orange, grapefruit, lime, mandarin, tangerine, tangelo, calamondin, kumquat, and pummelo; olives; pome fruits: Apple, Pear, Crabapple, Loquat, Mayhaw, and Quince; and Stone Fruit: Apricot, Cherry, Peach, Nectarine, and Plum. *Contact*: James M. Stone, (703) 305–7391, *stone.james@epa.gov*.

5. *Registration Numbers*: 264–718, 264–719, 264–850. *Docket Number*: EPA–HQ–OPP–2008–0262. *Company name and address*: Bayer CropScience, P.O. Box 12014, 2T.W. Alexander Drive, Research Triangle Park, NC 27709. *Active ingredient*: Spiromesifen. *Proposed Uses*: Cardoon, celery, Chinese celery, celtuce, Florence fennel, rhubarb, Swiss chard (crop subgroup 4B). *Contact*: Jennifer Gaines (703) 305–5967, *gaines.jennifer@epa.gov*.

6. *Registration Numbers*: 264–830, 264–831. *Docket Number*: EPA–HQ–OPP–2009–0861. *Company name and address*: Bayer CropScience, P.O. Box 12014, 2T.W. Alexander Drive, Research Triangle Park, NC 27709. *Active ingredient*: Spirodiclofen. *Proposed Use*: Aronia berry, highbush blueberry, lowbush blueberry, buffalo currant, Chilean guava, black currant, red currant, elderberry, European barberry, highbush cranberry, edible honeysuckle, huckleberry, jostaberry, juneberry, lingonberry, native currant, salai, and sea buckhorn (crop subgroup 13-07B). *Contact*: Rita Kumar, (703) 308–8291, *kumar.rita@epa.gov*.

7. *Registration Number*: 264–1025. *Docket Number*: EPA–HQ–OPP–2007–0099. *Company name and address*:

Bayer CropScience, P.O. Box 12014, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709. *Active ingredient*: Flubendiamide. *Proposed Use*: Christmas trees. *Contact*: Carmen Rodia, (703) 306–0327, *rodia.carmen@epa.gov*.

8. *Registration Numbers*: 400–480, 400–503. *Docket Number*: EPA–HQ–OPP–2009–0890. *Company name and address*: Chemtura Corporation, 199 Benning Road, Middlebury, CT 06749. *Active ingredient*: Bifenazate. *Proposed Uses*: Sugar apple, cherimoya, atemoya, custard apple, ilama, soursop, biriba, avocado, small vine climbing fruits except fuzzy kiwifruit (crop subgroup 13-07F), low growing berries (crop subgroup 13-07G). *Contact*: Jennifer Gaines, (703) 305–5967, *gaines.jennifer@epa.gov*.

9. *Registration Numbers*: 524–537, 524–549. *Docket Number*: EPA–HQ–OPP–2009–0988. *Company name and address*: Monsanto Company, 1300 I St., NW., Suite 450 East, Washington, DC 20005. *Active ingredient*: Glyphosate. *Proposed Use*: Roundup ready sweet corn. *Contact*: Erik Kraft, (703) 308–9358, *kraft.erik@epa.gov*.

10. *Registration Numbers*: 10163–264, 10163–265. *Docket Number*: EPA–HQ–OPP–2008–0886. *Company name and address*: Gowan Company, P.O. Box 5569, Yuma, AZ 85366. *Active ingredient*: Formetanate Hydrochloride. *Proposed Use*: Bulb onion sub group 3-07 A. *Contact*: Autumn Metzger, (703) 305–5314, *metzger.autumn@epa.gov*.

11. *Registration Numbers*: 66330–39, 66330–38. *Docket Number*: EPA–HQ–OPP–2009–0812. *Company name and address*: Arysta LifeScience, North Americal LLC, 15401 Weston Parkway, Suite 150, Cary, NC 27513. *Active ingredient*: Acequinocyl. *Proposed Uses*: Field and greenhouse grown fruiting vegetables (except cucurbits) eggplant, ground cherry (physalis spp.), pepino, pepper (includes bell pepper, chili pepper, cooking pepper, pimento, sweet pepper), tomatillo, tomato, okra, edible podded beans, hops. *Contact*: Autumn Metzger, (703) 305–5314, *metzger.autumn@epa.gov*.

12. *File Symbols*: 70585–O, 70585–RN. *Docket Number*: EPA–HQ–OPP–2010–0042. Company name and address: Novartis Animal Health US, Inc. 3200 Northline Avenue, Greensboro, NC 27408. *Active ingredient*: Thiamethoxam, (Z)-9-tricosene. *Proposed Use*: Fly control bait. *Contact*: Julie Chao, (703) 308–8735, *chao.julie@epa.gov*.

13. *Registration Numbers*: 71512–2, 71512–3. *Docket Number*: EPA–HQ–OPP–2009–0801. *Company name and address*: ISK Biosciences Corporation, 7470 Auburn Road, Suite A, Concord, OH 44077. *Active ingredient*: Cyazofamid. *Proposed Uses*: *Brassica* Head and Stem Subgroup 5A, *Brassica* Leafy Greens Subgroup 5B, Turnip Greens, Spinach and Hops. *Contact*: Janet Whitehurst, (703) 305–6129, *whitehurst.janet.@epa.gov*.

14. *Registration Number/File Symbol*: 71512–11, 71512–RI. *Docket Number*: EPA–HQ–OPP–2010–0043. *Company name and address*: ISK Biosciences Corporation, 7470 Auburn Road, Suite A, Concord, OH 44077. *Active ingredient*: Flazasulfuron. *Proposed Uses*: Grape, citrus, sugarcane, Christmas trees, and industrial vegetation management. *Contact*: Hope Johnson, (703) 305–5410, *johnson.hope@epa.gov*.

15. *File Symbol*: 87243–R. *Docket Number*: EPA–HQ–OPP–2010–0051. *Company name and address*: Arysta Lifescience America, Inc.; 1450 Broadway, 7th Floor; New York, NY 10018. *Active ingredient*: Amitraz. *Proposed Use*: Insecticidal strip for use in bee hives to control mites (varroatosis) on honeybees. *Contact*: *Julie Chao, (703) 308–8735, chao.julie@epa.gov*.

List of Subjects

Environmental protection, Pesticides and pest.

Dated: March 5, 2010.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2010–5958 Filed 3–18–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0245; FRL–8817–2]

Pesticide Program Dialogue Committee; Request for Nominations to the Pesticide Program Dialogue Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act, EPA's Office of Pesticide Programs is inviting nominations of qualified candidates to be considered for appointment to the Pesticide Program Dialogue Committee (PPDC). EPA values and welcomes diversity. In an effort to obtain nominations of diverse candidates, EPA encourages nominations of women and men of all racial and ethnic groups. Vacancies are expected to be filled by late spring 2010. Additional sources may be utilized in the solicitation of nominees.

DATES: Nominations must be e-mailed or postmarked no later than April 20, 2010.

ADDRESSES: Nominations should be e-mailed or submitted in writing to Margie Fehrenbach at the address listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Margie Fehrenbach, Office of Pesticide Programs (7501P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–4775; fax number: (703) 308–4776; e-mail address: *fehrenbach.margie@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of particular interest to persons who work in agricultural settings or persons who are concerned about implementation of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); the Federal Food, Drug, and Cosmetic Act (FFDCA); and the amendments to both of these major pesticide laws by the Food Quality Protection Act (FQPA) of 1996; and the Pesticide Registration Improvement Act (PRIA). Potentially affected entities may include, but are not limited to: Agricultural workers and farmers; pesticide industry and trade associations; environmental, consumer, and farmworker groups; pesticide users and growers; pest consultants; State, local, and Tribal governments; academia; public health organizations; food processors; and the public. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2010–0245. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory

Public Docket in Rm. S–4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr*.

II. Background

EPA's Office of Pesticide Programs (OPP) is entrusted with the responsibility to help ensure the safety of the American food supply, the education and protection from unreasonable risk of those who apply or are exposed to pesticides occupationally or through use of products, and general protection of the environment and special ecosystems from potential risks posed by pesticides.

The Charter for EPA's PPDC was established under the Federal Advisory Committee Act (FACA), Public Law 92–463, in September 1995, and has been renewed every 2 years since that time. PPDC's Charter was renewed October 30, 2009, for another 2–year period. The purpose of PPDC is to provide advice and recommendations to the EPA Administrator on issues associated with pesticide regulatory development and reform initiatives, evolving public policy and program implementation issues, and science issues associated with evaluating and reducing risks from use of pesticides. It is determined that PPDC is in the public interest in connection with the performance of duties imposed on the Agency by law. The following sectors are represented on the current PPDC: Environmental/public interest and animal rights groups; farm worker organizations; pesticide industry and trade associations; pesticide user, grower, and commodity groups; Federal and State/local/Tribal governments; the general public; academia; and public health organizations.

Copies of the PPDC Charter are filed with appropriate committees of Congress and the Library of Congress and are available upon request.

Potential candidates should submit the following information: Name; occupation; organization; position; address; telephone number; e-mail address; and a brief resume containing their background, experience, qualifications, and other relevant information as part of the consideration process. Any interested person and/or organization may submit the name(s) of qualified persons. Please submit your information by e-mail or in writing to Margie Fehrenbach at the address listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection, Agricultural workers, Agriculture, Chemicals, Endangered species, Foods, Pesticide labels, Pesticides and pests, Public health, Spray drift.

Dated: March 12, 2010.

Steven Bradbury,

Acting Director, Office of Pesticide Programs.

[FR Doc. 2010–6076 Filed 3–18–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0194; FRL–8814–9]

Centers for Disease Control and Prevention; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that pesticide related information submitted to EPA's Office of Pesticide Programs (OPP) pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), including information that may have been claimed as Confidential Business Information (CBI) by the submitter, will be transferred to the Centers for Disease Control and Prevention in accordance with 40 CFR 2.309(c) and 2.308(h)(2). The Centers for Disease Control and Prevention will perform work for OPP under an Interagency Agreement (IAG). Access to this information will enable Centers for Disease Control and Prevention to fulfill the obligations of the IAG.

DATES: The Centers for Disease Control and Prevention will be given access to this information on or before March 29, 2010.

FOR FURTHER INFORMATION CONTACT: Felicia Croom, Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305-0786; e-mail address: *croom.felicia@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action applies to the public in general. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2010–0194. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

II. Contractor Requirements

Under this IAG, which supports the OPP's regulatory efforts, the Centers for Disease Control and Prevention will support ongoing effort to coordinate and understand efficacy determinations for products used to control Pests of Public Health Significance (as specified in PR Notice 2002–1 at: *http://www.epa.gov/opppmsd1/PR_Notices/pr 2002–1*).

The OPP has determined that the IAG involves work that is being conducted in connection with FIFRA, in that pesticide chemicals will be the subject of certain evaluations to be made under this IAG. These evaluations may be used in subsequent regulatory decisions under FIFRA.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of FFDCA.

In accordance with the requirements of 40 CFR 2.309(c), 2.307(h), and 2.308(h)(2), this IAG with the Centers for Disease Control and Prevention, prohibits use of the information for any purpose not specified in the IAG; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the subcontractor sign an agreement to protect the information from

unauthorized release and to handle it in accordance with the *FIFRA Information Security Manual*. In addition, the Centers for Disease Control and Prevention are required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to the Centers for Disease Control and Prevention until the requirements in this document have been fully satisfied. Records of information provided under this IAG will be maintained by EPA Project Officers for this contract. All information supplied to the Centers for Disease Control and Prevention by EPA for use in connection with this IAG will be returned to EPA when the Centers for Disease Control and Prevention have completed their work.

List of Subjects

Environmental protection, Business and industry, Government contracts, Government property, Security measures.

Dated: March 3, 2010.

Oscar Morales,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2010–5968 Filed 3–18–10; 8:45 a.m.]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection Being Reviewed by the Federal Communications Commission For Extension Under Delegated Authority, Comments Requested

March 12, 2010.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. Comments are requested concerning: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information collection burden for small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a currently valid OMB control number.

DATES: Persons wishing to comments on this information collection should submit comments on or before May 18, 2010. 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, Federal Communications Commission (FCC). To submit your PRA 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 web page: http://www.reginfo.gov/public/do/PRAMain, (2) look for the section of the web page called "Currently Under Review", (3) click on the downward–pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, and (6) when the FCC list appears, look for the title of this ICR (or its OMB Control Number, if there is one) and then click on the ICR.

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, (202) 418–0214. For additional information about the information collection(s) send an e–mail to PRA@fcc.gov or contact Judith B. Herman, 202–418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control No: 3060–0281.

Title: Section 90.651, Supplemental Reports Required of Licensees Authorized Under This Subpart.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for–profit, not–for–profit institutions, and state, local or tribal government.

Number of Respondents: 3,941 respondents; 3,941 responses.

Estimated Time Per Response: .166 hours (10 minutes).

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 154(i), 161, 303(g), 303(r), and 332(c)(7).

Total Annual Burden: 654 hours.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: No questions of a confidential nature are asked.

Needs and Uses: In 1999, the Commission adopted a Report and Order which adopted a revised timeframe for reporting the number of mobile units placed in operation from eight months to 12 months of the grant date of their license. The radio facilities addressed in this subpart of the rules are allocated on and governed by regulations designed to award facilities on a need basis determined by the number of mobile units served by each base station. This is necessary to avoid frequency hoarding by applicants. The rule section requires licensees to report the number of mobile units on FCC Form 601.

Commission licensing personnel use the information to maintain an accurate database of frequency users. The Commission and the public use the database information in spectrum planning, interference resolution and licensing activities.

Federal Communications Commission.

Marlene H. Dortch,

Secretary,

Office of the Secretary,

Office of Managing Director.

[FR Doc. 2010–6016 Filed 3–18–10; 8:45 am]

BILLING CODE 6712–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 15, 2010.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Minier Financial, Inc., Employee Stock Ownership Plan with 401(k) Provisions, Minier, Illinois; to acquire an additional 6 percent of, for a total of 35 percent of the voting shares of Minier Financial, Inc., and thereby indirectly acquire additional voting shares of First Farmers State Bank, both of Minier, Illinois.

B. Federal Reserve Bank of San Francisco (Kenneth Binning, Vice President, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. Anchor Bancorp, Inc., Lacey, Washington; to become a bank holding company by acquiring 100 percent of the voting shares of Anchor Mutual Savings Bank, Aberdeen, Washington, upon conversion from a mutual savings bank to a stock savings bank.

Board of Governors of the Federal Reserve System, March 16, 2010.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2010–6040 Filed 3–18–10; 8:45 am]

BILLING CODE 6210–01–S

OFFICE OF GOVERNMENT ETHICS

Proposed Collection; Comment Request for an Unmodified SF 278 Executive Branch Personnel Public Financial Disclosure Report

AGENCY: Office of Government Ethics (OGE).

ACTION: Notice of request for agency and public comments.

SUMMARY: OGE intends to submit an unmodified SF 278 Executive Branch Personnel Public Financial Disclosure Report to the Office of Management and Budget (OMB) for review and approval of a three-year extension under the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35).

DATES: Written comments by the public and the agencies on this proposed extension are invited and must be received by May 18, 2010.

ADDRESSES: You may submit comments to OGE on this paperwork notice by any of the following methods:

E-mail: usoge@oge.gov (Include reference to "SF 278 paperwork comment" in the subject line of the message).

FAX: 202–482–9237.

Mail, Hand Delivery/Courier: Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005–3917, *Attention:* Paul D. Ledvina, Records Officer.

FOR FURTHER INFORMATION CONTACT: Mr. Ledvina at the Office of Government Ethics; *telephone:* 202–482–9247; *TTY:* 800–877–8339; *FAX:* 202–482–9237; *E-mail: paul.ledvina@oge.gov.* An electronic copy of the SF 278 is available in the Forms Library section of OGE's Web site at *http://www.usoge.gov.* A paper copy may also be obtained, without charge, by contacting Mr. Ledvina.

SUPPLEMENTARY INFORMATION:

Title: Executive Branch Personnel Public Financial Disclosure Report.

Form Number: SF 278.

OMB Control Number: 3209–0001.

Type of Information Collection: Extension without change of a currently approved collection.

Type of Review Request: Regular.

Respondents: Private citizen Presidential nominees to executive branch positions subject to Senate confirmation; other private citizens who are potential (incoming) Federal employees whose positions are designated for public disclosure filing; those who file termination reports from such positions after their Government service ends; and Presidential and Vice-Presidential candidates.

Estimated Annual Number of Respondents: 1,300.

Estimated Time per Response: 3 hours.

Estimated Total Annual Burden: 3,900 hours.

Abstract: The SF 278 collects information from certain officers and high-level employees in the executive branch for conflicts of interest review and public disclosure. The form is also completed by individuals who are nominated by the President for high-level executive branch positions requiring Senate confirmation and new entrants to other public reporting positions in the executive branch. The financial information collected relates to: assets and income; transactions; gifts, reimbursements and travel expenses; liabilities; agreements or arrangements; outside positions; and compensation over $5,000 paid by a source—all subject to various reporting thresholds and exclusions. The information is collected in accordance with section 102 of the Ethics Act, 5 U.S.C. app. section 102, and OGE's implementing financial disclosure regulations at 5 CFR part 2634.

Request for Comments: Public comment is invited specifically on the need for and practical utility of this information collection, the accuracy of OGE's burden estimate, the enhancement of quality, utility and clarity of the information collected, and the minimization of burden (including the use of information technology). Comments received in response to this notice will be summarized for, and may be included with, the OGE request for extension of OMB paperwork approval. The comments will also become a matter of public record.

Approved: March 12, 2010.

Robert I. Cusick,

Director, Office of Government Ethics.

[FR Doc. 2010–6100 Filed 3–18–10; 8:45 am]

BILLING CODE 6345–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier OS–0990–New]

Agency Information Collection Request: 60-Day Public Comment Request

AGENCY: Office of the Secretary.

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: Whistleblowers Study—OMB No. 0990—New—Office of Research Integrity (ORI).

Abstract: The Office of Research Integrity (ORI) proposes to do a study to determine what questions whistleblowers want answered from Research Integrity Officers (RIOs) when deciding to file an allegation of research misconduct.

To guide RIOs to be well-prepared to provide answers to the kinds of questions that complainants (whistleblowers) and potential complainants ask RIOs at different stages of the research misconduct allegation resolution process is critical to the smooth and effective conduct of that process. Complainants and potential complainants need to know what is in store for them during the process employed by the institution to resolve allegations of research misconduct. They need to know the steps involved in the process, the support available to them, and the safeguards afforded them against retaliation. This study will seek to obtain information from RIOs concerning the questions complainants have and when they arise, as well as what responses RIOs provide when they do.

ESTIMATED ANNUALIZED BURDEN TABLE

Forms	Type of respondent	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Interview About Questions Asked By Complainants and Potential Complainants.	Research Integrity Officers (RIOs) from Institutions with Research Misconduct Allegation or Investigation in Past 5 Years.	100	1	45/60	75
Total					75

Seleda Perryman,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. 2010–6018 Filed 3–18–10; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier OS–0990–; 30-Day Notice]

Agency Information Collection Request; 30-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 collection 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) 690–5683. Send written comments and recommendations for the proposed information collections within 30 days of this notice directly to the OS OMB Desk Officer; faxed to OMB at 202–395–5806.

Proposed Project: Attitudes Toward Electronic Health Information Exchange and Associated Privacy and Security Aspects—OMB No. 0990–NEW–Office of the National Coordinator for Health Information Technology.

Abstract: Electronic health information exchange promises an array of potential benefits for individuals and the U.S. health care system through improved health care quality, safety, and efficiency. At the same time, this environment also poses new challenges and opportunities for protecting health information. Health information technology and electronic health information exchange may also provide individuals with new, more effective methods to engage with their health care providers and affect how their health information may be exchanged. Based on findings from a comprehensive literature review, little is known about individuals' attitudes toward electronic health information exchange and the extent to which they are interested in determining by whom and how their health information is exchanged. The proposed information collection will permit us to better understand individuals' attitudes toward electronic health information exchange and its associated privacy and security aspects as well as inform policy and programmatic objectives.

The Office of the National Coordinator for Health Information Technology (ONC) is proposing to conduct a nationwide survey which will use computer-assisted telephone interviews (CATI) to interview a representative sample of the general U.S. population. Data collection will take place over the course of eight weeks. The data will be analyzed using statistical methods and a draft report will be prepared. ONC will hold a Web seminar prior to the publication of the final report to convey the findings to the general public. A final report will be

posted on *http://healthit.hhs.gov* which will include the results and analysis.

ESTIMATED ANNUALIZED BURDEN TABLE

Type of respondent	Number of responses	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Non-Participating Household (Screened)	22,845	1	2/60	761
Eligible Household (Completes Survey)	2,570	1	20/60	857
Total				1618

Seleda Perryman,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. 2010–6020 Filed 3–18–10; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier OS–0990–New]

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: Communities Putting Prevention to Work Cost Study Instrument—OMB No. 0990–NEW–Office of the Assistant Secretary for Planning and Evaluation.

Abstract: The American Recovery and Reinvestment Act of 2009 was signed into law on February 17, 2009, Public Law 11.5 ("Recovery Act"). Communities Putting Prevention to Work (CPPW) is a $650 million program funded by the Recovery Act. The purpose of the proposed data collection is to collect quarterly cost information from all community-level CPPW awardees'. This will allow HHS to receive reports on direct awardees costs associated with carrying out the selected evidence-based strategies that are required by the Funding Opportunity Announcement (FOA) and Notice of Grant Award (NGA). This requirement is in addition to the financial reporting requirements of Section 512 of the Recovery Act, set forth by the Office of Management and Budget (OMB) under the data collection instrument titled "Standard Data Elements for Reports Under Section 1512 of the American Recovery and Reinvestment Act of 2009, Public Law 111–5 (Grants, Cooperative Agreements, and Loans)."

The activity-based cost data submitted by the 35–45 grantees will provide the basis for HHS to assess the costs of the various program strategies, identify factors that impact average cost, and perform cost-effectiveness analysis of the program. Performing an assessment of the resources expended on each CPPW intervention will provide valuable information to HHS and other agencies within the Department for improving program efficiency within the various strategies of the program. There are no costs to respondents except their time to participate in the survey.

ESTIMATED ANNUALIZED BURDEN TABLE

Forms	Type of respondent	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
CPPW Cost Study Tool	Program Director	45	4	3	540
CPPW Cost Study Tool	Business Manager	45	4	3	540
CPPW Cost Study Tool	Data Manager	45	4	5	900
Total					1980

Seleda Perryman,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. 2010–6025 Filed 3–18–10; 8:45 am]

BILLING CODE 4150–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, e-mail *paperwork@hrsa.gov* or call the HRSA Reports Clearance Officer at (301) 443–1129.

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

Proposed Project: National Practitioner Data Bank for Adverse Information on Physicians and Other Health Care Practitioners—45 CFR Part 60 Regulations and Forms (OMB No. 0915–0126)—Extension

The National Practitioner Data Bank (NPDB) was established through Title IV of Public Law (Pub. L.) 99–660, the Health Care Quality Improvement Act of 1986, as amended. Final regulations governing the NPDB are codified at 45 CFR part 60. Responsibility for NPDB implementation and operation resides in the Bureau of Health Professions, Health Resources and Services Administration, Department of Health and Human Services (HHS). The NPDB began operation on September 1, 1990.

The intent of Title IV of Public Law 99–660 is to improve the quality of health care by encouraging hospitals, State licensing boards, professional societies, and other entities providing health care services, to identify and discipline those who engage in unprofessional behavior; and to restrict the ability of incompetent physicians, dentists, and other health care practitioners to move from State to State without disclosure of the practitioner's previous damaging or incompetent performance.

The NPDB acts primarily as a flagging system; its principal purpose is to facilitate comprehensive review of practitioners' professional credentials and background. Information on medical malpractice payments, adverse licensure actions, adverse clinical privileging actions, adverse professional society actions, and Medicare/Medicaid exclusions is collected from, and disseminated to, eligible entities. It is intended that NPDB information should be considered with other relevant information in evaluating a practitioner's credentials.

The reporting forms and the request for information forms (query forms) are accessed, completed, and submitted to the NPDB electronically through the NPDB Web site at *http://www.npdb-hipdb.hrsa.gov/*. All reporting and querying is performed through this secure Web site. Due to overlap in requirements for the Healthcare Integrity and Protection Data Bank (HIPDB), some of the NPDB's burden has been subsumed under the HIPDB.

Estimates of annualized burden are as follows:

Regulation citation	Number of respondents	Responses per respondent	Total responses	Hours per response (minutes)	Total burden hours	Wage rate	Total cost
60.6(a) Errors & Omissions	315	5	1,260	15	315	$25	$7,875.00
60.6(b) Revisions to Action	109	1	109	30	54.5	25	1,362.50
60.7(b) Medical Malpractice Payment Report	519	29	15,051	45	11,288.25	25	282,206.25
60.8(b) Adverse Action Reports-State Boards	[1] 0	0	0	0	0	0	0
60.11(a)(3) Adverse Action	480	2	960	45	720	25	18,000
60.11(c) Requests for Hearings by Entities	0	0	0	480	0	200	0
60.12(a)(1) & (2) Queries by Hospital	5,996	213	1,277,148	5	106,429	25	2,660,725
60.13(a)(1)(i) Disclosure to Hospitals	[2] 0	0	0	0	0	0	0
60.13(a)(1)(ii) Disclosure to Practitioners (Self Query)	[3] 0	0	0	0	0	0	0
60.13(a)(1)(iii) Disclosure to Licensure Boards	87	645	56,115	5	4,676.25	25	116,906.25
60.13(a)(1)(iv) Queries by Non-Hospital Health Care Entities	7,305	322	2,352,210	5	196,017.5	25	4,900,437.50
60.13(a)(i)(v) Queries by Plaintiffs' Attorneys	5	1	5	30	2.5	200	500.00
60.13(a)(1)(vi) Queries by Non-Hospital Health Care Entities-Peer Review	[4] 0	0	0	0	0	0	0
60.13(a)(i)(vii) Requests by Researchers for Aggregate Data	20	1	20	30	10	38	380.00
60.16(b) Practitioner Places a Report in Disputed Status	404	1	404	15	101	45	4,545.00
60.16(b) Practitioner Statement	1,415	1	1,415	45	1,061.25	100	106,125.00
60.16(b) Practitioner Requests for Secretarial Review	27	1	27	480	216	200	43,200.00
60.3 Entity Registration—Initial	1,447	1	1,447	60	1,447	25	36,175

Regulation citation	Number of respondents	Responses per respondent	Total responses	Hours per response (minutes)	Total burden hours	Wage rate	Total cost
60.3 Entity Registration—Update	13,115	1	13,115	5	1,092.92	25	27,323
60.13(a) Authorized Agent Designation—Initial	717	1	717	15	179.25	25	4,481.25
60.13(a) Authorized Agent—Update	139	1	139	5	11.58	25	289.50
60.14(c) Account Discrepancy Report	5	1	5	15	1.25	25	31.25
60.14(c) Electronic Funds Transfer Authorization	284	1	284	15	71	25	1,775.00
60.3 Entity Reactivation	0	0	0	0	0	0	0
Total	32,389		3,720,431		323,694.25		8,212,337.5

[1] Included in estimate for reporting adverse licensure actions to the HIPDB in 45 CFR Part 61.
[2] Included in estimate for hospital queries under § 60.12(a).
[3] Included in estimate for self queries to the HIPDB in 45 CFR Part 61.
[4] Voluntary queries—not required by law.

E-mail comments to *paperwork@hrsa.gov* or mail the HRSA Reports Clearance Officer, Room 10–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: March 15, 2010.

Sahira Rafiullah,

Director, Division of Policy Review and Coordination.

[FR Doc. 2010–6068 Filed 3–18–10; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: 45 CFR 303.7—Provision of Services in Interstate Child Support Enforcement Cases; Standard Forms.

OMB No.: 0970–0085.

Description: Public Law 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, amended 42 U.S.C. 666 to require State Child Support Enforcement (CSE) agencies to enact the Uniform Interstate Family Support Act (UIFSA) into State law by January 1, 1998. Section 311(b) of UIFSA requires the States to use standard Interstate forms, as mandated by Federal law. 45 CFR 303.7 also requires CSE programs to transmit child support case information on standard interstate forms when referring cases to other States for processing. During the OMB clearance process, we are taking the opportunity to make a minor revision to heading of Transmittals 1, 2, and 3. We have added the option for States to list the name of the country with which the petitioner or respondent is affiliated. The instructions for each of the Transmittal forms have also been updated to reflect this change.

Respondents: State agencies administering the Child Support Enforcement program under title IV–D of the Social Security Act.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Transmittal 1	54	19,278	0.25	260,253
Transmittal 2	54	14,458	0.08	62,458.56
Transmittal 3	54	964	0.08	4,164.48
Uniform Petition	54	9,639	0.08	41,640.48
General Testimony	54	11,567	0.33	206,123.94
Affidavit Paternity	54	4,819	0.17	44,238.42
Locate Data Sheet	54	375	0.08	1,620
Notice of Controlling Order	54	964	0.08	4,164.48
Registration Statement	54	8,675	0.08	37,476

Estimated Total Annual Burden Hours: 662,139.36

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, *Attn:* ACF Reports Clearance Officer. *E-mail address: infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or

other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: March 16, 2010.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2010–6015 Filed 3–18–10; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–P–0412]

Determination That HalfLytely and Bisacodyl Tablets Bowel Prep Kit (Containing 4 Bisacodyl Delayed Release Tablets, 5 Milligrams) Was Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined that HALFLYTELY AND BISACODYL TABLETS BOWEL PREP KIT (polyethylene glycol (PEG) 3350, sodium chloride, sodium bicarbonate, and potassium chloride for oral solution and 4 bisacodyl delayed release tablets, 5 milligrams (mg) (20-mg bisacodyl)) was withdrawn from sale for reasons of safety or effectiveness. The agency will not accept or approve abbreviated new drug applications (ANDAs) for bowel prep kits containing PEG–3350, sodium chloride, sodium bicarbonate, and potassium chloride for oral solution and 4 bisacodyl delayed release tablets, 5 mg.

FOR FURTHER INFORMATION CONTACT: Nikki Mueller, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6312, Silver Spring, MD 20993–0002, 301–796–3601.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products approved under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the "listed drug," which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA). The only clinical data required in an ANDA are data to show that the drug that is the subject of the ANDA is bioequivalent to the listed drug.

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the "Approved Drug Products With Therapeutic Equivalence Evaluations," which is generally known as the "Orange Book." Under FDA regulations, drugs are removed from the list if the agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness, or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162). Under § 314.161(a)(1) (21 CFR 314.161(a)(1)), the agency must determine whether a listed drug was withdrawn from sale for reasons of safety or effectiveness before an ANDA that refers to that listed drug may be approved. FDA may not approve an ANDA that does not refer to a listed drug.

On July 15, 2008, FDA received a citizen petition (Docket No. FDA–2008–P–0412), submitted under 21 CFR 10.30, from Foley & Lardner LLP. The petition requests that the agency determine whether HALFLYTELY AND BISACODYL TABLETS BOWEL PREP KIT (PEG–3350, sodium chloride, sodium bicarbonate, and potassium chloride for oral solution and 4 bisacodyl delayed release tablets, 5 mg) (HALFLYTELY AND BISACODYL TABLETS BOWEL PREP KIT (20-mg bisacodyl)), manufactured by Braintree Laboratories, Inc. (Braintree), was withdrawn from sale for reasons of safety or effectiveness.

HALFLYTELY AND BISACODYL TABLETS BOWEL PREP KIT (20-mg bisacodyl) (NDA 21–551) was approved on May 10, 2004. HALFLYTELY AND BISACODYL TABLETS BOWEL PREP KIT (20-mg bisacodyl) was indicated for the cleansing of the colon as preparation for colonoscopy in adults. Braintree informed FDA that it ceased to manufacture and market HALFLYTELY AND BISACODYL TABLETS BOWEL PREP KIT (20-mg bisacodyl) as of September 25, 2007. The drug product was then moved to the "Discontinued Drug Product List" section of the Orange Book.

FDA has reviewed its records concerning the withdrawal of HALFLYTELY AND BISACODYL TABLETS BOWEL PREP KIT (20-mg bisacodyl). FDA has also independently evaluated relevant literature, data from clinical trials, and reports of possible postmarketing adverse events. FDA has determined, under § 314.161, that HALFLYTELY AND BISACODYL TABLETS BOWEL PREP KIT (20-mg bisacodyl) was withdrawn from sale for reasons of safety or effectiveness.

Braintree discontinued this product containing a total dose of 20 milligrams of bisacodyl from sale after receiving approval from FDA on September 24, 2007, for HALFLYTELY AND BISACODYL TABLETS BOWEL PREP KIT (PEG–3350, sodium chloride, sodium bicarbonate, and potassium chloride for oral solution and 2 bisacodyl delayed release tablets, 5 mg (10-mg bisacodyl)). The data available from multiple clinical studies show that the HALFLYTLEY AND BISACODYL TABLETS BOWL PREP KIT (10-mg bisacodyl) has comparable effectiveness to the 20-mg product and has a safety advantage over the 20-mg product because there is less nausea and abdominal cramping in the patients treated with the 10-mg product. Furthermore, the 20-mg product may be associated with ischemic colitis.

FDA has also reviewed the latest approved labeling for the 20-mg product and has determined that it would need to be updated with additional safety information if Braintree were to reintroduce the 20-mg product to the market. FDA has determined that additional clinical studies of safety and efficacy would be necessary before HALFLYTELY AND BISACODYL TABLETS BOWEL PREP KIT (20-mg bisacodyl) could be considered for reintroduction to the market. Accordingly, the agency will remove HALFLYTELY AND BISACODYL TABLETS BOWEL PREP KIT (PEG–3350, sodium chloride, sodium bicarbonate, and potassium chloride for oral solution and 4 bisacodyl delayed release tablets, 5 mg) from the list of drug products published in the Orange Book. FDA will not accept or approve ANDAs that refer to this drug product.

Dated: March 15, 2010.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2010–5979 Filed 3–18–10; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Meeting of the National Advisory Council for Healthcare Research and Quality

AGENCY: Agency for Healthcare Research and Quality (AHRQ).

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, this notice announces a meeting of the National Advisory Council for Healthcare Research and Quality.

DATES: The meeting will be held on Friday, April 9, 2010, from 9 a.m. to 2:30 p.m.

ADDRESSES: The meeting will be held at the Eisenberg Conference Center, Agency for Healthcare Research and Quality, 540 Gaither Road, Rockville, Maryland 20850.

FOR FURTHER INFORMATION CONTACT: Jaime Zimmennan, Coordinator of the Advisory Council, at the Agency for Healthcare Research and Quality, 540 Gaither Road, Rockville, Maryland, 20850, (301) 427–1456. For press-related information, please contact Karen Migdail at (301) 427–1855.

If sign language interpretation or other reasonable accommodation for a disability is needed, please contact the Food and Drug Administration (FDA) Office of Equal Employment Opportunity and Diversity Management on (301) 827–4840, no later than March 26, 2010. The agenda, roster, and minutes are available from Ms. Bonnie Campbell, Committee Management Officer, Agency for Healthcare Research and Quality, 540 Gaither Road, Rockville, Maryland, 20850. Ms. Campbell's phone number is (301) 427–1554.

SUPPLEMENTARY INFORMATION:

I. Purpose

The National Advisory Council for Healthcare Research and Quality was established in accordance with Section 921 (now Section 931) of the Public Health Service Act, 42 U.S.C. 299c. In accordance with its statutory mandate, the Council is to advise the Secretary of the Department of Health and Human Services and the Director, Agency for Healthcare Research and Quality (AHRQ), on matters related to actions of AHRQ to enhance the quality, improve the outcomes, and reduce the costs of health care services; improve access to such services through scientific research; and promote improvements in clinical practice and in the organization, financing, and delivery of health care services.

The Council is composed of members of the public, appointed by the Secretary, and Federal ex-officio members specified in the authorizing legislation.

II. Agenda

On Friday, April 9, the Council meeting will convene at 8:30 a.m., with the call to order by the Council Chair and approval of previous Council summary notes. The AHRQ Director will present her update on current research, programs, and initiatives. The agenda will include a progress report on Comparative Effectiveness Research (CER), a presentation on the 2009 National Quality Report/Disparities Report, and Patient Safety Portfolio highlights.

The final agenda will be available on the AHRQ Web site at *www.ahrg.gov* no later than April 5, 2010.

Dated: March 10, 2010.

Carolyn M. Clancy,

Director.

[FR Doc. 2010–5904 Filed 3–18–10; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; 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 on Alcohol Abuse and Alcoholism, Initial Review Group Biomedical Research Review, Subcommittee AA–1 Biomedical Research Review, Subcommittee,

Date: June 7–8, 2010.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Philippe Marmillot, PhD, Scientific Review Officer, National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 5635 Fishers Lane, Rm. 2019, Bethesda, MD 20892. 301–443–2861. *marmillotp@mail.nih.gov.*

(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: March 10, 2010.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2010–5971 Filed 3–18–10; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Arrival and Departure Record

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-Day notice and request for comments; Revision of an existing information collection: 1651–0111.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Form I–94 (Arrival/Departure Record), the Form I–94W (Nonimmigrant Visa Waiver Arrival/Departure), and the Electronic System for Travel Authorization (ESTA). This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with a change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (74 FR 64092) on December 7, 2009, allowing for a 60-day comment period. One comment was received. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before April 19, 2010.

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 OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

SUPPLEMENTARY INFORMATION: U.S. Customs and Border Protection (CBP) encourages the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act (Pub. L.104–13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's/component's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological techniques or other forms of information.

Title: Arrival and Departure Record, Nonimmigrant Visa Waiver Arrival/Departure, Electronic System for Travel Authorization (ESTA)

OMB Number: 1651–0111

Form Numbers: I–94 and I–94W

Abstract: Form I–94 (Arrival/Departure Record) and Form I–94W (Nonimmigrant Visa Waiver Arrival/Departure Record) are used to document a traveler's admission into the United States. These forms include date of arrival, visa classification and the date the authorized stay expires. The forms are also used by business employers and other organizations to confirm legal status in the United States. The Electronic System for Travel Authorization (ESTA) applies to aliens traveling to the United States under the Visa Waiver Program (VWP) and requires that VWP travelers provide information electronically to CBP before embarking on travel to the United States.

CBP proposes to decrease the burden hours for the I–94W and for ESTA due to better estimates. The reduction in the burden hours for the I–94W is also a result of pilot programs CBP has conducted recently in which passengers are not required to submit an I–94W.

Current Actions: This submission is being made to extend the expiration date with a revision to the burden hours.

Type of Review: Extension (with change)

Affected Public: Individuals, Carriers, Government Agencies, and the Travel and Tourism Industry

I–94 (Arrival and Departure Record):

Estimated Number of Respondents: 14,000,000

Estimated Number of Total Annual Responses: 14,000,000

Estimated Time per Response: 8 minutes

Estimated Total Annual Burden Hours: 1,862,000

Estimated Total Annualized Cost on the Public: $84,000,000

I–94W (Nonimmigrant Visa Waiver Arrival/Departure):

Estimated Number of Respondents: 17,000,000

Estimated Number of Total Annual Responses: 17,000,000

Estimated Time per Response: 8 minutes

Estimated Total Annual Burden Hours: 2,261,000

Estimated Total Annualized Cost on the Public: $102,000,000

Electronic System for Travel Authorization (ESTA):

Estimated Number of Respondents: 17,000,000

Estimated Number of Total Annual Responses: 17,000,000

Estimated Time per Response: 15 minutes

Estimated Total Annual Burden Hours: 4,250,000

If additional information is required contact: Tracey Denning, U.S. Customs and Border Protection, Office of Regulations and Rulings, 799 9th Street, NW., 7th Floor, Washington, DC 20229–1177, at 202–325–0265.

Dated: March 16, 2010.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2010–6051 Filed 3–18–10; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2010–0164]

National Boating Safety Advisory Council

AGENCY: Coast Guard, DHS.

ACTION: Committee management; Notice of meeting.

SUMMARY: The National Boating Safety Advisory Council (NBSAC) and its subcommittees will meet on April 15–17, 2010, in Arlington, VA. The meetings will be open to the public.

DATES: NBSAC will meet April 15, 2010, from 8 a.m. to 3 p.m. and on April 17, 2010, from 12 noon to 4 p.m. The Boats and Associated Equipment Subcommittee will meet on April 15, from 3:15 p.m. to 5 p.m. The Prevention through People Subcommittee will meet on April 16, 2010, from 8:30 a.m. to 10:45 a.m., and the Recreational Boating Safety Strategic Planning Subcommittee will meet on April 16, 2010, from 11 a.m. to 5 p.m. and on April 17, 2010, from 8:30 a.m. to 11:15 a.m. Please note that the meetings may conclude early if the Council has completed its business.

All written materials, comments, and requests to make oral presentations at the meetings should reach Mr. Jeff Ludwig by April 1, 2010, via one of the methods described in **ADDRESSES**. Requests to have a copy of your material distributed to each member of the Council prior to the meeting should reach Mr. Ludwig by April 1, 2010.

ADDRESSES: The meeting will be held at the Holiday Inn Arlington, 4610 N Fairfax Drive, Arlington, VA 22203.

Please send written material, comments, and requests to make oral presentations to Mr. Jeff Ludwig by one of the submission methods described below. All materials, comments, and requests must be identified by docket number [USCG–2010–0164].

Submission Methods: Please use only one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: jeffrey.a.ludwig@uscg.mil.* Include the docket number in the subject line of the message.
- *Fax:* (202) 372–1932.
- *Mail:* Mr. Jeff Ludwig, COMDT (CG–54221), 2100 2nd Street, SW., Stop 7581, Washington, DC 20593.

Instructions: All submissions received must include the words "U.S. Coast Guard" and docket number [USCG–2010–0164]. All submissions received

will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.) You may review a Privacy Act notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

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

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Ludwig, COMDT (CG–54221), 2100 2nd Street, SW., Stop 7581, Washington, DC 20593; (202) 372–1061; *Jeffrey.a.ludwig@uscg.mil*.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92–463). NBSAC was established by the Federal Boat Safety Act of 1971. That law requires the Secretary of Homeland Security, and the Commandant of the Coast Guard by delegation, to consult with NBSAC in prescribing Federal regulations, and on other major matters regarding boating safety. *See* 46 U.S.C. 4302(c) and 13110(c).

NBSAC will meet for the purpose of discussing issues related to recreational boating safety.

A. Tentative Agendas of Meetings

National Boating Safety Advisory Council (NBSAC)

Thursday, April 15, 2010:

(1) Remarks—Mr. James P. Muldoon, NBSAC Chairman;

(2) Chief, Office of Auxiliary and Boating Safety Update on NBSAC Resolutions and Recreational Boating Safety Program report.

(3) Executive Secretary's report.

(4) Chairman's session.

(5) TSAC Liaison's report.

(6) NAVSAC Liaison's report.

(7) National Association of State Boating Law Administrators report.

(8) BIRMC Liaison's report.

(9) Boats and Associated Equipment Subcommittee meeting.

Friday, April 16, 2010:

(10) Prevention through People Subcommittee meeting.

(11) Recreational Boating Safety Strategic Planning Subcommittee meeting.

Saturday, April 17, 2010:

(12) Recreational Boating Safety Strategic Planning Subcommittee meeting (Cont.).

(13) Prevention through People Subcommittee report.

(14) Boats and Associated Equipment Subcommittee report.

(15) Recreational Boating Safety Strategic Planning Subcommittee report.

(16) Chairman's session.

A more detailed agenda can be found at: *http://homeport.uscg.mil/NBSAC,* after April 9, 2010.

B. NBSAC Subcommittees

Prevention Through People Subcommittee: Discuss current regulatory projects, grants, contracts, and new issues affecting the prevention of boating accidents through outreach and education of boaters.

Boats and Associated Equipment Subcommittee: Discuss current regulatory projects, grants, contracts, and new issues affecting boats and associated equipment.

Recreational Boating Safety Strategic Planning Subcommittee: Discuss current status of the strategic planning process and any new issues or factors that could impact, or contribute to, the development of the strategic plan for the recreational boating safety program.

C. Meeting Procedure

This meeting is open to the public. At the discretion of the Chair, members of the public may make oral presentations during the meeting. If you would like to make an oral presentation at the meeting, please notify Mr. Jeff Ludwig as described in the **ADDRESSES** section above. If you would like a copy of your material distributed to each member of the Council in advance of the meeting, please submit thirty (30) copies to Mr. Jeff Ludwig by April 1, 2010.

Please note that the meeting may conclude early if all business is finished.

D. 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 Mr. Jeff Ludwig as described in the **ADDRESSES** section above as soon as possible.

Dated: March 15, 2010.

K.S. Cook,

Rear Admiral, U.S. Coast Guard, Director of Prevention Policy.

[FR Doc. 2010–6027 Filed 3–18–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5374–N–08]

Buy American Exceptions Under the American Recovery and Reinvestment Act of 2009

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: In accordance with the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–05, approved February 17, 2009) (Recovery Act), and implementing guidance of the Office of Management and Budget (OMB), this notice advises that certain exceptions to the Buy American requirement of the Recovery Act have been determined applicable for work using Capital Fund Recovery Formula and Competition (CFRFC) grant funds. Specifically, exceptions were granted to the Seattle Housing Authority for the purchase and installation of an Access Control and Alarm Monitoring system at the Denny Terrace and Lake City Village projects, and to the Everett Housing Authority, in Everett, WA, for the purchase and installation of two ductless split systems for the Elevator Modernization and Generator Replacement project at Bakerview Apartments.

FOR FURTHER INFORMATION CONTACT: Dominique G. Blom, Deputy Assistant Secretary for Public Housing Investments, Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4210, Washington, DC 20410–4000, telephone number 202–402–8500 (this is not a toll-free number). Persons with hearing- or speech-impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: Section 1605(a) of the Recovery Act provides that none of the funds appropriated or made available by the Recovery Act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States. Section 1605(b) provides that the Buy American requirement shall not apply in any case or category in which the head of a Federal department or agency finds that: (1) Applying the Buy American requirement would be inconsistent with the public interest; (2)

iron, steel, and the relevant manufactured goods are not produced in the U.S. in sufficient and reasonably available quantities or of satisfactory quality, or (3) inclusion of iron, steel, and manufactured goods will increase the cost of the overall project by more than 25 percent. Section 1605(c) provides that if the head of a Federal department or agency makes a determination pursuant to section 1605(b), the head of the department or agency shall publish a detailed written justification in the **Federal Register**.

In accordance with section 1605(c) of the Recovery Act and OMB's implementing guidance published on April 23, 2009 (74 FR 18449), this notice advises the public that, on March 5, 2010, HUD granted the following two exceptions to the Buy American Requirement;

1. *Seattle Housing Authority.* Upon request of the Seattle Housing Authority, HUD granted an exception to the applicability of the Buy American requirements with respect to work, using CFRFC grant funds, based on the fact that the relevant manufactured goods (Access Control and Alarm Monitoring system) are not produced in the U.S. in sufficient and reasonably available quantities or of satisfactory quality.

2. *Everett Housing Authority.* Upon request of the Everett Housing Authority, HUD granted an exception to applicability of the Buy American requirements with respect to work, using CFRFC grant funds, based on the fact that the relevant goods, ductless split systems, are not produced in the U.S. in sufficient and reasonably available quantities or of satisfactory quality.

Dated: March 12, 2010.

Sandra B. Henriquez,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 2010–6073 Filed 3–18–10; 8:45 am]

BILLING CODE 4210–67–P

INTER-AMERICAN FOUNDATION BOARD MEETING

Sunshine Act Meetings

TIME AND DATE: March 29, 2010; 9:00 a.m.–1 :30 p.m.

PLACE: 901 N. Stuart Street, Tenth Floor, Arlington, Virginia 22203.

STATUS: Open to the public except for the portion specified as closed session as provided in 22 CFR Part 1004.4(b).

MATTERS TO BE CONSIDERED:

- Approval of the Minutes of the December 14, 2009, Meeting of the Board of Directors
- Resolution Honoring Gary Bryner
- President's Report
- Congressional Affairs
- IAF Program Activities
- Operations Report
- RedEAmerica Status
- Advisory Council Membership and Attendance at Meetings
- Status of Upcoming Meetings
- Status of Presidential Search
- Executive Session

Portions To Be Open to the Public:

- Approval of the Minutes of the December 14, 2009, Meeting of the Board of Directors
- Resolution Honoring Gary Bryner
- President's Report
- Congressional Affairs
- IAF Program Activities
- Operations Report
- RedEAmerica Status
- Advisory Council Membership and Attendance at Meetings
- Status of Upcoming Meetings
- Status of Presidential Search

Portions To Be Closed to the Public:

- Executive Session to discuss Candidates for Presidential Position—Closed session as provided in 22 CFR Part 1004.4 (b).

CONTACT PERSON FOR MORE INFORMATION:

Dated: March 16, 2010.

Jennifer Hodges Reynolds,

General Counsel (703) 306–4301.

[FR Doc. 2010–6202 Filed 3–17–10; 4:15 pm]

BILLING CODE 7025–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA–10665; LLAK–962000–L14100000–HY0000–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that the Bureau of Land Management will issue an appealable decision approving the conveyance of surface and subsurface estates in certain lands pursuant to the Alaska Native Claims Settlement Act to Bristol Bay Native Corporation for 2.72 acres located southeast of the Native village of Koliganek, Alaska. Notice of the decision will also be published four times in the Anchorage Daily News.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until April 19, 2010 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION CONTACT: The Bureau of Land Management by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@ak.blm.gov.* Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, 24 hours a day, seven days a week, to contact the Bureau of Land Management.

Dina L. Torres,

Land Transfer Resolution Specialist, Branch of Preparation and Resolution.

[FR Doc. 2010–6061 Filed 3–18–10; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA–6679–B, AA–6679–C, AA–6679–F, AA–6679–G, AA–6679–K, AA–6679–M, AA–6679–A2, LLAK964000–L14100000–KC0000–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Decision Approving Lands for Conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that the Bureau of Land Management will issue an appealable decision approving the conveyance of the surface estate in certain lands pursuant to the Alaska Native Claims Settlement Act to Manokotak Natives Limited. The subsurface estate in these lands will be conveyed to Bristol Bay Native Corporation when the surface estate is conveyed to Manokotak Natives Limited. The lands are in the vicinity of Manokotak, Alaska, and located in:

Seward Meridian, Alaska

T. 13 S., R. 58 W.,
Secs. 5 to 8, inclusive;

Secs. 16, 17, and 18.

Containing approximately 4,376 acres.

T. 13 S., R. 59 W.,
Secs. 1, 2, and 3;
Secs. 10 to 13, inclusive.

Containing approximately 4,488 acres.

T. 12 S., R. 60 W.,
Secs. 7 and 8.

Containing approximately 1,273 acres.

T. 13 S., R. 60 W.,
Sec. 6.

Containing approximately 603 acres.

T. 13 S., R. 61 W.,
Sec. 1.

Containing approximately 640 acres.
Aggregating approximately 11,380 acres.

Notice of the decision will also be published four times in the Bristol Bay Times.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until April 19, 2010 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION CONTACT: The Bureau of Land Management (BLM) by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@ak.blm.gov.* Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service at 1–800–877–8339, 24 hours a day, seven days a week, to contact the BLM.

Judy A. Kelley,

Land Law Examiner, Land Transfer Adjudication I Branch.

[FR Doc. 2010–6060 Filed 3–18–10; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F–22520; LLAK–962000–L14100000–HY0000–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that the Bureau of Land Management will issue an appealable decision approving the conveyance of surface and subsurface estates for certain lands pursuant to the Alaska Native Claims Settlement Act to Doyon, Limited for 118.47 acres, located southeast of the Native village of Hughes, Alaska. Notice of the decision will also be published four times in the Fairbanks Daily News-Miner.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until April 19, 2010 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION CONTACT: The Bureau of Land Management by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@ak.blm.gov.* Persons who use a telecommunication device (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, 24 hours a day, seven days a week, to contact the Bureau of Land Management.

Dina L. Torres,

Land Transfer Resolution Specialist, Branch of Preparation and Resolution.

[FR Doc. 2010–6058 Filed 3–18–10; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA–8448–A; AA–8448–B; LLAK965000–L14100000–KC0000–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that the Bureau of Land Management will issue an appealable decision approving the conveyance of the surface estate in certain lands pursuant to the Alaska Native Claims Settlement Act to Leisnoi, Incorporated. The subsurface estate in these lands will be conveyed to Koniag, Inc. when the surface estate is conveyed to Leisnoi, Incorporated. The lands are in the vicinity of Woody Island, Alaska, and are located in:

U.S. Survey No. 9177, Alaska.

Containing 139.95 acres.

U.S. Survey No. 5702, Alaska.

Containing 159.93 acres.

Seward Meridian, Alaska

T. 27 S., R. 19 W.,
Tract F.

Containing approximately 1 acre.
Aggregating approximately 301 acres.

Notice of the decision will also be published four times in the Kodiak Daily Mirror.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until April 19, 2010 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION CONTACT: The Bureau of Land Management by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@ak.blm.gov.* Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, 24 hours a day, seven days a week, to contact the Bureau of Land Management.

Linda L. Keskitalo,

Land Law Examiner, Land Transfer Adjudication II Branch.

[FR Doc. 2010–6059 Filed 3–18–10; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2010–N003; 80221–1112–0000–F2]

Southeastern Lincoln County Habitat Conservation Plan, Lincoln County, NV

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability: final environmental impact statement and habitat conservation plan.

SUMMARY: Under the National Environmental Policy Act (NEPA), we, the Fish and Wildlife Service (Service), advise the public of the availability of the final Environmental Impact Statement (EIS) on the applications from Lincoln County, City of Caliente, and Union Pacific Railroad (UPRR) for three section 10(a)(1)(B) incidental take permits under the Endangered Species Act of 1973, as amended (Act).

We also announce the availability of the Southeastern Lincoln County Habitat Conservation Plan (SLCHCP), which the three applicants have submitted with their incidental take permit applications and Implementing Agreement (IA). If issued, the permits would authorize incidental take of the threatened desert tortoise (*Gopherus agassizii*) and the endangered southwestern willow flycatcher (*Empidonax traillii extimus*). The permits are needed because incidental take of these listed species could occur during proposed land development activities (including land use conversion from agriculture or grazing to urban development), flood control activities (within the City of Caliente), maintenance of Lincoln County roads and right-of-ways, UPRR activities, and/or conversion of grazing land to irrigated/cultivated agricultural land, on approximately 31,000 acres of private and local government property in southeastern Lincoln County, Nevada.

DATES: A Record of Decision will be signed no sooner than 30 days after the publication of the Environmental Protection Agency (EPA) notice of the Final EIS in the **Federal Register**. We must receive any comments by 5 p.m. on April 15, 2010.

ADDRESSES: Submit comments to Robert D. Williams, State Supervisor, by U.S. mail at Nevada Fish and Wildlife Office, 4701 N. Torrey Pines Drive, Las Vegas, NV 89130; by telephone at (702) 515–5230; or by fax at (702) 515–5231.

FOR FURTHER INFORMATION CONTACT: Jeri Krueger, Habitat Conservation Planning Coordinator, at the address or telephone or fax numbers above.

SUPPLEMENTARY INFORMATION:

Availability of Documents

You may download copies of the SLCHCP, EIS, and IA from the Nevada Fish and Wildlife Office Web site at: *http://www.fws.gov/nevada/es/hcp.html.* Alternatively, you may contact us by telephone or visit during regular business hours to ask us how to obtain copies (see **FOR FURTHER INFORMATION CONTACT**).

In addition, copies of all documents are available at the following library locations:

(1) Clark County Library, 1401 E. Flamingo Road, Las Vegas, NV 89119; (702) 507–3400;

(2) Washoe County Library, Downtown Main Branch, 301 South Center Street, Reno, NV 89501; (775) 327–8300;

(3) Mesquite Library, 121 West First North Street, Mesquite, NV 89027; (702) 346–5224;

(4) Alamo Branch Library, 100 N. First Street, Alamo, NV 89001; (775) 725–3343;

(5) Lincoln County Library, 100 Depot Avenue, Caliente, NV 89008; (775) 726–3104; and

(6) Lincoln County Library, 63 Main Street, Pioche, NV 89043; (775) 962–5244.

Background

Section 9 of the Act (16 U.S.C. 1531 *et seq.*) and Federal regulations prohibit the "take" of fish and wildlife species listed as endangered or threatened (16 U.S.C. 1538(a)(1)(B)). The term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct (16 U.S.C. 1532 (19)). We have further defined "harm" to mean significant habitat modification or degradation that actually kills or injures listed wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering (50 CFR 17.3(c)). Under limited circumstances, we may issue permits to authorize incidental take of listed fish or wildlife (*i.e.*, "take" that is incidental to, and not the purpose of, otherwise lawful activity). Regulations governing incidental take permits for threatened and endangered species are found in 50 CFR 17.32 and 17.22, respectively. If we issue permits, the applicants would receive assurances for all species covered by the permits in accordance with our "No Surprises" regulations at 50 CFR 17.22(b)(5) and 17.32(b)(5) for all species covered by the permits.

The EIS analyzes the impacts of the proposed implementation of the SLCHCP by the applicants. The applicants are seeking permits for the incidental take of desert tortoise and southwestern willow flycatcher for a term of 30 years. Incidental take of these species may occur on approximately 31,000 acres of habitat for the tortoise and the flycatcher within the SLCHCP planning area (covered area). The covered activities may result in the loss of up to 20,000 acres of desert tortoise habitat and up to 85 acres of southwestern willow flycatcher habitat during the term of the permit. The covered area includes the non-Federal lands on which the covered activities would occur, and Federal lands administered by the Bureau of Land Management (BLM) on which most of the mitigation would occur. The BLM, as a participant in the SLCHCP, would be responsible for reviewing and, if appropriate, authorizing the implementation of mitigation measures on BLM-administered land.

Proposed covered activities include: (1) Planned land development and maintenance activities (including land use conversion from agriculture or grazing to urban development), (2) utility and infrastructure development and maintenance activities, (3) flood control activities within the City of Caliente, (4) Lincoln County roadway construction and maintenance activities, (5) UPRR activities, and (6) land conversion activities (*e.g.*, conversion of grazing land to irrigated/cultivated agricultural land).

The SLCHCP's proposed conservation strategy is designed to minimize and mitigate the impacts of incidental take of the covered species resulting from covered activities, to maintain stable or increasing desert tortoise populations in the covered area, and to achieve no net loss of suitable southwestern willow flycatcher habitat within the covered area. The SLCHCP provides a mechanism to supply funding for a full range of conservation measures targeting desert tortoise, southwestern willow flycatcher, and the ecosystems that support them. Conservation measures proposed for the desert tortoise as part of the SLCHCP include pre-construction surveys, initiating and sustaining a desert tortoise "Head Start" program, translocation of desert tortoises, research on the ecological implications of fire to species' habitats, restoration of burned desert tortoise habitat areas, and public outreach and education. To minimize and mitigate the loss of suitable flycatcher habitat along the Meadow Valley Wash and Clover Creek resulting from the covered activities, UPRR and the City of Caliente will provide the funding necessary to create additional suitable flycatcher habitat or enhance the functional value of potentially suitable existing flycatcher habitat at a ratio of 2 acres for every 1 acre of native habitat removed, or at a ratio of 1 acre for every acre of non-native habitat removed. Private landowners with property located along these two waterways may volunteer to participate in the SLCHCP by signing a participation agreement provided by

Lincoln County that would extend take authorization under Lincoln County's permit to the participating landowner, provided the landowner agrees to implement the minimization and mitigation measures in the SLCHCP.

National Environmental Policy Act Compliance

Our proposal to issue incidental take permits is a Federal action that triggers the need for compliance with NEPA. Accordingly, as the Federal agency responsible for compliance under NEPA, we have prepared an EIS that analyzes alternatives associated with issuance of the incidental take permits. In addition to the permit issuance alternative, other alternatives we considered in the EIS include the "No Action" alternative (we would not issue the incidental take permits, "take" of the desert tortoise and southwestern willow flycatcher would not be authorized, and the SLCHCP would not be implemented), and "Alternative A, Additional Lands for Development" (we would issue incidental take permits for development and associated activities on up to 44,135 acres of private lands within the covered area as well as BLM land proposed for disposal over the next 30 years in the southeastern portion of Lincoln County).

The final EIS includes all comments we received on the draft EIS and our responses to those comments. After the 30-day waiting period, we will complete a Record of Decision that announces our decision on the action that will be implemented and discusses all factors leading to the decision.

Public Involvement

We published a notice of intent to prepare an EIS for this project in the **Federal Register** on July 5, 2001 (66 FR 35451), and held public workshops on June 25 and 26, 2001, in Alamo and Caliente. We held additional public workshops on July 5 and 6, 2006, in Caliente, Alamo, and Mesquite to update members of the public on the status of the SLCHCP. On December 5, 2008, we published a notice of availability of the draft SLCHCP, draft EIS, and draft IA in the **Federal Register** (73 FR 74185). The draft documents were available for a 75-day public comment period ending on February 11, 2009.

Public Review

Copies of the final EIS, SLCHCP, and IA are available for review (*see* Availability of Documents). Any comments we receive will become part of the administrative record and may be available to the public. Before submitting comments that include your address, phone number, e-mail address, or other personal identifying information, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

We will evaluate the applications, associated documents, and comments submitted to determine whether the applications meet the requirements of section 10(a) of the Act. A permit decision will be made no sooner than 30 days after the publication of the EPA's final EIS notice in the **Federal Register** and completion of the Record of Decision.

Ken McDermond,

Deputy Regional Director, Pacific Southwest Region, Sacramento, California.

[FR Doc. 2010–5629 Filed 3–18–10; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2010–N017; 20124–1112–0000–F2]

Lower Colorado River Authority Transmission Services Corporation; Construction, Operation, Maintenance, and Repair of Competitive Renewable Energy Zone Transmission Lines and Related Facilities

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to prepare a draft environmental impact statement and draft habitat conservation plan; announcement of meetings; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), advise the public that we intend to prepare a draft environmental impact statement (EIS) to evaluate the impacts of, and alternatives to, the proposed issuance of an Endangered Species Act permit to the Lower Colorado River Authority Transmission Services Corporation (LCRA TSC; applicant) for incidental take of six federally listed or candidate species from activities associated with LCRA TSC's construction, maintenance, operation, and repair of four Competitive Renewable Energy Zone (CREZ) "priority" transmission lines and related facilities (i.e., substations, substation upgrades, and access roads) required to be constructed by the Public Utility Commission of Texas (PUC) (collectively, the LCRA TSC CREZ transmission lines). We also announce plans for a series of public scoping meetings and a public comment period.

DATES: If you wish to submit written comments on alternatives and issues for us to address in the draft EIS, we must receive them by close of business on June 17, 2010. We will hold public scoping meetings at locations throughout LCRA's proposed 14-county permit area. The scoping meetings will be noticed in local news papers at least two weeks before each scoping meeting and on the following website: *http://www.LCRA.org.*

ADDRESSES: For further information or to send written comments by mail: Field Supervisor, Austin Ecological Services Field Office, U.S. Fish and Wildlife Service, 10711 Burnett Road, Suite 200, Austin, TX 78758–4460; 512/490–0057 (phone); 512/490–0974 (fax); or *Luela_Roberts@fws.gov* (e-mail). Note that your information request or comments concern the LCRA TSC draft EIS/HCP.

SUPPLEMENTARY INFORMATION: We publish this notice in compliance with the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*), and its implementing regulations (40 CFR 1506.6), and section 10(c) of the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*). We intend to gather the information necessary to determine impacts and alternatives to support a decision regarding the potential issuance of an incidental take permit to the applicant, and the implementation of the supporting draft HCP. We intend to prepare an EIS to evaluate the impacts of, and alternatives to, the proposed issuance of an incidental take permit under the Act. The applicant proposes to apply for an incidental take permit through development and implementation of an HCP. The proposed HCP will cover take of certain species that is incidental to activities associated with the construction, operation, maintenance, and repair of LCRA TSC's CREZ transmission lines and related facilities and will include measures necessary to minimize and mitigate impacts to covered species and their habitats to the maximum extent practicable.

Background

Section 9 of the Act prohibits "taking" of fish and wildlife species listed as endangered under section 4 of the Act. The Act's implementing regulations extend, under certain circumstances, the prohibition of take to threatened

species. Under section 3 of the Act, the term "take" means "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." The term "harm" is defined by regulation as "an act which actually kills or injures wildlife. Such act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering" (50 CFR 17.3). The term "harass" is defined in the regulations as "an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering" (50 CFR 17.3). Section 10(a)(1)(B) of the Act requires an applicant for an incidental take permit to prepare an HCP that describes: (1) The impact that will result from such taking; (2) the steps the applicant will take to minimize and mitigate that take to the maximum extent practicable, and the funding that will be available to implement such steps; (3) the alternative actions to such taking that the applicant considered and the reasons why such alternatives are not being utilized; and (4) the other measures that the Service may require as being necessary or appropriate for the purposes of the plan. The Act requires us to issue an incidental take permit to an applicant when we determine that: (1) The taking will be incidental to otherwise lawful activities; (2) the applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking; (3) the applicant has ensured that adequate funding for the plan will be provided; (4) the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and (5) the measures, if any, we require as necessary or appropriate for the purposes of the plan will be met. Regulations governing permits for endangered and threatened species are at 50 CFR 17.22 and 17.32.

We expect that the Applicant will request permit coverage for a period of 30 years.

Scoping Meetings

A primary purpose of the scoping process is to receive suggestions and information on the scope of issues and alternatives to consider when drafting the EIS, and to identify, rather than debate, significant issues related to the proposed action. In order to ensure that we identify a range of issues and alternatives related to the proposed action, we invite comments and suggestions from all interested parties. We will conduct a review of this project according to the requirements of the National Environmental Policy Act and its regulations, other relevant Federal laws, regulations, policies, and guidance, and our procedures for compliance with those regulations. Persons needing reasonable accommodations in order to attend and participate in the public meetings should contact us at the address listed in the **ADDRESSES** section no later than 1 week before the relevant public meeting. Information regarding this proposed action is available in alternative formats upon request. We will accept oral and written comments at the meetings. You may also submit comments to persons listed in the **ADDRESSES** section. Once the draft EIS and draft HCP are completed and available for review, there will be further opportunities for public comment on the content of these documents through additional public meetings and comment period.

Alternatives

The proposed action presented in the draft EIS will be compared to the No-Action alternative. The No-Action alternative represents estimated future conditions to which the proposed action's estimated future conditions can be compared.

No-Action Alternative

Under the no-action alternative, LCRA TSC would comply with the Act by avoiding impacts to listed species where practicable, by receiving coverage under a Section 7 consultation where other Federal nexi exist, and/or by applying for individual incidental take permits where federal nexus does not exist. This approach is likely to be more time-consuming and less efficient, and could result in an isolated independent mitigation approach. In addition, under this piecemeal approach, it is unlikely that LCRA TSC would be able to construct the LCRA TSC CREZ transmission lines within the timeline mandated by the Texas Legislature and the PUC.

Proposed Alternative

The proposed action is issuance of an incidental take permit for the covered species during construction, operation, and/or maintenance of LCRA TSC's CREZ transmission lines. The proposed HCP, which must meet the requirements in section 10(a)(2)(A) of the Act, would be developed and implemented by the applicant. This alternative could allow for a comprehensive mitigation approach for authorized impacts and reduce the permit processing effort for the Service. Actions covered under the requested incidental take permit may include possible take of covered species associated with activities including, but not limited to, construction, operation, maintenance, and repair of LCRA TSC's CREZ transmission lines and all related infrastructure and facilities such as substations and access roads. The applicant expects to apply for an incidental take permit for six species listed as endangered or threatened or considered to be a candidate for listing within the proposed permit area. It is anticipated that the impacts to listed species associated with the Service's possible approval of the HCP also will be considered pursuant to the interagency consultation procedures of section 7 of the Act and that future consultation on such impacts occurring in accordance with the approved HCP will not be necessary and will not require additional measures of the Applicant. Species proposed to be covered under the requested incidental take permit include: The golden-cheeked warbler, black-capped vireo, least tern, whooping crane, and black-tailed prairie dog. Counties included in the proposed permit area include portions of Tom Green, Schleicher, Sutton, Mason, Menard, Kimble, Kerr, Kendall, Irion, Gillespie, Llano, Burnet, San Saba, and Lampasas Counties. Species not covered by the proposed incidental take permit will also be addressed in the draft HCP as evaluation or additional species. These species include the ocelot, Concho water snake, Clear Creek gambusia, sharpnose shiner, smalleye shiner, Bee Creek Cave harvestman, Texas hornshell, Tobusch fishhook cactus, and Texas snowbells. The applicant does not anticipate that covered activities will result in take of the evaluation species. The purpose of addressing these species is to analyze and explain why the applicant believes these species will not be taken by the covered activities. Other alternatives considered will also be addressed in the draft EIS, including impacts associated with each alternative evaluated.

Public Availability of Comments

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that the 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.

Environmental Review

The Service will conduct an environmental review to analyze the proposed action, as well as other alternatives evaluated and the associated impacts of each. The draft EIS will be the basis for the impact evaluation for each species covered and the range of alternatives to be addressed. The draft EIS is expected to provide biological descriptions of the affected species and habitats, as well as the effects of the alternatives on other resources such as vegetation, wetlands, wildlife, geology and soils, air quality, water resources, water quality, cultural resources, land use, recreation, water use, local economy, climate change, and environmental justice. Following completion of the environmental review, the Service will publish a notice of availability and a request for comments on the draft EIS and the Applicant's permit application, which will include the draft HCP. The draft EIS and draft HCP are expected to be completed and available to the public in early to mid-2010.

Thomas L. Bauer,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 2010–5944 Filed 3–18–10; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Los Vaqueros Reservoir Expansion, Contra Costa and Alameda Counties, CA

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability of the Final Environmental Impact Statement/ Environmental Impact Report (Final EIS/EIR).

SUMMARY: The Bureau of Reclamation, as the National Environmental Policy Act Federal lead agency, and the Contra Costa Water District, as the California Environmental Quality Act lead agency, have prepared the Los Vaqueros Reservoir Expansion Final EIS/EIR. Los Vaqueros Expansion is a proposed action in the August 2000 CALFED Bay-Delta Program Programmatic Record of Decision. The Final EIS/EIR evaluated two options for expanding Los Vaqueros Reservoir from its existing capacity of 100 thousand acre-feet (TAF). A 175 TAF expansion option would expand the reservoir to 275 TAF. This expansion option would be operated for environmental water management and San Francisco Bay Area water supply reliability. A 60 TAF expansion option would expand the reservoir to 160 TAF. This second option would primarily be operated to improve Contra Costa Water District (CCWD) dry year water supply reliability and water quality.

A Notice of Availability of the Draft EIS/EIR was published in the **Federal Register** on February 20, 2009 (74 FR 7922). The written comment period on the Draft EIS/EIR ended on April 21, 2009. The Final EIS/EIR contains responses to all written comments received during the review period.

DATES: Reclamation will not make a decision on the project until at least 30 days after release of the Final EIS/EIR. After a 30-day waiting period, Reclamation may complete a Record of Decision (ROD). The ROD will state the action to be implemented and will discuss all the factors leading to that decision.

ADDRESSES: Copies of the Final EIS/EIR may be requested from Ms. Sharon McHale, Bureau of Reclamation, 2800 Cottage Way, Sacramento, CA 95825; by calling 916–978–5086 (TTY 916–978–5608); or by e-mailing *smchale@usbr.gov*. The Final EIS/EIR is also accessible from the following Web site: *http://www.usbr.gov/mp/nepa/nepa_projdetails.cfm?Project_ID=903*.

FOR FURTHER INFORMATION CONTACT: Ms. Sharon McHale at 916–978–5086, or by e-mail at *smchale@usbr.gov*.

SUPPLEMENTARY INFORMATION: The Final EIS/EIR documents the direct, indirect, and cumulative physical, biological, and socioeconomic environment effects that may result from the construction and operation of the 60 TAF expansion and 175 expansion of Los Vaqueros Reservoir.

The Final EIS/EIR documents the evaluation of four alternatives, including No Action. The primary study area includes the Los Vaqueros Reservoir watershed and associated dam and reservoir facilities, which are situated in the coastal foothills west of the Delta and east of the San Francisco Bay Area, the central and south Delta, and service areas of San Francisco Bay Area water agencies.

Copies of the Final EIS/EIR are available for public review at the following locations:

- Bureau of Reclamation, Mid-Pacific Region, Regional Library, 2800 Cottage Way, Sacramento, CA 95825.
- Bureau of Reclamation, Denver Office Library, Building 67, Room 167, Denver Federal Center, 6th and Kipling, Denver, CO 80225.
- Contra Costa Water District, 2411 Bisso Lane, Concord, CA 94524.
- Natural Resources Library, U.S. Department of the Interior, 1849 C Street, NW., Main Interior Building, Washington, DC 20240–0001.

Public hearings were held on March 23, 2009 in Sacramento, California; on March 24, 2009 in Livermore, California; on March 26, 2009 in Dublin, California; on March 31, 2009 in Concord, California; and on April 2, 2009 in Oakley, California.

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

Dated: January 27, 2010.

Mike Chotkowski,

Acting Regional Director, Mid-Pacific Region.

[FR Doc. 2010–6024 Filed 3–18–10; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVSO3100 L5101000.ER0000 LVRWF09F8590 241A; 10–08807; MO#4500012002; TAS: 14X5017]

Notice of Availability of the Draft Environmental Impact Statement for the Solar Millennium Amargosa Farm Road Solar Power Project, Nye County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA) of 1969, as amended, the Bureau of Land Management (BLM) has prepared a Draft Environmental Impact Statement (EIS) for the Amargosa Farm Road Solar Power Project, Nye County, Nevada, and by this Notice is announcing the opening of the comment period.

DATES: To ensure comments will be considered, the BLM must receive written comments on the Amargosa Farm Road Solar Power Project Draft EIS

within 45 days following the date the Environmental Protection Agency publishes its Notice of Availability in the **Federal Register.** The BLM will announce future meetings or hearings and any other public involvement activities at least 15 days in advance through public notices, media news releases, or mailings.

ADDRESSES: You may submit comments on the Amargosa Farm Road Solar Power Project Draft EIS by any of the following methods:

- *Web site: http://www.blm.gov/nv/st/en/prog/energy/fast-track_renewable.html.*
- *E-mail: solar_millennium@blm.gov.*
- *Fax:* 702–515–5155.
- *Mail:* Gregory Helseth, Renewable Energy Project Manager, BLM Pahrump Field Office, 4701 North Torrey Pines Drive, Las Vegas, Nevada 89130–2301.

Copies of the Draft EIS for the Amargosa Farm Road Solar Power Project are available in the Southern Nevada District Office.

FOR FURTHER INFORMATION CONTACT: Gregory Helseth, (702) 515–5173, BLM Pahrump Field Office, 4701 North Torrey Pines Drive, Las Vegas, Nevada 89130–2301; *Gregory_Helseth@blm.gov.*

SUPPLEMENTARY INFORMATION: Solar Millennium applied to the BLM for a 4,350-acre right-of-way (ROW) on public lands to construct a concentrating solar power plant facility approximately 80 miles northwest of Las Vegas, Nevada, in Nye County. The project site is located in Amargosa Valley south of Highway 95. The facility is expected to operate for approximately 30 years. The proposed project would utilize solar thermal parabolic-trough technology, consisting of two 242-megawatt, dry-cooled power plants, and fields of solar collectors, and thermal storage tanks allowing the production of additional electricity for up to 3.5 hours after sundown.

The solar field is highly modular and consists of loops, each consisting of four curved glass mirror collectors. A loop is 22 meters wide and 850 meters long. A solar field consists of 200 to 400 loops. The orientation of the collectors is north-south and the collectors track the sun from east to west during the day. The collector focuses the sun's direct beam radiation on a receiver tube. The row of collectors has a hydraulic drive unit with sensors to track the sun's path throughout the day. The solar energy heats a transfer fluid which cycles through a series of exchangers, ultimately generating electricity.

The project's proposed facility design includes solar fields, power blocks, buildings, a parking area, a laydown area, a stormwater retention pond, and evaporating ponds. A single overhead 230-kilovolt transmission line will connect the plant to the nearby Valley Electric substation. Additional elements of the project include access roads, a water pipeline, and a bioremediation area.

The Draft EIS describes and analyzes the project's site-specific impacts on air quality; biological, including threatened and endangered species, cultural, water, geological, soil, visual, and paleontological resources; land use and special management areas; noise; public health; socioeconomics; and traffic and transportation. The Draft EIS also addresses hazards and hazardous materials holding; waste management; worker safety; fire protection; facility design engineering; efficiency; reliability; transmission system engineering; transmission line safety; and nuisance.

Three alternatives were analyzed: two for different technologies, dry cooling and wet cooling, and one for no action. Alternative A, wet cooling, uses circulating water to condense low-pressure steam turbine generator exhaust steam in a shell and tube heat exchanger (condenser). Alternative A would require the consumptive use of about 4,500 acre-feet of water per year. Alternative B, dry cooling, uses an air-cooled condenser that cools and condenses the low-pressure steam turbine generator exhaust steam using a large array of fans that force air over finned-tube heat exchangers arranged in an A frame bundle configuration. Alternative B would require the consumptive use of about 400 acre-feet of water per year. Alternative B is the BLM's Preferred Alternative. Alternative C is the No Action Alternative.

Scoping of the project occurred from July 13 to August 24, 2009, and was extended to October 19, 2009. A total of 151 scoping comments were submitted. The comments addressed a broad range of categories, including alternatives, project boundaries, management, and physical/natural resources.

The Draft EIS addresses the following issues identified during scoping: the NEPA process (consultation/coordination, proposal description, alternatives, connected actions, and cumulative impacts); social resources (cultural resources, visual resources, noise, land use, recreation, transportation, and socioeconomic resources); and physical/natural resources (botanical resources, water resources, paleontological resources, biological resources and earth resources).

Please note that public comments and information submitted, including names, street addresses, and e-mail addresses of persons who submit comments, will be available for public review and disclosure at the above address during regular business hours (8 a.m. to 4 p.m.), Monday through Friday, except holidays. 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.

Patrick Putnam,
Pahrump Field Office Manager.

Authority: 40 CFR 1506.6 and 1506.10.

[FR Doc. 2010–6056 Filed 3–18–10; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLES956000–L14200000–BJ0000–LXSITRST0000]

Eastern States: Filing of Plat of Survey

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey; North Carolina and Wisconsin.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM–Eastern States office in Springfield, Virginia, 30 calendar days from the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management—Eastern States, 7450 Boston Boulevard, Springfield, Virginia 22153. *Attn:* Cadastral Survey.

SUPPLEMENTARY INFORMATION: These surveys were requested by the Bureau of Indian Affairs.

The lands surveyed are:

Swain County, North Carolina

The plat of survey represents the dependent resurvey of a portion of the Qualla Tract boundary in the location of Cooper Creek, Swain County, in the State of North Carolina, and was accepted June 23, 2009.

Fourth Principal Meridian, Wisconsin

T. 34 N., R 16 E.

The plat of survey represents the dependent resurvey of a portion of the west boundary and a portion of the subdivisional lines, and the survey of the subdivision of Section 18, of Township 34 North, Range 16 East, of the Fourth Principal Meridian, in the State of Wisconsin, and was accepted March 8, 2010.

We will place copies of the plats we described in the open files. They will be available to the public as a matter of information.

If BLM receives a protest against a survey, as shown on the plat, prior to the date of the official filing, we will stay the filing pending our consideration of the protest.

We will not officially file a plat until the day after we have accepted or dismissed all protests and they have become final, including decisions on appeals.

Dated: March 15, 2010.

Dominica Van Koten,

Chief Cadastral Surveyor.

[FR Doc. 2010–6028 Filed 3–18–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–100–5440–K100–EQ; WYW–172178]

Notice of Realty Action, Lease of Public Land in Sublette County, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: The Bureau of Land Management (BLM) proposes to convert a temporary land use permit to a long-term lease under Section 302 of the Federal Land Policy and Management Act of 1976 for use as a work-force facility.

DATES: Comments regarding the lease must be received by the BLM at the address below not later than May 3, 2010.

ADDRESSES: Send all written comments concerning this proposal to the Field Manager, BLM Pinedale Field Office, P.O. Box 768, Pinedale, Wyoming 82941. Comments received in electronic form, such as e-mail or facsimile, will not be considered.

FOR FURTHER INFORMATION CONTACT: Bill Wadsworth, Realty Specialist, BLM Pinedale Field Office at 307–367–5341.

SUPPLEMENTARY INFORMATION: The following described land is proposed for lease at no less than fair market value:

Sixth Principal Meridian

T. 28 N., R. 108 W.,

Sec. 8, SE¼SE¼.

The area described contains 10 acres, more or less, in Sublette County. This area is currently being used as a site for Encana Oil and Gas (USA), Incorporated's work-force facility, under a three-year land use permit. The BLM proposes to convert this permit to a renewable 15-year lease for the same purpose at no less than fair market value. This will reduce the amount of time that the BLM staff will spend renewing the lease. The area is currently fenced for security and has dormitory-style housing, a dining area, a laundry, recreational amenities, and related appurtenances to operate the facility. The lands are available for lease for the above-described purpose. Any lease will be issued on a non-competitive basis, because, in the judgment of the authorized officer, no competitive interest exists and/or competitive bidding would represent unfair competitive and economic disadvantage to the existing permittee.

Detailed information concerning this action is available for review at the BLM Pinedale Field Office, 1625 West Pine Street, Pinedale, Wyoming 82941.

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 publicly available at any time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so. Any adverse comments will be reviewed by the BLM State Director, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

Authority: 43 CFR 2920.4.

John Huston,

Assistant Field Manager.

[FR Doc. 2010–6062 Filed 3–18–10; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCA930000.L58740000.EU0000. LXSS018B0000; CACA 48002]

Notice of Realty Action: Direct Sale of Public Lands in Riverside County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: The Bureau of Land Management (BLM), Palm Springs—South Coast Field Office, proposes to sell a parcel of public land consisting of approximately 119.37 acres in Riverside County, California to the City of Palm Springs for the appraised fair market value of $2,102,000.

DATES: Comments regarding the proposed sale must be received by the BLM on or before May 3, 2010.

ADDRESSES: Written comments concerning the proposed sale should be sent to the Field Manager, Bureau of Land Management, Palm Springs—South Coast Field Office, 1201 Bird Center Drive, Palm Springs, California 92262.

FOR FURTHER INFORMATION CONTACT: Allison Shaffer, Realty Specialist, BLM, Palm Springs—South Coast Field Office, 1201 Bird Center Drive, Palm Springs, California 92262 or phone (760) 833–7100.

SUPPLEMENTARY INFORMATION: The following described public land is being proposed for direct sale to the City of Palm Springs in accordance with Sections 203 and 209 of the Federal Land Policy and Management Act (FLPMA) of 1976, as amended (43 U.S.C. 1713 and 1714), at not less than the appraised fair market value:

San Bernardino Meridian

T. 3 S., R. 4 E.,

Sec. 34, those remaining public lands in the N½ lying south of the Chino Wash Flood Control Levee.

The area described contains approximately 119.37 acres in Riverside County.

The appraised fair market value is $2,102,000. The public land is identified as suitable for disposal in the BLM's 1980 California Desert Conservation Area Plan, as amended, and is not needed for any other Federal purpose.

The BLM is proposing a direct sale because the City of Palm Springs wishes to secure the land for development of the western campus of the College of the Desert. Development of the western campus of the College of the Desert is an important public project and speculative bidding would jeopardize the timely completion and economic viability of the project. A competitive sale is therefore not appropriate and the public interest would be best served by a direct sale. The lands identified for sale are considered to have no known mineral value. The BLM proposes that conveyance of the Federal mineral interests would occur simultaneously with the sale of the land.

On March 19, 2010, the above described land will be segregated from appropriation under the public land laws, including the mining laws, except the sale provisions of FLPMA. Until completion of the sale or termination of the segregation, the BLM will no longer

accept land use applications affecting the identified public lands, except applications for the amendment of previously filed right-of-way applications or existing authorizations to increase the term of the grants in accordance with 43 CFR 2807.15 and 2886.15. The segregation will terminate upon issuance of a patent, publication in the **Federal Register** of a termination of the segregation, or on March 19, 2012, whichever occurs first, unless extended by the BLM State Director in accordance with 43 CFR 2711.1–2(d) prior to the termination date. The land will not be sold until at least 60 days after the date of publication of this notice in the **Federal Register**. The City of Palm Springs will be required to pay a $50.00 nonrefundable filing fee for conveyance of the mineral interests. Any patent issued will contain the following terms, conditions, and reservations:

a. A reservation of a right-of-way to the United States for ditches and canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C 945);

b. A condition that the conveyance be subject to all valid existing rights of record;

c. A notice and indemnification statement under the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9620(W), indemnifying, and holding the United States harmless from any release of hazardous materials that may have occurred;

d. Additional terms and conditions that the authorized officer deems appropriate.

Detailed information concerning the proposed land sale, including the appraisal, planning and environmental documents, and a mineral report, are available for review at the location identified in **ADDRESSES** above.

Public comments regarding the proposed sale may be submitted in writing to the attention of the BLM Palm Springs—South Coast Field Manager (see **ADDRESSES** above) on or before May 3, 2010. Comments received in electronic form, such as e-mail or facsimile, will not be considered. Any adverse comments regarding the proposed sale will be reviewed by the BLM State Director or other authorized official of the Department, who may sustain, vacate, or modify this realty action in whole or in part. In the absence of timely filed objections, this realty action will become the final determination of the Department of the Interior. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, be advised 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 from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Authority: 43 CFR 2711.1–2(a) and (c).

Tom Pogacnik,

Deputy State Director for Natural Resources.

[FR Doc. 2010–6053 Filed 3–18–10; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Oil Pollution Act (OPA)

Notice is hereby given that on March 15, 2010, a proposed Consent Decree in the case of *United States, et al.* v. *Polar Tankers, Inc.,* Civil Action No. 2:10–cv–429, was lodged with the United States District Court for the Western District of Washington.

The United States, the State of Washington, the Muckleshoot Indian Tribe and the Puyallup Tribe of Indians ("Natural Resource Trustees") filed a complaint concurrently with the Consent Decree alleging that on or about October 13, 2004, the oil tank vessel POLAR TEXAS, owned by Polar Tankers, Inc., a subsidiary of ConocoPhillips, Inc., discharged oil into waterways near Vashon and Maury Islands in Washington. The complaint seeks natural resource damages pursuant to Section 1002(a) of the Oil Pollution Act, 33 U.S.C 2702(a). Under the Consent Decree, Polar Tankers, Inc., will pay assessment costs and natural resource damages totaling $588,000.

The Natural Resources Trustees developed a proposed Restoration Plan and Environmental Assessment in connection with the Spill. The proposed plan is attached to the Consent Decree as Appendix A and also available at *http://www.darrp.noaa.gov/.*

For thirty (30) days after the date of this publication, the Department of Justice will receive comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. In either case, the comments should refer to *United States, et al.* v. *Polar Tankers, Inc.,* D.J. Ref. No. 90–5–1–1–08673.

During the comment period, the Consent Decree may be examined on the following Department of Justice Web site: http://www.usdoj.gov/enrd/Consent_Decrees.html. A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $21.75 (25 cents per page reproduction cost) payable to the United States 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. 2010–6013 Filed 3–18–10; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on July 17, 2009, Halo Pharmaceutical Inc., 30 North Jefferson Road, Whippany, New Jersey 07981, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedules I and II:

Drug	Schedule
Dihydromorphine (9145)	I
Hydromorphone (9150)	II

Dihydromorphine is an intermediate in the manufacture of Hydromorphone and is not for commercial distribution. The company plans to manufacture Hydromorphone HCL for sale to other manufacturers and for the manufacture of other controlled substance dosage units for distribution to its customers.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative

(ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than May 18, 2010.

Dated: March 5, 2010.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2010–6036 Filed 3–18–10; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Federal Bureau of Prisons

Notice of Cancellation of the Environmental Impact Statement for the Criminal Alien Requirement 9

AGENCY: U.S. Department of Justice, Federal Bureau of Prisons.

ACTION: Notice of Cancellation of the Environmental Impact Statement.

SUMMARY: The Department of Justice, Federal Bureau of Prisons (BOP), announces that it is has decided to discontinue preparation of the Environmental Impact Statement (EIS) for the Criminal Alien Requirement 9 project (CAR 9). This notice briefly describes the history of the CAR 9 EIS.

SUPPLEMENTARY INFORMATION:

Background

In accordance with the National Environmental Policy Act (NEPA) of 1969, the Council of Environmental Quality Regulations (40 CFR parts 1500–1508), and the Department of Justice procedures for implementing NEPA (28 CFR 61), the BOP prepared a Draft Environmental Impact Statement (DEIS) for the proposed contract with one or more private contractor's to house up to 1,889 federal, low-security, adult male, non-U.S. citizen, criminal aliens at contractor-owned, contractor-operated correctional facilities located in Baldwin, Michigan or Lake City, Florida. The BOP began the EIS process with a Notice of Intent published in the Federal Register on June 19, 2009. Public scoping meetings were then held in Lake City, Florida on June 30, 2009, and in Baldwin, Michigan on July 7, 2009. Following the close of the public scoping period, the DEIS was developed. A Notice of Availability of the DEIS was placed in the **Federal Register** on November 6, 2009, initiating the 45-day public comment period which closed on December 21, 2009. Public Hearings were held November 17, 2009 in Lake City, Florida, and November 24, 2009 in Baldwin, Michigan.

This notice announces the decision by the BOP to cancel the DEIS following cancellation of the underlying proposed contracting action due to lack of funding.

Questions Concerning This Matter May Be Directed To: Richard A. Cohn, Chief, Capacity Planning and Site Selection Branch, or Issac J. Gaston, Site Selection Specialist, Federal Bureau of Prisons, 320 First Street, NW., Washington, DC 20534, *Tel:* 202–514–6470, *Fax:* 202–616–6024/*E-mail: racohn@bop.gov* or *igaston@bop.gov.*

Dated: March 12, 2010.

Richard A. Cohn,

Chief, Capacity Planning and Site Selection Branch.

[FR Doc. 2010–5939 Filed 3–18–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request for Information Collection for Evaluation of the Technology-Based Learning Grants: New Collection

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning a new data collection effort for the Technology-Based Learning Grants Evaluation.

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee's section below on or before May 18, 2010.

ADDRESSES: Submit written comments to Jonathan Simonetta, Room N–5641, Employment and Training Administration, 200 Constitution Avenue, NW., Washington, DC 20210. *Telephone number:* 202–693–3911 (this is not a toll-free number). *Fax:* 202–693–2766. *E-mail: Simonetta.jonathan@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Evaluation of the Technology-Based Learning (TBL) Grants is a two-year evaluation of grantees funded under the Employment and Training Administration's (ETA) TBL Initiative (73 FR 35155 (June 20, 2008)) to implement TBL programs that increase worker access to training in a timely and effective manner, while simultaneously stimulating the development of new and innovative models and uses for TBL in the public workforce system. The evaluation will document and assess learners' experiences and outcomes related to participating in such a program, and the implications for the public workforce system.

As a key part of the TBL evaluation, ETA's contractor will collect administrative data from grantees and administer a customer survey. The customer survey will provide information on customer satisfaction and participant outcomes, and thus inform future TBL projects. Since grantees are presently reporting only limited data about TBL participants to ETA, reasons for participation, challenges to participation, other workforce services received, and, of particular importance, satisfaction with TBL training and services would not otherwise be available in the absence of the survey. Thus, in order to more thoroughly evaluate the TBL program, participation, outcomes and satisfaction data will be gathered from both the limited administrative data and the customer survey.

The survey will be conducted online and will provide basic demographic, programmatic, and outcome information on participants in TBL programs, and supply participants' contact information for survey administration.

II. Review Focus

The Department of Labor is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and

* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

III. Current Actions

Type of Review: New collection.

Title: Evaluation of the Technology-Based Learning Grants.

OMB Number: 1205–0NEW.

Affected Public: Individuals.

Form(s): n/a.

Total Respondents: 1,500.

Frequency: One-time survey.

Total Responses: 1,050.

Average Time per Response: 20 minutes.

Estimated Total Burden Hours: 350 (*see* table 1, below).

Total Burden Cost for Respondents: $17,991.

TABLE 1—ESTIMATED BURDEN HOURS

Activity	Sample size	Response rate	Number of respondents	Frequency	Time per response (minutes)	Total burden hours
Monthly Administrative Data Requests			20	7	120	280
Final Administrative Data Request			20	Once	240	80
Customer Survey	1,500	70%	1,050	Once	20	350

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

Dated: March 15, 2010.

Jane Oates,

Assistant Secretary, Employment and Training Administration.

[FR Doc. 2010–6026 Filed 3–18–10; 8:45 am]

BILLING CODE 4510–FN–P

LIBRARY OF CONGRESS

Copyright Office

[Docket No. RF 2009–1]

Copyright Royalty Judges' Authority to Subpoena a Nonparticipant to Appear and Give Testimony or to Produce and Permit Inspection of Documents or Tangible Things

AGENCY: Copyright Office, Library of Congress.

ACTION: Final order.

SUMMARY: The Copyright Royalty Judges, acting pursuant to statute, referred a material question of substantive law to the Register of Copyrights concerning their authority to subpoena a nonparticipant to appear and give testimony or to produce and permit inspection of documents or tangible things. The Register of Copyrights responded by delivering a Memorandum Opinion to the Copyright Royalty Board on February 23, 2010.

DATES: *Effective Date:* February 23, 2010.

FOR FURTHER INFORMATION CONTACT: Tanya Sandros, Deputy General Counsel, or Stephen Ruwe, Attorney Advisor, Copyright GC/I&R, P.O. Box 70400, Washington, DC 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION: In the Copyright Royalty and Distribution Reform Act of 2004, Congress amended Title 17 to replace the copyright arbitration royalty panels with the Copyright Royalty Judges ("CRJs"). One of the functions of the CRJs is to make determinations and adjustments of reasonable terms and rates of royalty payments as provided in sections 112(e), 114, 115, 116, 118, 119 and 1004 of the Copyright Act. The CRJs have the authority to request from the Register of Copyrights ("Register") an interpretation of any material question of substantive law that relates to the construction of provisions of Title 17 and arises during the proceeding before the CRJs. *See* 17 U.S.C. 802(f)(1)(A)(ii).

On January 28, 2010, the CRJs delivered to the Register an Order referring a material question of substantive law for determination by the Register: "Whether the Copyright Royalty Judges have authority under the Copyright Act to subpoena a nonparticipant to appear and give testimony or to produce and permit inspection of documents or tangible things?" The CRJs also delivered to the Register the briefs filed with the CRJs by RealNetworks, Inc., Live365, Inc., SoundExchange, Inc., CBS Interactive, Inc., Pandora Media, Inc., and Slacker, Inc. in connection with a motion seeking the issuance of subpoenas to nonparty witnesses, as well as the transcripts of a hearing regarding consideration of that motion.

The Order stated that the CRJs were requesting an interpretation of a material question of substantive law pursuant to 17 U.S.C. 802(f)(1)(A)(ii), which allows a 14–day response period. However, section 802(f)(1)(B)(i) provides that when the CRJs request a decision by the Register on "a *novel* material question of substantive law concerning an interpretation of those provisions of this title that are the subject of the proceeding" (emphasis added), the Register shall transmit her decision within a *30*–day response period. A novel question of law is one that "has not been determined in prior decisions, determinations, and rulings described in section 803(a)." *Id.* On February 11, the Register advised the CRJs that she had determined that the material question of law that is the subject of the Order is novel because it has not been determined in prior decisions, determinations, and rulings described in 17 U.S.C. 803(a). *See* 17 U.S.C. 802(f)(1)(B)(ii).

On February 23, the Register responded in a Memorandum Opinion to the CRJs that addressed the novel material question of law. To provide the public with notice of the decision rendered by the Register, the Memorandum Opinion is reproduced in its entirety, below. The timely delivery of the Register's response requires that "the Copyright Royalty Judges shall apply the legal determinations embodied in the decision of the Register of Copyrights in resolving material questions of substantive law." *See* 17 U.S.C. 802(f)(1)(B)(I).

Dated: March 11, 2010

David O. Carson,

General Counsel.

Before the
U.S. Copyright Office
Library of Congress
Washington, D.C. 20559

In the Matter of

Digital Performance Right in Sound Recordings and Ephemeral Recordings

Docket No. 2009–1
CRB Webcasting III

MEMORANDUM OPINION ON MATERIAL QUESTIONS OF SUBSTANTIVE LAW

I. Procedural Background

On January 28, 2010, pursuant to 17 U.S.C. 802(f)(1), the Copyright Royalty Judges ("CRJs") referred to the Register of Copyrights a novel material question of substantive law that has arisen in this proceeding. The Copyright Royalty Judges included briefs that had been submitted in December 2009 and January 2010 by the parties to the proceeding and transcripts of a hearing held on January 12, 2010, relating to the authority of the CRJs to subpoena a nonparticipant in a proceeding.

After recounting the relevant statutory provisions of Chapter 8 of Title 17, the CRJs posed the following novel material question of substantive law:

> QUESTION: Whether the Copyright Royalty Judges have authority under the Copyright Act to subpoena a nonparticipant to appear and give testimony or to produce and permit inspection of documents or tangible things?

As required by 17 U.S.C. 802(f)(1)(B)(i), the Register hereby provides her response to the CRJs.

II. Statutory Authority in Chapter 8 of Title 17.

In 2004, Congress passed the Copyright Royalty and Distribution Reform Act ("CRDRA"). This legislation created the CRJs and provides, in 17 U.S.C. 803(b)(6)(C)(ix), that:

> In proceedings to determine royalty rates, the Copyright Royalty Judges may issue a subpoena commanding a participant or witness to appear and give testimony, or to produce and permit inspection of documents or tangible things, if the Copyright Royalty Judges' resolution of the proceeding would be substantially impaired by the absence of such testimony or production of documents or tangible things. Such subpoena shall specify with reasonable particularity the materials to be produced or the scope and nature of the required testimony. Nothing in this clause shall preclude the Copyright Royalty Judges from requesting the production by a nonparticipant of information or materials relevant to the resolution by the Copyright Royalty Judges of a material issue of fact.

III. Summary of Parties' Arguments

On December 10, 2009, RealNetworks, Inc. ("RealNetworks") filed a motion for issuance of subpoenas directing Pandora Media, Inc., Slacker, Inc., and CBS Interactive, Inc.("CBSi"), who are not participants in the proceeding, to present corporate representative witnesses competent to present documents and testify at deposition with respect to factual assertions included in the written direct statement of SoundExchange, Inc. ("SoundExchange") as to which SoundExchange has no first hand knowledge. RealNetworks' motion[1] focuses virtually all of its attention on the application of the CRJs' regulations addressing the discovery stages of a determination. In doing so, it does not attempt to analyze *who* may be the proper subject of a subpoena under the statute.

In response to RealNetworks' motion, SoundExchange[2] argues that section 803(b)(6)(C)(ix) treats *subpoenas* to "participants and witnesses" separately from *requests* to "nonparticipants."[3] In SoundExchange's view, "with respect to participants and witnesses, [the statute] states that the CRJs 'may issue a subpoena commanding a participant or witness to appear and give testimony, or to produce and permit inspection of documents or tangible things,' if certain conditions are met."[4] SoundExchange argues that the CRJs could, under certain conditions, issue a subpoena in a given proceeding to either a participant or a witness whose testimony has been previously submitted to the CRJs in the given proceeding.[5] But, under SoundExchange's view, the CRJs may not issue subpoenas to persons who are neither participants nor witnesses who have previously submitted testimony in the given proceeding. SoundExchange asserts that "with respect to seeking information from *nonparticipants* like Pandora, Slacker and CBS Interactive, § 803(b)(6)(C)(ix) establishes a different standard that limits the CRJs' power. It does not include them among those individuals who may be subpoenaed. Rather, it provides that '[n]othing in this clause shall preclude the Copyright Royalty Judges from *requesting* the production by a nonparticipant of information or materials relevant to the resolution by the Copyright Royalty Judges of a material issue of fact.'" When asked by the Chief Copyright Royalty Judge at the hearing on the motion whether it was aware of any other federal statutes that provide for a power or duty but provide no mechanism for enforcement, SoundExchange stated that it was not aware of any such statute. SoundExchange further opined that the only enforcement mechanism available to the CRJs in the event of noncompliance with a subpoena would be the CRJs' authority to impose sanctions, such as striking testimony, when the subpoena was directed to a participant or a witness whose testimony has been previously submitted by a participant. SoundExchange observed that this "suggests a reason why this statute should be interpreted to mean the Court [sic] can issue subpoenas to parties, participants and witnesses, but not to nonparticipants."[6]

Having put forth an analysis of section 803(b)(6)(C)(ix) that involves a distinction between "participants and witnesses" on the one hand and "nonparticipants" on the other, SoundExchange cites to *Bobreski v. E.P.A*, 284 F. Supp.2d 67,76 (D.D.C. 2003) and *United States v. Iannone*, 610 F.2d 943, 945–47 (D.C. Cir. 1979) for the proposition that subpoena power should not be found to exist absent an express statutory grant. SoundExchange then cites to *Peters v.United States*, 853 F.2d 692, 696 (9th Cir. 1988), asserting that even where an agency has broad

[1] Another participant, Live365, Inc. ("Live365") separately filed a brief in which it adopted the relevant arguments in RealNetworks' initial motion.

[2] Pandora Media, Inc., Slacker, Inc., and CBSi adopted the relevant arguments SoundExchange's brief.

[3] In distinguishing between "participants and witnesses" on one hand, and "nonparticipants" on the other, SoundExchange apparently does not recognize that the "witnesses" that it includes within the group of "participants and witnesses" are in fact nonparticipants. In the parlance of CRJ proceedings, a "participant" is a party to the proceeding. *See* 17 U.S.C. §§ 801(b)(7)(A), 802(f)(1)(A)(ii), 802(f)(1)(B), 802(f)(1)(D), 803(b)(1)(A)(ii), 803(b)(2)(C), 803(b)(3)(A), 803(b)(4), 803(b)(5), 803(b)(6)(C), 803(c)(2), 803(c)(4), 803(d)(1), 803(d)(2)(B), 805(1)

[4] SoundExchange cites to the full text of section 803(b)(6)(C)(ix), which provides that CRJs may only issue subpoenas where "resolution of the proceeding would be substantially impaired by the absence of such testimony or production of documents or tangible things."

[5] While SoundExchange, in its written brief, initially argued that the CRJs could only subpoena "participants and witnesses" and that they could not subpoena nonparticipants, at the January 12, 2010, hearing, SoundExchange conceded that the statute's grant of authority to subpoena a "witness" includes those who are not necessarily participants, provided they have previously submitted testimony as a witness in the relevant proceeding. Hearing Transcript at 76.

[6] Transcript at 72-74.

subpoena and investigatory authority, courts should be reluctant to assume the existence of authority to issue third party subpoenas where Congress has not specifically provided for them. SoundExchange also argues that if the CRJs were granted the authority to issue subpoenas to nonparticipants, then the last sentence of 803(b)(6)(C)(ix), which authorizes them to *request* information from nonparticipants, would be unnecessary, and that such an interpretation would violate an accepted principle of statutory construction against surplusage.[7] RealNetworks and Live365 assert that section 803(b)(6)(C)(ix) authorizes the issuance of subpoenas to nonparticipants and that neither the statute nor regulations limit this power only to participants in a proceeding. Unlike the briefs supporting the initial motion, their reply briefs focus directly on whether the CRJs possess authority to issue subpoenas to persons who are neither participants in the proceeding nor persons who the participants have designated to testify. In its reply brief, and in the January 12 hearing, RealNetworks argues that the plain language of 803(b)(6)(C)(ix) demonstrates that the CRJs have power to subpoena "witnesses." It asserts that SoundExchange's citations to case law assessing agencies' subpoena authority when Congress has not provided for such power through plain language are therefore irrelevant. RealNetworks argues that SoundExchange's analysis of section 803(b)(6)(C)(ix) is unduly cramped and that the plain text of the statute undermines SoundExchange's argument that "witness" should be understood to mean only a witness previously designated by a participant to give evidence in court. RealNetworks asserts that the common meaning of "witness" and "testimony" support its proposed plain language reading of the statute. RealNetworks also asserts that the plain language and the legislative history of section 803(b)(6)(C)(ix) demonstrate that the CRJs have power to subpoena "witnesses," not just a small subset of witnesses as SoundExchange contends. RealNetworks offers that should the CRJs accept SoundExchange's argument that the CRJs may only subpoena a witness previously designated by a participant to give evidence, it would run counter to language in the legislative history of the Copyright Royalty and Distribution Reform Act of 2004 that explains that the subpoena power was intended to prevent a party from circumscribing the type and amount of evidence considered in a proceeding. H.R. Rep. No. 108–408, at 33 (2004).

At the hearing, CBSi pointed out that the legislative history relied on by RealNetworks addresses proposed statutory language that was markedly different, and much broader, than that which was ultimately enacted by Congress.

RealNetworks' reply brief also points out that the last sentence in section 803(b)(6)(C)(ix) does not create surplusage because the authority to subpoena and the authority to request are not redundant, especially when there are distinct threshold requirements for employing the two differing actions. Under RealNetworks' analysis, the threshold test for issuance of a subpoena to participants and witnesses is substantial impairment, whereas the threshold test for a request for information from nonparticipants is relevance.

In its reply brief, Live365 goes on to argue that if the CRJs' subpoena power were limited to participants and witnesses who have already submitted statements to the CRJs, the subpoena power would be effectively meaningless since other provisions allow the CRJs to compel testimony from parties and their witnesses. *See* 17 U.S.C. 803(b)(6)(C)(v)–(vii). Thus, according to Live 365, Congress must have been contemplating the ability to compel testimony from nonparticipant third parties.

IV. Register's Determination

A review of the written submissions and oral arguments offered by the parties and third party witnesses who supported and opposed the motion reveals that the question is not precisely whether the CRJs have the authority to "subpoena a nonparticipant," but rather whether the CRJs have the authority to subpoena a person who is neither a participant in the proceeding nor a witness whose testimony has been submitted as part of a participant's written direct statement. While SoundExchange's initial submission posited a distinction between participants and witnesses on the one hand and nonparticipants on the other hand, at the time of the hearing on the motion SoundExchange refined its position to acknowledge that some nonparticipants may nevertheless be "witnesses" for purposes of 17 U.S.C. 803(b)(6)(C)(ix). Specifically, SoundExchange acknowledged that the CRJs have the authority to subpoena a nonparticipant whose testimony has previously been submitted by a participant in the relevant proceeding.[8]

SoundExchange's refinement of its position is more consistent with the language of section 803(b)(6)(C)(ix), which empowers the CRJs to "issue a subpoena commanding a participant *or witness* to appear." (Emphasis added). The question, then, is: who may be a "witness" for purposes of section 803(b)(6)(C)(ix)?

In answering that question, one must look toward established canons of statutory construction which dictate that "the meaning of a statute must, in the first instance, be sought in the language in which the act is framed, and if that is plain, and if the law is within the constitutional authority of the law–making body which passed it, the sole function of the courts is to enforce it according to its terms." *Caminetti v. United States*, 242 U.S. 470, 485 (1917). The plain meaning of the first sentence of this provision clearly authorizes the issuance of subpoenas to participants. The plain meaning of the same sentence also authorizes the CRJs to issue subpoenas to witnesses. Therefore, it is evident that certain persons other than participants (*i.e.* nonparticipants) may be subpoenaed, provided that they are "witnesses." Unfortunately, this analysis does not answer the critical question currently before the CRJs regarding whether the authority to subpoena "witnesses" is, as SoundExchange and the proposed subjects of subpoenas suggest, limited to witnesses whose testimony has been filed as part of a participant's written direct statement (a limited subset of nonparticipants), or whether the authority to subpoena witnesses includes any prospective witnesses, which would include all nonparticipants – subject to the other criteria regarding the probative value of their evidence.[9]

In determining whether "witness" as used in section 803(b)(6)(C)(ix) is limited to those who have already submitted testimony to the CRJs, one must, as noted above, look to the plain meaning of the statute. An accepted maxim of statutory construction dictates that in the absence of a definition, a statutory term should be construed in accordance with its natural meaning. *FDIC v. Meyer*, 510 U.S. 471 (1994). The

[7] CBSi, separately filed a brief in which it adopted the relevant arguments in SoundExchange's brief, and it reiterated many of SoundExchange's arguments at the January 12, 2010, hearing.

[8] SoundExchange acknowledges that "there are times when some of the witnesses aren't even under the control of a participant, and so you would have to issue a subpoena." Hearing Transcript at 76.

[9] With regard to both participants as well as witnesses, the CRJs may only issue a subpoena if the resolution of the proceeding would be substantially impaired by the absence of such testimony or production of documents or tangible things.

question here is, what is the natural meaning of the word "witness"? *Black's Law Dictionary* defines "witness" as "*One who* sees, knows, or vouches for something." *Black's Law Dictionary* (8th ed. 2004). Additionally, *Corpus Juris Secundum: A Contemporary Statement of American Law as Derived from Reported Cases* and *Legislation*, states "The term witness, in its strict legal sense, means one who gives evidence in a cause before a court; and in its general sense includes all persons from whose lips testimony is extracted to be used in any judicial proceeding, and so includes deponents and affiants as well as persons delivering oral testimony before a court or jury." 97 CJS Witnesses § 1 West, 1994. Neither of these definitions deems "witness" to be restricted to those whose testimony has been filed with the CRJs as part of a written, direct statement or, more generally, to those who have already given testimony. Therefore, there is no basis to conclude that Congress intended an alternative, more restrictive, meaning. Instead, the Register determines that "witness" as used in section 803(b)(6)(C)(ix) includes anyone *who knows something* that is relevant, or alternatively anyone who has or gives evidence (as opposed to one who *has given* evidence) in a rate determination proceeding. This plain meaning interpretation includes witnesses who are nonparticipants, including those who have not previously been designated by a participant as a witness as well as those whose testimony has not been filed as part of a written direct statement.

The statutory interpretation principle of *in pari materia*, which offers that statutes relating to the same or a closely allied subject or object should be construed together and compared with each other, indicates that it is also useful to look to other federal statutes that authorize the issuance of subpoenas. 73 Am. Jur. 2d Statutes § 103 (2009). The United States Code is replete with provisions that authorize various officers of the United States to issue subpoenas, and it is common for those provisions expressly to provide a power to "subpoena witnesses" or "issue subpoenas for the attendance of witnesses," or contain similar language. *See, e.g.*, 5 U.S.C. § 1305 (Office of Personnel Management & Merit Systems Protection Board may "subpena witnesses and records" in certain matters relating to administrative law judges); 8 U.S.C.A. § 1229a(b)(1) (Immigration judges "may issue subpoenas for the attendance of witnesses and presentation of evidence"); 2 U.S.C. § 437d(a)(3) (Federal Election Commission may "require by subpoena, signed by the chairman or the vice chairman, the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties"). In each of these cases, a plain reading of the statute leads to the conclusion that Congress was empowering the named officers to issue subpoenas to "witnesses" as the term is commonly understood, and not just to persons who were already participating in their proceedings. The same reading is the natural reading of section 803(b)(6)(C)(ix).

In arguing for a more narrow interpretation of "witness," SoundExchange, joined by the proposed subjects of subpoenas, suggests that the final sentence of section 803(b)(6)(C)(ix) limits the CRJs' power with regard to nonparticipants. Under SoundExchange's reading, if section 803(b)(6)(C)(ix) were interpreted to allow the issuance of subpoenas to nonparticipants, the last sentence of the provision would be superfluous, and such a result would violate an accepted principle of statutory construction. However, the final sentence of section 803(b)(6)(C)(ix), which states "[n]othing in this clause shall preclude the Copyright Royalty Judges from requesting the production by a nonparticipant of information or materials relevant to the resolution by the Copyright Royalty Judges of a material issue of fact," does not address the CRJs' power to *subpoena* testimony. Instead, it speaks to the power of the CRJs to *request* testimony. As RealNetworks accurately points out, there may be situations where the CRJs conclude that it might be useful to have a nonparticipant testify, but at the same time conclude that the resolution of the proceeding would *not* be substantially impaired by the absence of such testimony. In such instances, the CRJs would not be able to *subpoena* the nonparticipant. However, in such instances, the CRJs could, under the final sentence of section 803(b)(6)(C)(ix), *request* the relevant testimony. Such a scenario clearly demonstrates that the final sentence is not rendered superfluous by a nonrestrictive interpretation of the subpoena power. The first part of section 803(b)(6)(C)(ix) authorizes the issuance of a subpoena to participants and witnesses, albeit bound by a finding that the absence of testimony would substantially impair the resolution of the proceeding. The second part of section 803(b)(6)(C)(ix), in a non–superfluous manner, preserves the ability to *request* testimony from a nonparticipant, provided that such testimony is relevant to the resolution of a material issue of fact and even if the absence of that testimony would not substantially impair the resolution of the proceeding.

SoundExchange correctly observes that the legislative history cited by RealNetworks was referring to proposed statutory text that was quite different from the statute as passed. However, it is unnecessary to look toward the legislative history for clarification where the plain meaning of the statute is clear. Even if there were ambiguity or lack of specificity in the statute, the legislative history that exists is consistent with the Register's finding that the CRJs' subpoena power is broad and not restricted to witnesses who have already submitted testimony to the CRJs. The legislative history evidences Congress's intent to allow "the CRJs to subpoena additional witnesses." H.R. Rep. No. 108–408, at 33 (2004). This portion of the House Report indicates that Congress intended the word "witness" to include additional persons beyond merely those who have previously been designated by a participant to give evidence. While it is true that the language discussed in the House Report imparted broader authority than the statue as passed, there is no indication that in the legislation as enacted, Congress intended a more restrictive meaning of "witness." Rather, it appears that subsequent to the filing of the House Report, Congress refined the statutory language in a way that required the CRJs to find a much higher degree of relevance and materiality before they would be permitted to issue subpoenas to witnesses, but not in any way that could affect the determination whether a particular person would be considered a "witness."[10]

The complete legislative history regarding the CRJs' subpoena power indicates that the type of restrictions that SoundExchange currently argues for were largely reflected in statutory language that was reported by the Senate Judiciary Committee but that ultimately was not adopted by Congress. As laid before the Senate, H.R. 1417 provided that the CRJs "may issue a subpoena commanding a participant or

[10] At the time the House Report was filed, the language in the pending legislation permitted the CRJs to issue subpoenas "only if the evidence requested to be produced or that would be proffered by the witness is relevant and material." H.R. Rep. No. 108-408, at 8 (2004). In the enacted legislation, that authority was narrowed to permit the issuance of subpoenas "if the Copyright Royalty Judges' resolution of the proceeding would be substantially impaired by the absence of such testimony or production of documents or tangible things." 17 U.S.C. 803(b)(6)(C)(ix).

witness *in a proceeding to determine royalty rates* to appear and give testimony or to produce and permit inspection of documents or tangible things." 150 Cong. Rec. S10499 (daily ed. October 6, 2004) (Emphasis added). The final sentence of the relevant subparagraph also stated that "A Copyright Royalty Judge may not issue a subpoena under this clause to any person who was a participant in a proceeding to determine royalty rates and has negotiated a settlement with respect to those rates." *Id.* However, these two limitations on the CRJs' subpoena power were amended on the Senate floor. The floor amendment removed the above–referenced final sentence of the relevant subparagraph, which would have prevented the CRJs from issuing a subpoena to any person who had been a participant in a proceeding to determine royalty rates and had negotiated a settlement. The floor amendment also removed any indication that a "witness" must be one "*in a proceeding to determine royalty rates*." 150 Cong. Rec. S10590 (daily ed. October 6, 2004). The fact that these two restrictions, which are closely analogous to the one SoundExchange currently argues for, were not included in the statute as enacted indicates that Congress did not intend such limitations to be placed on the CRJs' subpoena power.

The cases cited by SoundExchange are also inapplicable to the current inquiry. *Bobreski v. E.P.A*, 284 F. Supp.2d 67 (D.D.C. 2003) addressed a statute that specifically withheld any grant of subpoena authority; *United States v. Iannone*, 610 F.2d 943 (D.C. Cir. 1979) spoke solely to the authority to subpoena the attendance and testimony of a witness, versus the mere authority to subpoena documentary information; and *Peters v. United States*, 853 F.2d 692 (9th Cir. 1988) addressed limitations on an administrative agency's ability to issue a very unique type of subpoena often referred to as "'John Doe' subpoenas" which are directed in a blanket manner at unidentified targets. The court observed that such subpoenas, which are not at issue here, carry heightened privacy concerns and it was therefore "reluctant to assume the existence of the power to issue third–party subpoenas directed at unidentified targets where Congress has not provided for them specifically, nor provided procedural safeguards." 853 F.2d 696.

Additionally, the CRJs' regulations cited by the parties are not instructive in answering the referred question. The question presented to the Register is the breadth of the CRJs' statutory authority to issue subpoenas. In answering that question, the statutory language, as well as the relevant legislative history and case law, provide the appropriate authority. Any limitation adopted through regulation by the CRJs regarding their ability to issue subpoenas during the discovery process prior to the consideration of the underlying statutory question cannot inform the Register's determination as to the scope of the CRJs' subpoena power under the statute.

Finally, Live355 argues in its reply brief that the CRJs would not need the subpoena power provided in the statute if it extended only to participants and witnesses identified in a party's direct case. It maintains that the subpoena power would be effectively meaningless under this interpretation since other statutory provisions allow the CRJs to compel testimony from parties and their witnesses, citing 17 U.S.C. 803(b)(6)(C)(v)–(vii). That observation is persuasive. The CRJs can order a participant to provide additional documentation or testimony under their authority to conduct the rate setting proceeding. They do not need subpoena power to compel compliance from a participant. The participant can comply with the order or, should it or its witnesses fail to do so, the CRJs can strike the affected portion of the participant's testimony. This option is a powerful enforcement mechanism but it only can work with participants and witnesses that voluntarily appear before the CRJs. Subpoena power, on the other hand, allows the CRJs to reach nonparticipants who are not part of the proceeding and it provides the CRJs with tools to compel compliance from persons who are not initially part of the proceedings. While it is true that, as SoundExchange points out, the statutory authority to issue subpoenas is silent with regard to enforcement, that is irrelevant to the inquiry at hand. It is not uncommon for Congress to grant subpoena authority in a statute that contains no stated enforcement mechanism. Where Congress grants subpoena authority in a statute that contains no stated enforcement mechanism, enforcement is achieved through a U.S. district court, and may be sought through the assistance of the United States Attorney's office. *Office of Legal Policy, U.S. Department of Justice, Report to Congress on the Use of Administrative Subpoena Authorities by Executive Branch Agencies and Entities, Pursuant to Public Law 106–544*, at 9–10 (2002), (available at http://www.usdoj.gov/archive/index–olp.html).

For the above–stated reasons, the Register concludes that the CRJs do have the authority to subpoena a witness to appear and give testimony or to produce and permit inspection of documents or tangible things even when that witness is not a participant in the proceeding and his or her testimony has not yet been submitted in the proceeding. This authority is restricted to instances where the resolution of the proceeding would be substantially impaired by the absence of such testimony or production of documents or tangible things. Additionally, Congress expressly preserved the CRJs' power to request information from nonparticipants in certain cases when the CRJs do not have the power to issue subpoenas. This power to request information may be invoked in those instances where such testimony is relevant to the resolution of a material issue of fact, even when its absence would not substantially impair the resolution of the proceeding (and, therefore, a subpoena could not be issued). The CRJs have not asked for any determination regarding what may constitute either substantial impairment of resolution of the proceeding or relevance to the resolution of a material issue of fact, and therefore no guidance is offered on those questions. It is, however, pertinent to observe that while the statute grants the CRJs the authority to issue subpoenas in certain circumstances, it does not compel them to issue subpoenas in any circumstance. Furthermore, it is noteworthy that even under the broader grant of subpoena power in the provision initially introduced in the House, Congress stated that it "does not anticipate that the use of subpoena power will become a common occurrence" and that "[t]he CRJs are expected to exercise this power judiciously and only in those instances where they believe a subpoena is necessary to obtain information that the parties have not provided and that the judges deem necessary to make their decision." H.R. Rep. No. 108–408, at 33 (2004).

February 22, 2010

Marybeth Peters,

Register of Copyrights.

[FR Doc. 2010–5806 Filed 3–18–04; 8:45 am]

BILLING CODE 1410–30–S

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NOTICE 10–027]

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

DATES: All comments should be submitted within 60 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Brenda Maxwell, Mail Code JF000, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Brenda Maxwell, NASA PRA Officer, NASA Headquarters, 300 E Street, SW., Mail Code JF000, Washington, DC 20546, (202) 358–4616, *Brenda.Maxwell@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Information collection is required to evaluate bids and proposals from offerors to award contracts for required goods and services in support of NASA's mission.

II. Method of Collection

NASA collects this information electronically where feasible, but information may also be collected by mail or fax.

III. Data

Title: NASA acquisition process, bids and proposals for contracts with an estimated value more than $500,000.

OMB Number: 2700–0085.

Type of review: Extension of a currently approved collection.

Affected Public: Business or other for-profit; Not-for-profit institutions; and State, Local or Tribal Government.

Estimated Number of Respondents: 1,148.

Estimated Annual Responses: 1,148.

Estimated Time per Response: 600 hours.

Estimated Total Annual Burden Hours: 688,800.

Estimated Total Annual Cost: $0.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Brenda Maxwell,

NASA PRA Clearance Officer.

[FR Doc. 2010–5997 Filed 3–18–10; 8:45 am]

BILLING CODE P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 10–029]

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

DATES: All comments should be submitted within 60 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Brenda Maxwell, Mail Code JF000, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Brenda Maxwell, NASA PRA Officer, NASA Headquarters, 300 E Street, SW., Mail Code JF000, Washington, DC 20546, (202) 358–4616, *Brenda.Maxwell@nasa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

Information collection is required to evaluate bids and proposals from offerors to award contracts with an estimated value less than $500,000 for required goods and services in support of NASA's mission.

II. Method of Collection

NASA collects this information electronically where feasible, but information may also be collected by mail or fax.

III. Data

Title: NASA acquisition process, bids and proposals for contracts with an estimated value less than $500,000.

OMB Number: 2700–0087.

Type of review: Extension of a currently approved collection.

Affected Public: Business or other for-profit; Not-for-profit institutions; and State, Local or Tribal Government.

Estimated Number of Respondents: 3,772.

Estimated Annual Responses: 3,772.

Estimated Time per Response: 325 hours.

Estimated Total Annual Burden Hours: 1,225,900.

Estimated Total Annual Cost: $0.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Brenda Maxwell,

NASA PRA Clearance Officer.

[FR Doc. 2010–5999 Filed 3–18–10; 8:45 am]

BILLING CODE P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 10–30]

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

DATES: All comments should be submitted within 60 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Brenda Maxwell, Mail Code JF000, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Brenda Maxwell, NASA PRA Officer, NASA Headquarters, 300 E Street SW., Mail Code JF000, Washington, DC 20546, (202) 358–4616, *Brenda.Maxwell@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Information collection is required to effectively manage and administer contracts with an estimated value more than $500,000 for required goods and services in support of NASA's mission.

II. Method of Collection

NASA collects this information electronically where feasible, but information may also be collected by mail or fax.

III. Data

Title: NASA acquisition process, reports required for contracts with an estimated value more than $500,000.

OMB Number: 2700–0089.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit; Not-for-profit institutions; and State, Local or Tribal Government.

Estimated Number of Respondents: 1,700.

Estimated Annual Responses: 93,500.

Estimated Time per Response: 7 hours.

Estimated Total Annual Burden Hours: 654,500.

Estimated Total Annual Cost: $0.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Brenda Maxwell,

NASA PRA Clearance Officer.

[FR Doc. 2010–6000 Filed 3–18–10; 8:45 am]

BILLING CODE P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 10–028]

Notice of Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

DATES: All comments should be submitted within 60 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Brenda Maxwell, Mail Code JF000, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Brenda Maxwell, NASA PRA Officer, NASA Headquarters, 300 E Street, SW., Mail Code JF000, Washington, DC 20546, (202) 358–4616, *Brenda.Maxwell@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Information collection is required to evaluate bids and proposals from offerors to award Purchase Orders and to use bank cards for required goods and services in support of NASA's mission.

II. Method of Collection

NASA collects this information electronically where feasible, but information may also be collected by mail or fax.

III. Data

Title: NASA acquisition process, Purchase Orders and the use of bank cards for purchases with an estimated valueless than $100,000.

OMB Number: 2700–0086.

Type of review: Extension of a currently approved collection.

Affected Public: Business or other for-profit; Not-for-profit institutions; and State, Local or Tribal Government.

Estimated Number of Respondents: 137,086.

Estimated Annual Responses: 137,086.

Estimated Time Per Response: 0.25 hours.

Estimated Total Annual Burden Hours: 43,245.

Estimated Total Annual Cost: $0.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Brenda Maxwell,

NASA PRA Clearance Officer.

[FR Doc. 2010–5998 Filed 3–18–10; 8:45 am]

BILLING CODE P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; National Council on the Arts 169th Meeting—Addendum

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, this is an addendum to the meeting notice previously published (March 9, 2010—Vol. 75 No. 45) regarding the 169th meeting of the National Council on the Arts.

A portion of this meeting, from 9 a.m. to 10:45 a.m. on Friday, March 26th, (ending time is approximate), will be Web cast. The Web cast can be accessed by going to Art Works blog at *http://www.arts.gov/artworks.*

If, in the course of the open session discussion, it becomes necessary for the Council to discuss non-public commercial or financial information of intrinsic value, the Council will go into closed session pursuant to subsection (c)(4) of the Government in the Sunshine Act, 5 U.S.C. 552b, and in accordance with the determination of

the Chairman of November 10, 2009. Additionally, discussion concerning purely personal information about individuals, submitted with grant applications, such as personal biographical and salary data or medical information, may be conducted by the Council in closed session in accordance with subsection (c)(6) of 5 U.S.C. 552b.

Further information with reference to this meeting can be obtained from the Office of Communications, National Endowment for the Arts, Washington, DC 20506, at 202/682–5570.

Dated: March 16, 2010.

Kathy Plowitz-Worden,

Panel Coordinator, Office of Guidelines and Panel Operations.

[FR Doc. 2010–6014 Filed 3–18–10; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Federal Advisory Committee on International Exhibitions

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Federal Advisory Committee on International Exhibitions (FACIE) will be held on April 8, 2010 in Room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 (ending time is approximate). This meeting, from 9:30 a.m. to 2:30 p.m., is for application review and will be closed.

The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of November 10, 2009, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of Title 5, United States Code.

Further information with reference to these meetings can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5691.

Dated: March 16, 2010.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 2010–6023 Filed 3–18–10; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Geosciences; 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: Advisory Committee for Geosciences (1755).

Dates: April 14, 2010; 8:30 a.m.–5 p.m.
April 15, 2010 8:30, a.m.–1:30 p.m.

Place: Stafford I, Room 1235, National Science Foundation, 4201 Wilson Blvd., Arlington, Virginia. 22230.

Type of Meeting: Open.

Contact Person: Melissa Lane, National Science Foundation, Suite 705, 4201 Wilson Blvd., Arlington, Virginia 22230. Phone 703–292–8500.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice, recommendations, and oversight concerning support for environmental research and education.

Agenda

April 14

- Directorate activities and plans
- Division Subcommittee Meetings
- Education & Diversity Subcommittee Meeting
- Meeting with the Director

April 15

- Discussion of GEO International Activities
- Discussion of FY 2011 NSF Investments
- Subcommittee Reports
- Action Items/Planning for Fall Meeting

Dated: March 16, 2010.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2010–6096 Filed 3–18–10; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for International Science and Engineering; Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

NAME: Advisory Committee for International Science and Engineering (#25104).

DATE/TIME: April 19, 2010—8:30 a.m. to 5 p.m.
April 20, 2010—8:30 a.m. to 12 p.m.

PLACE: National Science Foundation, 4121 Wilson Boulevard, Room 555, Arlington, VA.

TYPE OF MEETING: Open.

CONTACT PERSON: Edward Murdy, National Science Foundation, 4121 Wilson Boulevard, Arlington, VA 22230 (703) 292–8710.

If you are attending the meeting and need access to the NSF, please contact the individual listed above so your name may be added to the building access list.

PURPOSE OF MEETING: To provide advice on the programs and activities of the Office of International Science and Engineering.

Agenda

April 19, 2010

AM: Introductions and Updates—Presentation and Discussion of 2010 activities.

PM: Presentation and Discussion—Meet with NSF Director; Committee Discussion.

April 20, 2010

AM: Presentation and Discussion—Activities and initiatives for the coming year. Planning for the next meeting.

Dated: March 16, 2010.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2010–6097 Filed 3–18–10; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

National Science Board; Sunshine Act Meeting Notice

The National Science Board's Task Force on Merit Review, pursuant to NSF regulations (45 CFR Part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings for the transaction of National Science Board business and other matters specified, as follows:

DATE AND TIME: Thursday, March 25 at 11 a.m. EDT.

SUBJECT MATTER: Discussion of task force charge and work plan.

STATUS: Open.

This meeting will be held by teleconference originating at the National Science Board Office, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Room 1225 will be available to the public to listen to this teleconference meeting. All visitors must contact the Board Office at least

one day prior to the meeting to arrange for a visitor's badge. Call 703–292–7000 to request your badge, which will be ready for pick-up at the visitor's desk on the day of the meeting. All visitors must report to the NSF visitor desk at the 9th and N. Stuart Streets entrance to receive their visitor's badge the day of the teleconference.

Please refer to the National Science Board Web site (*http://www.nsf.gov/nsb*) for information or schedule updates, or contact: Elizabeth Strickland, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. *Telephone:* (703) 292–7000.

Ann Ferrante,

Technical Writer/Editor.

[FR Doc. 2010–6263 Filed 3–17–10; 4:15 pm]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–269, 50–270, and 50–287; NRC–2010–0102]

Duke Energy Carolinas, LLC; Notice of Consideration of Issuance of Amendments to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an amendment to Renewed Facility Operating Licenses DPR–38, DPR–47, and DPR–55, issued to Duke Energy Carolinas, LLC (the licensee), for operation of the Oconee Nuclear Station, Units 1, 2, and 3, located in Oconee County, South Carolina.

The proposed amendment would change the Technical Specifications (TSs) to allow the use of methodology report DPC–NE–1006–P, "Oconee Nuclear Design Methodology Using CASMO–4/SIMULATE–3." The amendment application dated June 10, 2009, as supplemented December 18, 2009, contains sensitive unclassified non-safeguards information (SUNSI).

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in Title 10 of the *Code of Federal Regulations* (10 CFR), Section 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change to allow the use of the CASMO–4/SIMULATE–3 reload design software to analyze reactor cores with fuel containing lumped burnable and/or gadolinia integral absorbers does not involve a significant increase in the probability or consequences of an accident previously evaluated. The CASMO–4/SIMULATE–3 codes are used to perform reactivity and power distribution calculations to develop power distribution limits and provide confirmation of reactivity and power distribution input assumptions used in the evaluation of UFSAR Chapter 15 accidents. The SIMULATE–3 code is also used to confirm the acceptability of thermal limits at post accident conditions.

The benchmark calculations performed verified the acceptability of the CASMO–4/SIMULATE–3 code for performing reload design calculations for reactor cores containing both lumped burnable and/or gadolinia integral absorbers. These calculations confirmed the accuracy of the codes and developed a methodology for calculating power distribution uncertainties for use in reload design calculations. The use of appropriate power distribution uncertainties applicable to core designs in conjunction with predicted peaking factors ensures that thermal accident acceptance criteria are satisfied.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated.

The benchmark calculations performed verified the acceptability of the CASMO–4/SIMULATE–3 code for performing reload design calculations for reactor cores containing both lumped burnable and/or gadolinia integral absorbers. These calculations confirmed the accuracy of the codes and developed a methodology for calculating power distribution uncertainties for use in reload design calculations.

The application of the CASMO–4/SIMULATE–3 reload design software to perform reload design calculations for reactor cores containing lumped burnable and/or gadolinia integral absorbers will not create the possibility of a new or different kind of accident from any accident previously evaluated. The CASMO–4/SIMULATE–3 software is not installed in plant equipment and therefore the software is incapable of initiating an equipment malfunction that would result in a new or different type of accident from any previously evaluated. The evaluation of accidents and the associated acceptance criteria for these accidents remains unchanged.

(3) Involve a significant reduction in a margin of safety.

The application of the CASMO–4/SIMULATE–3 reload design software to perform reload design calculations for reactor cores containing lumped burnable and/or gadolinia integral absorbers will not involve a significant reduction in a margin of safety.

Margin of safety is related to the confidence in the ability of the fission product barriers to perform their design function during and following an accident. These barriers include the fuel cladding, the reactor coolant system and the containment system. The reload design process assures the acceptability of thermal limits under normal, transient, and accident conditions. The CASMO–4/SIMULATE-reload design software was qualified for the analysis of reactor cores containing lumped burnable and/or gadolinia integral absorbers and a methodology for developing appropriate power distribution uncertainties for application in reload design analyses was developed. The use of these uncertainties for analysis of reload cores ensures that design and safety limits are satisfied such that the fission product barriers perform their design function.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a

timely way would result, for example, in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rulemaking and Directives Branch (RDB), TWB–05–B01M, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be faxed to the RDB at 301–492–3446. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Room O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the Internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at *hearing.docket@nrc.gov,* or by telephone at (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through EIE, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by e-mail at *MSHD.Resource@nrc.gov,* or by a toll-free call at (866) 672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd.nrc.gov/EHD_Proceeding/home.asp,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Non-timely filings will not be entertained absent a determination by the presiding officer that the petition or request should be granted or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

For further details with respect to this license amendment application, see the application for amendment dated June 10, 2009, as supplemented December 18, 2009, which is available for public inspection at the Commission's PDR, located at One White Flint North, File Public Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System's (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, 301–415–4737, or by e-mail to *pdr.resource@nrc.gov.*

Attorney for Licensee: Ms. Lisa F. Vaughn, Associate General Counsel and Managing Attorney, Duke Energy Carolinas, LLC, 526 South Church Street, EC07H, Charlotte, NC 28202.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing Sensitive Unclassified Non-Safeguards Information (SUNSI).

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request such access. A "potential party" is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The e-mail address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and

OGCmailcenter@nrc.gov, respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1);

(3) The identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention;

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff either after a determination on standing and need for access, or after a determination on trustworthiness and reliability, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requestor may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

H. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within 5 days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR Part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 15th day of March 2010.

For the Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

Attachment 1—General Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information in This Proceeding

Day	Event/Activity
0	Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 requestor/petitioner reply).
20	Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's "E-Filing Rule," the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

[3] Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

Day	Event/Activity
25	If NRC staff finds no "need" or no likelihood of standing, the deadline for requestor/petitioner to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds "need" for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2010–6071 Filed 3–18–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–280 and 50–281; NRC–2010–0079]

Virginia Electric and Power Company; Surry Power Station, Unit Nos. 1 and 2 (Surry 1 and 2); Correction to Environmental Assessment and Finding of No Significant Impact

AGENCY: Nuclear Regulatory Commission.

ACTION: Correction notice.

SUMMARY: This document corrects a notice appearing in the **Federal Register** on March 3, 2010 (75 FR 9618), that cited the implementation date for compliance with Title 10 of the *Code of Federal Regulations* (10 CFR), part 73 as "August 31, 2010," rather than "August 31, 2010, and August 31, 2011, for Surry 1 and 2, respectively." This action is necessary to add an implementation date for Surry Unit 2.

FOR FURTHER INFORMATION CONTACT: Karen Cotton, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone, (301) 415–1438; e-mail, *Karen.Cotton@nrc.gov.*

SUPPLEMENTARY INFORMATION: On page 9619, in the first column, second line, it reads "implementation dated of August 31, 2010, approximately 5 months beyond the date required by 10 CFR Part 73," and it is corrected to read "* * * implementation date of August 31, 2010 and August 31, 2011, for Surry 1 and 2, respectively, approximately 5 months for Unit 1 and 17 months for Unit 2 beyond the date required by 10 CFR part 73."

Dated in Rockville, Maryland, this 12th day of March 2010.

For the Nuclear Regulatory Commission.

Karen Cotton,

Project Manager, Plant Licensing Branch II–1, Division of Operating Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2010–6054 Filed 3–18–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–331; NRC–2010–0107]

Nextera Energy Duane Arnold, LLC; Duane Arnold Energy Center; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption, pursuant to 10 CFR 50.12, from 10 CFR Part 50, Appendix J, Option B and associated changes to the Technical Specifications (TSs) for main steamline isolation valve local leakage rate testing for Facility Operating License No. DPR–49, issued to NextEra Energy Duane Arnold, LLC (the licensee), for operation of the Duane Arnold Energy Center, located in Palo, Iowa. In accordance with 10 CFR 51.21, the NRC prepared an environmental assessment documenting its finding. The NRC concluded that the proposed actions will have no significant environmental impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would exempt the licensee from certain portions of 10 CFR part 50, Appendix J, Option B. Specifically, the licensee requests to be exempted from the measured leakage rate for the main steamline isolation valves (MSIV), and associated inboard drainline, from inclusion in both the overall measured leakage rate for Type A integrated tests and from the sum of the local leakage rates for Type B and Type C tests as required by Appendix J, Option B, Paragraphs III.A and Ill.B, respectively.

In conjunction with the exemption request, the licensee also requests approval, pursuant to the requirements of 10 CFR 50.90, of associated changes to the Duane Arnold Energy Center TS, Section 5.5.12 (Primary Containment Leakage Rate Testing Program) that reflects the exemption to Appendix J requested above. Also, there is an additional proposed TS change to TS Section 3.6.1.3 (Primary Containment Isolation Valves) associated with MSIV leakage testing requirements, which does not require a corresponding exemption from 10 CFR part 50, Appendix J. The change to TS Section 3.6.1.3, is included in the amendment request to remove the repair criterion for MSIVs that fail their as-found leakage rate acceptance criterion found in the licensee's Surveillance Requirement 3.6.1.3.9.

The Need for the Proposed Action

The proposed action is needed to reconcile the requirements of 10 CFR part 50, Appendix J, Option B and their

TS with the plant-specific testing methodology used to determine the MSIV local leakage rate.

Environmental Impacts of the Proposed Action

The NRC has completed its environmental assessment of the proposed exemption and TS changes. The staff has concluded that the changes would not significantly affect plant safety and would not have a significant adverse effect on the probability of an accident occurring. The proposed action would not result in an increased radiological hazard beyond those previously analyzed. There will be no change to radioactive effluents that affect radiation exposures to plant workers and members of the public. The proposed action will be performed inside existing plant buildings. No changes will be made to plant buildings or the site property. Therefore, no changes or different types of radiological impacts are expected as a result of the proposed exemption.

The proposed action does not result in changes to land use or water use, or result in changes to the quality or quantity of non-radiological effluents. No changes to the National Pollution Discharge Elimination System permit are needed. No effects on the aquatic or terrestrial habitat in the vicinity or the plant, or to threatened, endangered, or protected species under the Endangered Species Act, or impacts to essential fish habitat covered by the Magnuson-Steven's Act are expected. There are no impacts to the air or ambient air quality. There are no impacts to historical and cultural resources. There would be no impact to socioeconomic resources. Therefore, no changes or different types of non-radiological environmental impacts are expected as a result of the proposed exemption. Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

The details of the NRC staff's reasoning will be provided in the safety evaluation supporting the amendment.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed actions, the staff considered denial of the proposed actions (i.e., the "no-action" alternative). Denial of the exemption and TS change request would result in no change in current environmental impacts. The environmental impacts of the proposed exemption and TS change and the "no action" alternative are similar.

Alternative Use of Resources

The action does not involve the use of any different resources than those considered in the Final Environmental Statement for the Duane Arnold Energy Center, Docket No. 50–331, issued in March 1973.

Agencies and Persons Consulted

In accordance with its stated policy, on January 29, 2010, the staff consulted with the Iowa State official, Melanie Rasmusson, Chief of the Bureau of Radiological Health in the Iowa Department of Public Health, who is the State Liaison Officer, 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 March 4, 2009 (ML090680040). Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 1555 Rockville Pike, Rockville, Maryland 20852. Publicly available records will be accessible electronically from the Agencywide Document Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site: *http://www.nrc.gov/reading-rm/adams.html.*

Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or send an e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 8th day of March, 2010.

For the Nuclear Regulatory Commission.

Karl D. Feintuch,

Project Manager, Plant Licensing Branch III–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2010–6057 Filed 3–18–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–443; NRC–2010–0108]

NextEra Energy Seabrook, LLC, *et al.*,* Seabrook Station, Unit No. 1 Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an Exemption, pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 73.5, "Specific exemptions," from the implementation date for certain new requirements of 10 CFR Part 73, "Physical protection of plants and materials," for Facility Operating License No. NPF–86, issued to NextEra Energy Seabrook, LLC (the licensee), for operation of the Seabrook Station, Unit No. 1 (Seabrook), located in Rockingham County, New Hampshire. In accordance with 10 CFR 51.21, the NRC prepared an environmental assessment documenting its finding. The NRC concluded that the proposed actions will have no significant environmental impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would exempt Seabrook from the required implementation date of March 31, 2010, for several new requirements of 10 CFR Part 73. Specifically, Seabrook would be granted an exemption from being in full compliance with certain new requirements contained in 10 CFR 73.55 by the March 31, 2010, deadline. Seabrook has proposed an alternate full compliance implementation date of June 4, 2010, approximately 2 months beyond the date required by 10 CFR Part 73. The proposed action, an extension of the schedule for completion of certain actions required by the revised 10 CFR Part 73, does not involve any physical changes to the reactor, fuel, plant structures, support structures, water, or land at the Seabrook site.

The proposed action is in accordance with the licensee's application dated February 25, 2010, as supplemented by letter dated March 5, 2010.

The Need for the Proposed Action

The proposed action is needed to provide the licensee with additional time to perform the required upgrades to

* NextEra Energy Seabrook, LLC is authorized to act as agent for the Hudson Light & Power Department, Massachusetts Municipal Wholesale Electric Company, and Taunton Municipal Light and has exclusive responsibility and control over the physical construction, operation and maintenance of the facility.

the Seabrook security system due primarily to the impacts of the spring 2010 adverse weather conditions and other factors.

Environmental Impacts of the Proposed Action

The NRC has completed its environmental assessment of the proposed exemption. The staff has concluded that the proposed action to extend the implementation deadline would not significantly affect plant safety and would not have a significant adverse effect on the probability of an accident occurring.

The proposed action would not result in an increased radiological hazard beyond those previously analyzed in the environmental assessment and finding of no significant impact made by the Commission in promulgating its revisions to 10 CFR Part 73 as discussed in a **Federal Register** notice dated March 27, 2009 (74 FR 13967). There would be no change to radioactive effluents that affect radiation exposures to plant workers and members of the public. Therefore, no changes or different types of radiological impacts are expected as a result of the proposed exemption.

The proposed action would not result in changes to land use or water use, or result in changes to the quality or quantity of non-radiological effluents. No changes to the National Pollution Discharge Elimination System permit are needed. No effects on the aquatic or terrestrial habitat in the vicinity of the plant, or to threatened, endangered, or protected species under the Endangered Species Act, or impacts to essential fish habitat covered by the Magnuson-Stevens Act are expected. There are no impacts to the air or ambient air quality.

There would be no impacts to historical and cultural resources. There would be no impact to socioeconomic resources. Therefore, no changes to or different types of non-radiological environmental impacts are expected as a result of the proposed exemption.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action. In addition, in promulgating its revisions to 10 CFR Part 73, the Commission prepared an environmental assessment and published a finding of no significant impact [Part 73, Power Reactor Security Requirements, 74 FR 13926, 13967 (March 27, 2009)].

The NRC 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, if granted.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the NRC staff considered denial of the proposed action (*i.e.,* the "no-action" alternative). Denial of the exemption request would result in no change in current environmental impacts. If the proposed action was denied, the licensee would have to comply with the March 31, 2010, implementation deadline. The environmental impacts of the proposed exemption and the "no action" alternative are similar.

Alternative Use of Resources

The action does not involve the use of any different resources than those considered in the Final Environmental Statement for the Seabrook Station, Unit No. 1, NUREG–0895, dated December 1982.

Agencies and Persons Consulted

In accordance with its stated policy, on March 5, 2010, the staff consulted with the New Hampshire and Massachusetts State officials, Messrs. M. Nawoj and J. Giarrusso, respectively, regarding the environmental impact of the proposed action. Neither State official had any 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 25, 2010, as supplemented by letter dated March 5, 2010. Portions of each of the submittals contain security-related information and, accordingly, some enclosures are not available to the public. Other parts of these 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 O–1F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available records will be accessible electronically from the Agencywide Document Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site: *http://www.nrc.gov/reading-rm/adams.html.*

Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or send an e-mail to *pdr.resource@nrc.gov.*

Dated at Rockville, Maryland, this 12th day of March 2010.

For the Nuclear Regulatory Commission.

Dennis Egan,

Senior Project Manager, Plant Licensing Branch 1–2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2010–6063 Filed 3–18–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–302; NRC–2010–0105]

Florida Power Corporation, et al., Crystal River Unit 3 Nuclear Generating Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC, the Commission) is considering issuance of an exemption, pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 73.5, "Specific exemptions," from the implementation date for certain new requirements of 10 CFR Part 73, "Physical protection of plants and materials," for Facility Operating License No. DPR 72 issued to Florida Power Corporation (the licensee), for operation of the Crystal River Unit 3 Nuclear Generating Plant (CR–3), located in Citrus County, Florida. In accordance with 10 CFR 51.21, "Criteria for and identification of licensing and regulatory actions requiring environmental assessments," the NRC prepared an environmental assessment documenting its finding. The NRC concluded that the proposed actions will have no significant environmental impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would exempt the CR–3 from the required implementation date of March 31, 2010, for two new requirements of 10 CFR Part 73. Specifically, CR–3 would be granted an exemption from being in full compliance with certain new requirements contained in 10 CFR 73.55, "Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage," by the March 31, 2010, deadline. The licensee has proposed alternate full compliance implementation dates of November 15 and December 15, 2010, for the specific requirements identified within the

exemption request. The proposed action, extensions of the schedule for completion of certain actions required by the revised 10 CFR Part 73, does not involve any physical changes to the reactor, fuel, plant structures, support structures, water, or land at the CR–3 site.

The proposed action is in accordance with the licensee's application dated November 30, 2009 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML093370143), as supplemented by letter dated January 15, 2010 (ADAMS Accession No. ML100191801).

The Need for the Proposed Action

The proposed action is needed to provide the licensee with additional time beyond the March 31, 2010, deadline to implement specific parts of the revised requirements that involve significant physical upgrades to the CR–3 security system. The licensee plans a major security project that includes the expansion of the Protected Area (PA). Other plant modifications that are significant in scope involve the construction of new facilities, extensive design and procurement efforts, and work with high voltage cabling and the personnel safety risk associated with such work. These modifications warrant a thorough review of the safety-security interface and must be coordinated with the steam generator replacement outage that is currently underway at CR–3. In addition to steam generators, other large components (e.g., moisture separators and large heat exchangers) are being replaced during this outage, requiring movement of personnel and materials into and out of the PA.

Environmental Impacts of the Proposed Action

The NRC has completed its environmental assessment of the proposed exemption. The staff has concluded that the proposed action to extend the implementation deadline would not significantly affect plant safety and would not have a significant adverse effect on the probability of an accident occurring.

The proposed action would not result in an increased radiological hazard beyond those previously analyzed in the environmental assessment and finding of no significant impact made by the Commission in promulgating its revisions to 10 CFR Part 73 as discussed in a **Federal Register** notice dated March 27, 2009 (74 FR 13967). There will be no change to radioactive effluents that affect radiation exposures to plant workers and members of the public. Therefore, no changes or different types of radiological impacts are expected as a result of the proposed exemption.

The proposed action does not result in changes to land use or water use, or result in changes to the quality or quantity of non-radiological effluents. No changes to the National Pollution Discharge Elimination System permit are needed. No effects on the aquatic or terrestrial habitat in the vicinity of the plant, or to threatened, endangered, or protected species under the Endangered Species Act, or impacts to essential fish habitat covered by the Magnuson-Stevens Act are expected. There are no impacts to the air or ambient air quality. There are no impacts to historical and cultural resources. There are no impacts to socioeconomic resources. Therefore, no changes to or different types of non-radiological environmental impacts are expected as a result of the proposed exemption.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action. In addition, in promulgating its revisions to 10 CFR Part 73, the Commission prepared an environmental assessment and published a finding of no significant impact [Part 73, Power Reactor Security Requirements, 74 FR 13926, 13967 (March 27, 2009)].

The licensee currently maintains a security system acceptable to the NRC and will continue to provide acceptable physical protection of CR–3. Therefore, the extension of the implementation date for certain new requirements of 10 CFR Part 73 to November 15 and December 15, 2010, would not have any significant environmental impacts.

The NRC 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, if granted.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed actions, the NRC staff considered denial of the proposed actions (*i.e.,* the "no action" alternative). Denial of the exemption request would result in no change in current environmental impacts. If the proposed action was denied, the licensee would have to comply with the March 31, 2010, implementation deadline. The environmental impacts of the proposed exemption and the "no action" alternative are similar.

Alternative Use of Resources

The action does not involve the use of any different resources than those considered in the Final Environmental Statement for the CR–3 dated May 1973.

Agencies and Persons Consulted

In accordance with its stated policy, on January 20, 2010, the NRC staff consulted with the Florida State official, Mr. William A. Passeti of the Florida Department of Health, Bureau of Radiation Control 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 November 30, 2009, as supplemented by letter dated January 15, 2010. Attachment 1 of the November 30, 2009, and January 15, 2009 submittals contain security-related information associated with the physical protection of the CR–3 and, accordingly, is not available to the public. Other parts of this document 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 O–1F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available records will be accessible electronically from the Agencywide Document Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site: *http://www.nrc.gov/reading-rm/adams.html.*

Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or send an e-mail to *pdr.resource@nrc.gov.*

Dated at Rockville, Maryland, this 11th day of March 2010.

For the Nuclear Regulatory Commission.

Farideh E. Saba,

Senior Project Manager, Plant Licensing Branch II–2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2010–6065 Filed 3–18–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–387 and 50–388; NRC–2010–0109]

PPL Susquehanna, LLC.: Susquehanna Steam Electric Station, Units 1 and 2 Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an Exemption, pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 73.5, "Specific exemptions," from the implementation date for certain new requirements of 10 CFR Part 73, "Physical protection of plants and materials," for Renewed Facility Operating License Nos. NPF–14 and NPF–22, issued to PPL Susquehanna, LLC (PPL or the licensee), for operation of the Susquehanna Steam Electric Station (SSES), Units 1 and 2, respectively, located in Luzerne County, Commonwealth of Pennsylvania. Therefore, as required by 10 CFR 51.21, the NRC performed an environmental assessment. Based on the results of the environmental assessment, the NRC is issuing a finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would exempt the licensee from the required implementation date of March 31, 2010, for several new requirements of 10 CFR Part 73. Specifically, the licensee would be granted an exemption from being in full compliance with certain new requirements contained in 10 CFR 73.55 by the March 31, 2010, deadline. The licensee has proposed an alternate full compliance implementation date of October 29, 2010, for two requirements and until July 31, 2011, for one other requirement. The proposed action, an extension of the schedule for completion of certain actions required by the revised 10 CFR Part 73, does not involve any physical changes to the reactor, fuel, plant structures, support structures, water, or land at the SSES Units 1 and 2 site.

The proposed action is in accordance with the licensee's application dated December 3, 2009, as supplemented by letters dated January 8 and 29, 2010.

The Need for the Proposed Action

The proposed action is needed to provide the licensee with additional time to perform the required upgrades to the SSES Units 1 and 2 security system due to resource and logistical impacts and other factors.

The licensee has requested the proposed exemption from the specific requirements of 10 CFR 73.55, "Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage," for SSES Units 1 and 2 by extending the implementation deadline for certain security requirements issued by NRC in a Final Rule dated March 27, 2009 (74 FR 13926).

Pursuant to the Final Rule, the new security requirements must be implemented by March 31, 2010. PPL has evaluated these new requirements and determined that many can be implemented by the required date. PPL has determined, however, that implementation of specific parts of the new requirements will require more time to implement since they are significant physical changes involving or requiring: (1) Specific parts that are proving to be long lead time items, (2) specialized industry expertise whose availability is being challenged by the significant demand for a limited resource, or (3) a major interface with the plant for installation that must be carefully planned and implemented to avoid impact to the plant protective strategy.

Specifically, extensions are requested until October 29, 2010, for two requirements and until July 31, 2011, for one other requirement.

Environmental Impacts of the Proposed Action

The NRC has completed its environmental assessment of the proposed exemption. The staff has concluded that the proposed action to extend the implementation deadline would not significantly affect plant safety and would not have a significant adverse effect on the probability of an accident occurring.

The proposed action would not result in an increased radiological hazard beyond those previously analyzed in the environmental assessment and finding of no significant impact made by the Commission in promulgating its revisions to 10 CFR Part 73 as discussed in a **Federal Register** notice dated March 27, 2009 (74 FR 13967). There will be no change to radioactive effluents that affect radiation exposures to plant workers and members of the public. Therefore, no changes or different types of radiological impacts are expected as a result of the proposed exemption.

The proposed action does not result in changes to land use or water use, or result in changes to the quality or quantity of non-radiological effluents. No changes to the National Pollution Discharge Elimination System permit are needed. No effects on the aquatic or terrestrial habitat in the vicinity of the plant, or to threatened, endangered, or protected species under the Endangered Species Act, or impacts to essential fish habitat covered by the Magnuson-Steven's Act are expected. There are no impacts to the air or ambient air quality.

There are no impacts to historical and cultural resources. There would be no impact to socioeconomic resources. Therefore, no changes to or different types of non-radiological environmental impacts are expected as a result of the proposed exemption.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action. In addition, in promulgating its revisions to 10 CFR Part 73, the Commission prepared an environmental assessment and published a finding of no significant impact [Part 73, Power Reactor Security Requirements, 74 FR 13926, 13967 (March 27, 2009)].

The licensee currently maintains a security system acceptable to the NRC to provide acceptable physical protection of the SSES, Units 1 and 2 in lieu of the new requirements in 10 CFR Part 73. Therefore, the extension of the implementation date of the new requirements of 10 CFR Part 73 until October 29, 2010, for two requirements and until July 31, 2011, for one other requirement, would not have any significant environmental impacts.

The NRC 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, if granted.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.,* the "no-action" alternative). Denial of the application would result in no change in current environmental impacts. If the proposed action was denied, the licensee would have to comply with the March 31, 2010, implementation deadline. 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 SSES Units 1 and 2 site, NUREG–0564, dated June 1981 as supplemented through the "Generic Environmental Impact

Statement for License Renewal of Nuclear Plants, Supplement 35 Regarding Susquehanna Steam Electric Station, Units 1 and 2 Final Report," dated March 2009.

Agencies and Persons Consulted

In accordance with its stated policy, on February 17, 2010, the NRC staff consulted with the Commonwealth of Pennsylvania State official, Larry Winker of the Department of Environmental Protection/Bureau of Radiation Protection, 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 December 3, 2009, as supplemented by letters dated January 8, 2010, and January 29, 2010. Portions of the letter dated December 3, 2009, as supplemented by letters dated January 8 and January 29, 2010, contain security sensitive information and, accordingly, are withheld from public disclosure in accordance with 10 CFR 2.390. The redacted versions of the December 3, 2009, as supplemented by letters dated January 8 and January 29, 2010, (Agencywide Documents Access and Management System (ADAMS) Accession Number ML093410632, ML100120657, and ML100330085, respectively), 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 O–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 15th day of March 2010.

For The Nuclear Regulatory Commission.

Bhalchandra K. Vaidya,

Project Manager, Plant Licensing Branch I–1, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2010–6055 Filed 3–18–10; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50–333; NRC–2010–0095]

James A. Fitzpatrick Nuclear Power Plant; Exemption

1.0 Background

Entergy Nuclear Operations, Inc. (the licensee) is the holder of Facility Operating License No. DPR–59, which authorizes operation of the James A. FitzPatrick Nuclear Power Plant (JAFNPP). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of a boiling-water reactor located in Oswego County in New York State.

2.0 Request/Action

Title 10 of the *Code of Federal Regulations* (10 CFR), Part 50, Section 50.48, requires that nuclear power plants that were licensed before January 1, 1979, satisfy the requirements of 10 CFR Part 50, Appendix R, "Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979," Section III.G, "Fire protection of safe shutdown capability." JAFNPP was licensed to operate prior to January 1, 1979. As such, the licensee's Fire Protection Program (FPP) must provide the established level of protection as intended by 10 CFR Part 50, Appendix R, and Section III.G.

By letter dated February 18, 2009, "Request for Exemption from 10 CFR 50 Appendix R Section III.G.2 Requirements Based on Manual Actions," (Agencywide Documents Access and Management System (ADAMS) Accession No. ML090860980), as supplemented by letter dated March 30, 2009, "James A. FitzPatrick Nuclear Power Plant-Response to Request for Information Required for Acceptance Review Regarding: Request for Exemption" (ADAMS Accession No. ML091320387), the licensee requested an exemption for the JAFNPP from certain technical requirements of 10 CFR Part 50, Appendix R, Section III.G.2 (III.G.2) for the use of an operator manual action (OMA) in lieu of meeting the circuit separation and protection requirements contained in III.G.2 for Fire Area 10 at the plant.

In response to the NRC staff's requests for additional information (RAI), the licensee provided supplemental information by letters dated November 17, 2009, (ADAMS Accession No. ML093270075), December 11, 2009, (ADAMS Accession No. ML093520408), and January 19, 2010 (ADAMS Accession No. ML100210195).

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50 when: (1) The exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. The licensee has stated that special circumstances are present in that the application of the regulation in this particular circumstance is not necessary to achieve the underlying purpose of the rule, which is consistent with the language included in 10 CFR 50.12(a)(2)(ii).

In accordance with 10 CFR 50.48(b), nuclear power plants licensed before January 1, 1979, are required to meet Section III.G, of 10 CFR Part 50, Appendix R. The underlying purpose of 10 CFR Part 50, Appendix R, and Section III.G is to ensure that the ability to achieve and maintain safe shutdown is preserved following a fire event. The regulation intends for licensees to accomplish this by extending the concept of defense-in-depth to:

(1) Prevent fires from starting;

(2) Rapidly detect, control, and extinguish promptly those fires that do occur;

(3) Provide protection for structures, systems, and components important to safety so that a fire that is not promptly extinguished by the fire suppression activities will not prevent the safe shutdown of the plant.

The stated purpose of 10 CFR Part 50, Appendix R, Section III.G.2 (III.G.2) is to ensure that one of the redundant trains necessary to achieve and maintain hot shutdown conditions remains free of fire damage in the event of a fire. III.G.2 requires one of the following means to ensure that a redundant train of safe shutdown cables and equipment is free of fire damage, where redundant trains are located in the same fire area outside of primary containment:

a. Separation of cables and equipment by a fire barrier having a 3-hour rating;

b. Separation of cables and equipment by a horizontal distance of more that 20 feet with no intervening combustibles or fire hazards and with fire detectors and an automatic fire suppression system installed in the fire area; or

c. Enclosure of cables and equipment of one redundant train in a fire barrier having a 1-hour rating and with fire detectors and an automatic fire suppression system installed in the fire area.

Entergy has requested an exemption from the requirements of III.G.2 for JAFNPP to the extent that one of the redundant trains of systems necessary to achieve and maintain hot shutdown is not maintained free of fire damage in accordance with one of the required means, for a fire occurring in Fire Area 10 in the Reactor Building. In their November 17, 2009, response to the NRC's RAI–02 the licensee specifically stated that, "JAFNPP does not comply with any of the methods provided and relies on an OMA to operate the SRVs from the Local SRV Control Panel for a fire in Fire Area 10. In addition, Fire Area 10 does not have a full area automatic suppression system." In summary, JAFNPP does not meet the requirements of III.G.2 for a fire in Fire Area 10 and an OMA may be necessary to achieve and maintain hot shutdown capability. The licensee also stated in their November 17, 2009, letter that the only credible fire scenario that would result in loss of the redundant cables involved a fire in one of the motor control cabinets (MCCs), which are located nominally 6 feet, measured horizontally, from the stack of trays containing the control cables. In addition to the horizontal offset, the bottom tray in the stack is located approximately 9 feet, measured vertically, above the MCCs.

For a fire in Fire Area 10, JAFNPP assumes the High-Pressure Coolant Injection (HPCI) and Reactor Core Injection Cooling (RCIC)) systems are both lost in addition to one side of the control and power cables for the main steam safety relief valves (SRVs) (the "A" division cables for the SRV X1 solenoids) which would be used with the Automatic Depressurization System (ADS) in conjunction with either Core Spray (CS) or Residual Heat Removal—Low-Pressure Coolant Injection (RHR–LPCI) to achieve and maintain hot shutdown. Control cables for all these systems are located in the same cable tray. The operation of these SRVs is necessary in the event of a fire in this area. In the event that the safe shutdown equipment including the redundant trains of SRVs are lost due to a fire in Fire Area 10, the licensee has indicated that the implementation of the OMA procedure will provide the necessary assurance that safe shutdown capability is maintained. The OMA procedure directs operators to operate an alternative SRV panel located in Fire Area 8, which is located adjacent to Fire Area 10.

The licensee has described in their initial request, and subsequent documents, elements of their fire protection program that provide their justification that the concept of defense-in-depth that is in place in Fire Area 10 is consistent with that intended by the regulation. To accomplish this, the licensee provides various forms of protection in order to maintain the concept of defense-in-depth. The licensee's approach is discussed below.

3.1 Fire Prevention

The licensee has stated that it has an administrative controls program in place to strictly control ignition sources and transient combustibles for Fire Area 10. Controls are also in place to ensure fire barrier breaches are tracked and that compensatory measures are established in accordance with the Technical Requirements Manual (TRM). In addition to these administrative programs, the licensee has also stated that there are no in situ combustible materials, aside from the contents of the MCCs and the cables within the same stack of cable trays, within the immediate vicinity of the hot shutdown control cables in Fire Area 10. The cables meet the requirements of Institute of Electrical and Electronics Engineers (IEEE)–383, "Standard for Qualifying Class 1E Electric Cable and Field Splices for Nuclear Power Generating Stations," or they are equivalent to the same, and they are thermoset, therefore self-ignited cable fires and flame propagation are not expected.

3.2 Detection, Control and Extinguishment

The licensee has stated that Fire Area 10 is separated from other fire areas including Fire Areas 8 and 9, by 3-hour rated fire barriers or water spray curtains (installed in accordance with National Fire Protection Association (NFPA) 13: Standard for the Installation of Sprinkler Systems—1982 Edition), which provides assurance that a fire in Fire Area 10 will not propagate beyond the boundaries of the fire area. Fire rated barriers installed to separate Fire Area 10 from surrounding fire areas meet the design requirements of a 3-hour fire rated barrier when tested in accordance with the American Society for Testing and Materials (ASTM) Standard E119, "Standard Test Methods for Fire Tests of Building Construction and Material," and deviations from these designs have been evaluated by the licensee and found to be acceptable with regard to providing an equivalent level of protection to what is intended by the standards.

In addition, the licensee has indicated that an ionization smoke detection system (installed in accordance with NFPA 72E: National Fire Alarm Code—1978 Edition) is installed throughout the entire Reactor Building with the exception of the 369′6″ elevation and below the removable hatchway cover on the 300′ elevation. The lack of coverage in these two areas is not expected to impact the staff conclusions because, as noted in their response to RAI–05 in their November 17, 2009, letter, the licensee stated that for the 300′ elevation "the deviation was determined to be acceptable based on the other fire protection features and the low combustible loading in the area." The 369′6″ elevation is above the 272′ elevation and a postulated fire event on the 369′6″ elevation would not be expected to impact equipment on lower elevations in the Reactor Building. The installed smoke detection systems on lower elevations of the Reactor Building are installed to detect and alert operators of a fire event allowing prompt commencement of fire brigade operations for fires that could affect the redundant train cables.

The Reactor Building has manual hose stations installed in accordance with NFPA 14–1978 Edition and portable fire extinguishers installed in accordance with NFPA 10–1990 Edition, which will enable for fire brigade to effectively perform their operations. The licensee has also stated that all of the automatic and manual fire protection features discussed above are tested and maintained in accordance with the guidance provided in the respective NFPA standards and the TRM.

3.3 Preservation of Safe Shutdown Capability

The licensee has indicated that the postulated fire event for Fire Area 10 that could affect safe shutdown capability would be from one of the MCCs, which are located minimally 6 feet, measured horizontally, from the stack of trays containing the control cables of concern and that the bottom of the stack is located approximately 9 feet, measured vertically, above the MCCs. A fire in the MCCs would likely either remain within the MCC enclosure or be detected and extinguished before any cable damage in the overhead cable trays could occur. For fires that

propagate beyond the MCC enclosure, the heat and smoke would be dissipated and stratified due to the large volume and high ceiling of the space making the exposure of cables to elevated temperatures even less likely. JAFNPP contends that these fire scenarios would be detected early and that the fire brigade would respond with manual fire suppression to minimize the impact of the fire.

The licensee also considered the possibility of self ignited cable fires however, the licensee deemed this unlikely. Self ignited cable fires are not postulated due to the fire retardant properties of the thermoset cables themselves (IEEE–383 qualified, or equivalent) and the absence of power cables in the same cable tray stack as described in 2009 Updated Final Safety Analysis Report, Section 8.5–3.

For a fire in Fire Area 10, JAFNPP assumes the HPCI and RCIC systems are both lost in addition to one side of the control and power cables for the main steam safety relief valves (SRVs) (the "A" division cables for the SRV X1 solenoids) which would be used with the ADS in conjunction with either CS or RHR–LPCI to achieve and maintain hot shutdown. JAFNPP credits the ADS in conjunction with either RHR–LPCI or the CS system to achieve and maintain hot shutdown for a fire occurring in Fire Area 10, but procedurally directs operators to perform an OMA to operate the SRVs from outside the control room. The OMA is comprised of traveling to a Local SRV Panel and a sequence of manipulations of the SRV X2 solenoids at the panel.

JAFNPP has indicated that the redundant control cables for the SRVs are routed through Fire Areas 8 and 9 and that the redundant SRV power cables are routed through Fire Areas 8, 9, and 17. The cables for the "B" division cables that serve the SRV X2 solenoids for redundant initiation of reactor depressurization utilizing the ADS in conjunction with a low pressure emergency core cooling system (*i.e.* CS or RHR–LPCI) are located outside Fire Area 10. The manual operation of the SRV X2 solenoids at the local SRV Control Panel 02ADS–071 in Fire Area 8 is necessary in the event of a fire in Fire Area 10. According to the licensee's February 18, 2009, letter, this panel was installed as part of a modification to comply with 10 CFR Part 50, Appendix R, Section III.G.3 (III.G.3). As such, this panel is maintained in accordance with the JAFNPP approved fire protection program.

Since the control cables associated with the operation of the SRVs from the Control Room (at Panel 09–4 for the X1 solenoids) are assumed lost for a fire in Fire Area 10, the safe shutdown procedures also direct the operators to isolate the electric lift function of the X1 solenoids from the Relay Room (to prevent spurious operation) and that an operator be dispatched to the Local SRV Control Panel (02ADS–071) located in Fire Area 8 to operate the SRVs as directed by the shift manager. For a fire in Fire Area 10, plant shutdown is performed from the Control Room which JAFNPP considers a normal plant shutdown, except for operation of the SRVs from the Local Control Panel in Fire Area 8, which is considered the OMA. The OMA for bypassing the SRV X1 solenoids and for SRV operation at the Local Control Panel are necessary to achieve and maintain hot shutdown conditions for the postulated fire event in Fire Area 10.

Bases for Establishing Feasibility and Reliability

The licensee's analysis addresses factors such as environmental concerns, equipment functionality and accessibility, available indications, communications, portable equipment, personnel protection equipment, procedures and training, staffing and demonstrations. In its February 18, 2009, letter, the licensee stated that environmental considerations such as radiation levels, emergency lighting, temperature and humidity conditions and smoke and toxic gases were evaluated and found to not represent a negative impact on the operators' abilities to complete the OMA.

The licensee's analysis demonstrates that there are no components present in Fire Area 8 or Fire Area 10 that, due to fire damage, would result in an increased radiological hazard in the area of the Local SRV Panel where the action is to be completed. Since the Local SRV Panel is part of JAFNPP's alternate shutdown strategy, there is adequate emergency lighting provided along the path between the Control Room and the panel to ensure that operators can perform the actions and there are two travel paths, both independent of Fire Area 10, available to access the panel. Additionally, since Fire Area 8 is separated from Fire Area 10 by water curtains (installed in accordance with NFPA 13—1982 Edition guidance) or 3-hour fire rated barriers, fires would be contained within Fire Area 10. Any smoke and products of combustion that may propagate into Fire Area 8 would be dissipated due to the large volume and high ceiling of the Reactor Building areas. For these reasons, no personnel protective equipment is relied upon when performing this action.

The licensee has also stated that the Local SRV Panel is located at the floor level in an open area of the plant that is normally accessible and that while the panel is locked at all times, all shift operators carry keys to access the panel. Aside from these keys, no other tools or equipment are required to perform the action. Once operators access the panel, they manipulate a breaker to energize the panel and then each SRV can be operated by a switch when requested by the Shift Manager. The OMA procedure also contains steps for the operators to place the electric lift function of the X1 solenoids in "BYPASS" to prevent spurious operation prior to dispatching an operator to the Local SRV Panel to operate the SRVs as directed by the Shift Manager. Operators are in constant communication with the Control Room throughout the procedure via a headset and dedicated shutdown communication system that is maintained at the Local SRV Panel.

The steps necessary to achieve and maintain safe shutdown for a fire in Fire Area 10 are contained in Abnormal Operating Procedure (AOP)–28, "Operation During Plant Fires," Attachment 5 and AOP–43, "Plant Shutdown From Outside the Control Room." The procedure AOP–28 is structured such that each fire area has an individual attachment to provide operators the necessary information to achieve and maintain safe shutdown during a fire. The licensee has also stated that operators receive training on AOP–28 and AOP–43, during initial training and annually thereafter and that operations staff also perform annual walkthroughs of the safe shutdown procedures. Additionally, only one operator is required to complete the action at the Local SRV Panel aside from a control room operator who places the electric lift function of the X1 solenoids in "BYPASS" to prevent spurious operation.

A scenario involving initiating shutdown with decay heat removal by ADS in conjunction with CS or RHR–LPCI and Control Room abandonment represents a more challenging scenario than the postulated scenario involving a fire event in Fire Area 10 because Control Room abandonment is not necessary. The licensee has stated that the scenario involving Control Room abandonment would result in a 30-minute time to achieve hot shutdown conditions but since the Control Room is not abandoned for a fire in Fire Area 10, a 15-minute time for the operator to get to the local panel in Fire Area 8 and perform the requested OMA, as directed by the Shift Manager, is conservative

especially given the 15-minute safety margin.

Feasibility

JAFNPP indicates that the OMA included in this review has been evaluated and found to be feasible and reliable. The OMA is feasible because there is adequate time available for the operator to perform the required manual action to achieve and maintain hot shutdown after a single fire. The licensee's analysis demonstrates that, for the expected scenario, the OMA can be diagnosed and executed in 15 minutes while the available time to complete it is 30 minutes. The licensee's analysis also demonstrates that various factors, as discussed above, have been considered to address uncertainties in estimating the time available.

Reliability

The action is reliable because the licensee's analysis demonstrates that there is adequate time available to account for uncertainties not only in estimates of the time available, but also in estimates of how long it takes to diagnose and execute the operator manual action (*e.g.,* as based, at least in part, on a plant demonstration of the action under nonfire conditions). The stated completion time of 15 minutes provides reasonable assurance that the OMA can reliably be performed under a wide range of conceivable conditions by different plant crews because it, in conjunction with the 15-minute margin and other installed fire protection features, accounts for sources of uncertainty such as variations in fire and plant conditions, factors unable to be recreated in demonstrations and human-centered factors.

In summary, the defense-in-depth concept for a fire in Fire Area 10 provides a level of safety that results in the unlikely occurrence of fires, rapid detection, control and extinguishment of fires that do occur and the protection of structures, systems and components important to safety. As discussed above, the licensee has provided preventative and protective measures in addition to a feasible and reliable OMA that together demonstrate the licensee's ability to preserve or maintain safe shutdown capability at JAFNPP in the event of a fire in Fire Area 10.

Authorized by Law

This exemption would allow JAFNPP to rely on an OMA, in conjunction with the other installed fire protection features, to ensure that at least one means of achieving and maintaining hot shutdown remains available during and following a postulated fire event, as part of its fire protection program, in lieu of meeting the requirements specified in III.G.2 for a fire in Fire Area 10. As stated above, 10 CFR 50.12 allows the NRC to grant exemptions from the requirements of 10 CFR Part 50. The NRC staff has determined that granting of the licensee's proposed exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations. Therefore, the exemption is authorized by law.

No Undue Risk to Public Health and Safety

The underlying purpose of 10 CFR Part 50, Appendix R, Section III.G is to ensure that at least one means of achieving and maintaining hot shutdown remains available during and following a postulated fire event. Based on the above, no new accident precursors are created by the use of the specific OMA, in conjunction with the other installed fire protection features, in response to a fire in Fire Area 10, thus, the probability of postulated accidents is not increased. Also based on the above, the consequences of postulated accidents are not increased. Therefore, there is no undue risk to public health and safety.

Consistent With Common Defense and Security

The proposed exemption would allow JAFNPP to credit the use of the specific OMA, in conjunction with the other installed fire protection features, in response to a fire in Fire Area 10 in lieu of meeting the requirements specified in III.G.2. This change, to the operation of the plant, has no relation to security issues. Therefore, the common defense and security is not diminished by this exemption.

Special Circumstances

One of the special circumstances described in 10 CFR 50.12(a)(2)(ii) is that the application of the regulation is not necessary to achieve the underlying purpose of the rule. The underlying purpose of 10 CFR Part 50, Appendix R, Section III.G is to ensure that at least one means of achieving and maintaining hot shutdown remains available during and following a postulated fire event. While the licensee does not comply with the explicit requirements of III.G.2, specifically, they do meet the underlying purpose of 10 CFR Part 50, Appendix R, and Section III.G as a whole. Therefore, special circumstances exist that warrant the issuance of this exemption as required by 10 CFR 50.12(a)(2)(ii).

4.0 Response to Comments From the State of New York

In accordance with its stated policy and the requirements of 10 CFR 51.30(a)(2), on May 4, 2009, the NRC staff consulted with the New York State official, at the New York State Energy Research and Development Authority, regarding the environmental impact of the proposed action. The New York State official provided following comments by e-mail dated June 12, 2009 (ADAMS Accession No. ML091690397):

Public Notice and Opportunity To Request a Hearing

It appears that the requested action will effectively amend the facility's operating license as well as the operative regulation, 10 CFR 50.48 and Appendix R to Part 50 Appendix R, Section III.G. Thus, regardless of what words are used to refer to the requested change, notice of the request should be published in the **Federal Register** and the public should be offered an opportunity to comment on the environmental impacts and request a hearing. Such transparency and opportunity for participation is consistent with the Atomic Energy Act, the National Environmental Policy Act, the Administrative Procedure Act, the Federal Council on Environmental Quality regulations, and the Commission's commitment to public participation in its administrative matters.

The Fire Safety Regulation

Specifically, paragraph III.G.2 of 10 CFR, Appendix R requires that, where electrical cables or equipment, including associated non-safety circuits that could prevent operation or cause maloperation [as a result of hot shorts, open circuits, or shorts to ground] of redundant trains of systems necessary to achieve and maintain hot shutdown conditions are located within the same fire area outside of primary containment, one of the following means of ensuring that one of the redundant trains is free of fire damage shall be provided:

(a) Separation of cables and equipment by a fire barrier having a 3-hour rating,

(b) Separation of cables and equipment by a horizontal distance of more than 20 feet with no intervening combustibles or fire hazards and with fire detectors and an automatic fire suppression system in the fire area, and

(c) enclosure of cables and equipment in a fire barrier having a 1-hour rating and with fire detectors and an automatic fire suppression system in the fire area.

Paragraph III.G.2 of Appendix R does not list operator manual actions as a means of ensuring that one of the redundant trains is free of fire damage.

This regulation has been applicable since November 1980 when it was promulgated by the NRC. According to RIS 2006–10, in 2000, the NRC implemented the Reactor Oversight Process which included systematic inspections of licensees' safe shutdown capability. During these inspections, fire protection inspectors noticed that many licensees had not upgraded or replaced

Thermo-Lag 330–1 fire barrier material or had not provided the required separation distance between redundant safe shutdown trains, in order to satisfy the requirements in paragraph III.G.2 of Appendix R to 10 CFR Part 50.

In the present situation, the licensee states that the Safety Relief Valve electrical trains or cables, which control the emergency depressurization system, do not meet the required minimum separation distances prescribed in Appendix R. (The issue of fire insulation material does not come in to play here since the facility does not use significant amounts of such insulation around electric cables or trains.)

The Proposed Operator Manual Action

According to the February 2009 filing, the licensee relies upon an Operator Manual Action that is not allowed per 10 CFR Part 50, Appendix R, Section III.G.2. Further, the NRC has stated that manual actions are not specifically authorized by Appendix R, Section III.G.2.

If a fire were to occur, the manual action proposed by the licensee requires an operator to leave the control room, travel to a local control panel located in the reactor building, and then operate up to eleven (11) valves that are essential for the depressurization system and the emergency core cooling system. Based on the submissions, it appears that it could take up to fifteen minutes for an operator to reach the local control panel in the reactor building.

While it may be appropriate to regularize and formalize the proposal to have an employee manually operate the safety related valves, the February 2009 application seeks to do so in a way that avoids the opportunity for the public to request a proceeding or comment on potential environmental impacts. Also, the application does not appear to discuss the impact of the proposed change on the defense and security of the facility and host community, the feasibility of the proposed change during a significant fire event, or the cumulative effect of the proposed change given the several previous changes to the fire protection program at the facility. It would seem appropriate to address these issues via a public forum under the AEA, APA, and NEPA before reaching any final decision.

The NRC staff has reviewed the comments provided by the State of New York, dated June 12, 2009, on the fire safety regulation and the proposed OMA and has concluded that the consideration or granting of the requested exemption does not violate the fire safety regulation or diminish the level of safety that is present at JAFNPP. Additionally, upon review of the request, NRC staff has concluded that the licensee is not solely reliant upon the requested OMA for compliance with the regulation and that the overall defense-in-depth concept employed in the specific fire area is consistent with the underlying purpose of the fire safety regulation.

Regarding the comment concerning "Public Notice and Opportunity to Request a Hearing," the regulations under 10 CFR 50.12, "Specific exemptions" do not include comment period and opportunity for a hearing. The public can pursue other avenues, such as petition for changes to the regulatory framework to allow hearings via the rulemaking process (10 CFR 2.802), or a petition for enforcement action (10 CFR 2.206) where stakeholders assert that license holders are not meeting regulatory requirements.

4.0 Conclusion

Based on the all of the features of the defense-in-depth concept discussed above, the NRC staff concludes that the use of the requested OMA, in this particular instance and in conjunction with the other installed fire protection features, in lieu of strict compliance with the requirements of III.G.2 is consistent with the underlying purpose of the rule. As such, the level of safety present at JAFNPP is commensurate with the established safety standards for nuclear power plants.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not present an undue risk to the public health and safety, is consistent with the common defense and security and that special circumstances are present to warrant issuance of the exemption. Therefore, the Commission hereby grants Entergy an exemption from the requirements of Section III.G.2 of Appendix R of 10 CFR Part 50, to JAFNPP for the OMA discussed above.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (75 FR11575).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 11th day of March 2010.

For the Nuclear Regulatory Commission.

Joseph G. Giitter,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2010–6069 Filed 3–18–10; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–259, 50–260 and 50–296; NRC–2010–0030]

Tennessee Valley Authority; Browns Ferry Nuclear Plant, Units 1, 2, and 3; Exemption

1.0 Background

Tennessee Valley Authority (TVA, the licensee) is the holder of Facility Operating License Numbers DPR–33, DPR–52 and DPR–68, which authorize operation of the Browns Ferry Nuclear Plant, Units 1, 2, and 3 (BFN). The licenses provide, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of three boiling-water reactors located in Limestone County, Alabama.

2.0 Request/Action

Title 10 of the *Code of Federal Regulations* (10 CFR) Part 73, "Physical protection of plants and materials," Section 73.55, "Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage," published March 27, 2009, effective May 26, 2009, with a full implementation date of March 31, 2010, requires licensees to protect, with high assurance, against radiological sabotage by designing and implementing comprehensive site security programs. The amendments to 10 CFR 73.55 published on March 27, 2009, establish and update generically applicable security requirements similar to those previously imposed by Commission orders issued after the terrorist attacks of September 11, 2001, and implemented by licensees. In addition, the amendments to 10 CFR 73.55 include additional requirements to further enhance site security based upon insights gained from implementation of the post-September 11, 2001, security orders. It is from three of these new requirements that BFN now seeks an exemption from the March 31, 2010, implementation date. All other physical security requirements established by this recent rulemaking have already been or will be implemented by the licensee by March 31, 2010.

By letter dated November 6, 2009, the licensee requested an exemption in accordance with 10 CFR 73.5, "Specific exemptions." Portions of the licensee's November 6, 2009, letter contain safeguards and security sensitive

information and, accordingly, are not available to the public. On January 11, 2010, the licensee submitted a redacted version of its November 6, 2009, letter, which is publicly available (Agencywide Documents Access and Management System Accession No. ML100130168). The licensee has requested an exemption from the March 31, 2010, compliance date stating that it must complete a number of significant modifications to the current site security configuration before all requirements can be met. Specifically, the request is for three specific 10 CFR 73.55 requirements that would be in place by December 20, 2012, versus the March 31, 2010, deadline. Being granted this exemption for the three items would allow the licensee additional time to complete the modifications designed to update aging equipment and incorporate state-of-the-art technology to meet or exceed regulatory requirements.

3.0 Discussion of Part 73 Schedule Exemptions From the March 31, 2010, Full Implementation Date

Pursuant to 10 CFR 73.55(a)(1), "By March 31, 2010, each nuclear power reactor licensee, licensed under 10 CFR Part 50, shall implement the requirements of this section through its Commission-approved Physical Security Plan, Training and Qualification Plan, Safeguards Contingency Plan, and Cyber Security Plan referred to collectively hereafter as 'security plans.' " Pursuant to 10 CFR 73.5, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 73 when the exemptions are authorized by law, and will not endanger life or property or the common defense and security, and are otherwise in the public interest.

NRC approval of this exemption, as noted above, would allow an extension from March 31, 2010, until December 20, 2012. As stated above, 10 CFR 73.5 allows the NRC to grant exemptions from the requirements of 10 CFR Part 73. The NRC staff has determined that granting of the licensee's proposed exemption would not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations. Therefore, NRC approval of the licensee's exemption request is authorized by law.

In the draft final rule provided to the Commission, the NRC staff proposed that the requirements of the new regulation be met within 180 days. The Commission directed a change from 180 days to approximately 1 year for licensees to fully implement the new requirements. This change was incorporated into the final rule (74 FR 13926, March 27, 2009). From this, it is clear that the Commission wanted to provide a reasonable timeframe for licensees to achieve full compliance.

As noted in the final power reactor security rule, the Commission also anticipated that licensees would have to conduct site-specific analyses to determine what changes were necessary to implement the rule's requirements, and that these changes could be accomplished through a variety of licensing mechanisms, including exemptions. Since issuance of the final rule, the Commission has rejected generic industry requests to extend the rule's compliance date for all operating nuclear power plants, but noted that the Commission's regulations provide mechanisms for individual licensees, with good cause, to apply for relief from the compliance date (Reference: June 4, 2009, letter from R. W. Borchardt, NRC, to M. S. Fertel, Nuclear Energy Institute). The licensee's request for an exemption is, therefore, consistent with the approach set forth by the Commission and discussed in the June 4, 2009, letter.

Browns Ferry Schedule Exemption Request

The licensee provided detailed information in its November 6, 2009, letter, as supplemented by letter dated January 11, 2010, requesting an exemption. The NRC staff finds that the licensee has provided an adequate basis for the exemption request as well as appropriate detailed justification that describes the reasons additional time is needed. Specifically, the BFN will be undertaking multiple large scope modifications to the physical protection program through four interrelated projects that require supporting multiple subtasks. These subtasks must be completed in sequence due to the complex interconnectivity of each project to other program components. The licensee has provided sufficiently detailed technical information that supports the described solution for meeting the identified requirements. Because of the large scope of the proposed modifications and upgrades, significant engineering analysis, design, and planning are required to ensure system effectiveness upon completion of the four projects. In addition to project-specific tasks and procurement details, the TVA has also identified a variety of site-specific considerations that will impact the final completion date, such as refueling outages, manpower resources, engineering/design changes during construction, and weather conditions that may impact completion of milestones. As with all construction activities, the licensee must also account for site-specific safety and construction methods in the areas in which work is to be performed, the location of existing infrastructure such as buried power lines, and unanticipated delays that could significantly impact the project schedules. These site-specific safety and construction methods must be accounted for in the proposed schedule that, in turn, impacts the final compliance date requested. The TVA has contracted a common provider to perform design work at two other TVA sites concurrent with the work required at the BFN. The licensee has provided a coordinated/combined schedule for projects at BFN that outlines the sequence in which work must be conducted to ensure effective system connectivity. In addition, the required tasks/changes must be completed in sequence at each of the three sites to support all program upgrades being performed and to ensure effective connectivity of each project.

The upgrades that the licensee identified within its exemption request for BFN support its solution for meeting the three specified requirements, and the proposed schedule is justified by the complexity and scope of the projects described to include tasks and sub-tasks, timing issues, and potential delays.

The proposed implementation schedule depicts the critical activity milestones of the security system upgrades; is consistent with the licensee's solution for meeting the requirements; is consistent with the scope of the modifications and the issues and challenges identified; and is consistent with the licensee's requested compliance date.

Notwithstanding the schedule exemptions for these limited requirements, the licensee would continue to be in compliance with all other applicable physical security requirements as described in 10 CFR 73.55 and reflected in its current NRC-approved physical security program. By December 20, 2012, BFN would be in full compliance with all the regulatory requirements of 10 CFR 73.55, as issued on March 27, 2009.

4.0 Conclusion for Part 73 Schedule Exemption Request

The staff has reviewed the licensee's submittals and concludes that the licensee has provided adequate justification for its request for an extension of the compliance date to December 20, 2012, with regard to three specified requirements of 10 CFR 73.55.

Accordingly, the Commission has determined that pursuant to 10 CFR 73.5, the exemption from the March 31, 2010, compliance date is authorized by law and will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby grants the requested exemption.

The NRC staff has determined that the long-term benefits that will be realized when the security system upgrades are complete justify exceeding the full compliance date and the proposed implementation schedule is consistent with the scope of the modifications in the case of this particular licensee. The security measures that TVA needs additional time to implement at BFN are new requirements imposed by March 27, 2009, amendments to 10 CFR 73.55, and are in addition to those required by the security orders issued in response to the events of September 11, 2001. Therefore, the NRC staff concludes that the licensee's actions are in the best interest of protecting the public health and safety through the security changes that will result from granting this exemption.

As per the licensee's request and the NRC's regulatory authority to grant an exemption from the March 31, 2010, implementation deadline for the three items specified in Enclosure 1 of the TVA letter dated November 6, 2009 (publicly available version dated January 11, 2010), the licensee is required to be in full compliance by December 20, 2012. In achieving compliance, the licensee is reminded that it is responsible for determining the appropriate licensing mechanism (*i.e.,* 10 CFR 50.54(p) or 10 CFR 50.90) for incorporation of all necessary changes to its security plans.

Pursuant to 10 CFR 51.32, "Finding of no significant impact," the Commission has previously determined that the granting of this exemption will not have a significant effect on the quality of the human environment (75 FR 5354, dated February 2, 2010).

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 11th day of March 2010.

For the Nuclear Regulatory Commission.

Joseph G. Giitter,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2010–6064 Filed 3–18–10; 8:45 am]

BILLING CODE 7590–01–P

SMALL BUSINESS ADMINISTRATION

[Docket No. SBA–2010–0005]

Implications of Financial Accounting System (FAS) 166 on SBA Guaranteed Loan Programs

AGENCY: Small Business Administration.

ACTION: Notice; request for comments.

SUMMARY: The Small Business Administration (SBA) is soliciting information and views from the public on: (1) The effect that the accounting changes mandated by the Financial Accounting Standards Board (FASB) in Financial Accounting Standard (FAS) 166 have on SBA Lender and investor participation in the SBA 7(a) loan program and the SBA Secondary Market Program; and (2) the need to modify the structure of the 7(a) loan program and/or the SBA Secondary Market program as well as related guidelines and governing documents as a result of FAS 166.

DATES: Comments must be received on or before April 19, 2010.

ADDRESSES: You may submit comments, identified by docket number SBA–2010–0005 by any of the following methods:

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

• *Mail, Hand Delivery/Courier:* James W. Hammersley, Acting Assistant Administrator for Policy and Strategic Planning, Office of the Administrator, Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

SBA will post all comments on *http://www.regulations.gov.* If you wish to submit confidential business information (CBI) as defined in the User Notice at *http://www.regulations.gov*, please submit the information to James W. Hammersley, Acting Assistant Administrator for Policy and Strategic Planning, Office of the Administrator, Small Business Administration, 409 Third Street, SW., Washington, DC 20416 or send an e-mail to *james.hammersley@sba.gov.* Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review the information and make the final determination as to whether the information will be published.

FOR FURTHER INFORMATION CONTACT: James W. Hammersley, Acting Assistant Administrator for Policy and Strategic Planning, Office of the Administrator, (202) 205–7505; *james.hammersley@sba.gov.*

SUPPLEMENTARY INFORMATION: Under SBA's 7(a) business loan program, private sector lenders (SBA Lenders) make loans to small businesses (7(a) loans) that do not qualify for conventional credit. The SBA guaranty provides the credit enhancement necessary for the SBA Lender to make the 7(a) loan. Through the SBA Secondary Market described in 13 CFR 120.601, SBA Lenders sell the guaranteed portion of 7(a) loans (guaranteed portions) to investors and use the funds to make additional loans. The Secondary Market is a major source of liquidity for many SBA Lenders. SBA estimates that SBA Lenders sell the guaranteed portion of almost 50% of the 7(a) loans they make.

The Secondary Market for 7(a) loans developed in the early 1970s when SBA Lenders began to sell guaranteed portions to other lenders. SBA realized the importance of a stable and reliable liquidity option and took steps to formalize and expand the market for the sale of guaranteed portions, including providing a full faith and credit guaranty for the investors in the mid 1970s. Throughout the 1970s and early 1980s the market continued to grow as more lenders used the funds from Secondary Market sales to make additional loans. In 1984, in recognition of the value of the Secondary Market, Congress added a pooling option that included a timely payment guaranty by SBA. The pooling option allowed small business loans to be purchased by an even greater number of investors. The Secondary Market was clearly one of the drivers in the growth of the 7(a) loan program from $2 billion per year of loan originations in the early 1980s to almost $15 billion of loan originations per year prior to the recent economic crisis.

Historically, there has been strong demand for Secondary Market certificates backed by the guaranteed portion of 7(a) loans. Due to this strong demand, SBA Lenders are able to sell the guaranteed portion at a premium and/or retain an income stream in excess of the servicing fee that must be retained. Many lenders prefer to retain a significant ongoing cash flow rather than to receive a premium at the time of sale. This ongoing cash flow provides a steady flow of income that is not based on current loan production.

On May 17, 1994, SBA modified the agreement signed by the lender, investor, and SBA at the time of sale (SBA Form 1086, Secondary Participation Guaranty Agreement—referred to below as the Form 1086 available at *http://www.sba.gov/tools/forms/index.html*) to include a requirement that the selling lender

would have to return any premium received under certain conditions. These conditions are: (1) If the borrower prepays the loan for any reason during the first 90 days after the settlement of the Secondary Market sale; or (2) if the borrower fails to make when due, the first three monthly payments within the month after the Secondary Market sale and the borrower enters uncured default within 275 days after the settlement date of the Secondary Market sale. This warranty provision, added to the Form 1086, helped to encourage investor participation in the Secondary Market by extending investment protection beyond the principal amount of the guaranteed portion to the premium paid by the investor.

It is SBA's understanding that under new FASB guidelines for the accounting treatment of a Secondary Market sale, as detailed in FAS 166, a lender may not treat any premium received as income until the expiration of the warranty period. In addition, if the lender sells the loan and retains cash flow in excess of the minimum servicing fee, the transaction is considered a borrowing and the lender must continue to retain capital to support it. As a result, the lender would have to hold more capital because the original loan would still be on the books along with the new borrowing.

In light of the foregoing, SBA is soliciting views from the public on the effect of FAS 166 on SBA Lender and investor participation in the SBA 7(a) loan program and the SBA Secondary Market Program. In addition, SBA is soliciting views from the public on the need to modify the structure of the 7(a) loan program and/or the SBA Secondary Market program. Commenters are encouraged to submit suggestions that could minimize any adverse impact of FAS 166 on the 7(a) loan program and/or SBA Secondary Market participants.

SBA has received several unsolicited suggestions on how to address this issue. Some of the suggestions may require regulatory changes; others may require form or contractual changes. SBA has not taken a position on any of these proposals. SBA is seeking additional suggestions and ideas on how to address the ramifications of FAS 166 on the 7(a) loan program and the SBA Secondary Market Program, as well as comments on the specific proposals received to date, which are as follows:

1. *Eliminate the warranty period from the Form 1086 and the SBA Secondary Market Program.* Under this proposal, SBA would modify the Form 1086 to remove the warranty language. The warranty provision afforded investors some protection against early prepayment and may have discouraged lenders from selling guaranteed portions of loans they knew were susceptible to early default. However, after the warranty language was implemented, Congress added a subsidy recoupment fee (prepayment penalty) for borrowers, which may have reduced the need for the warranty provision. The subsidy recoupment fee is charged to the borrower if it prepays a loan in the first three years of the life of the loan. Secondary Market sales tend to occur in the first year of the life of the loan. Thus, borrowers have a financial incentive not to prepay early in the life of the loan that did not exist when the warranty language was originally added to the Form 1086. It is also possible that SBA's establishment of the Office of Credit Risk Management (OCRM) has reduced the need for the warranty provision as OCRM monitors lender activity and has the ability to scrutinize prepayment activity, including a pattern of early prepayments.

2. *Permit or Require SBA Secondary Market Broker Dealers to provide the warranty to their customers.* If SBA were to permit or require broker dealers to provide the warranty protection, the selling lender would no longer be in the position of having to return any funds received from a secondary market sale. SBA understands that many broker dealers are currently holding many loans in excess of ninety (90) days while they create pools, so many loans may actually be in the broker dealer's inventory during the warranty period. While this change would result in a liability for the broker dealers, the broker dealer may be in a good position to know which lender's loans tend to prepay or default during the warranty period. This option would require modification of the Form 1086 by SBA.

3. *Permit a private sector insurance fund to repay investors when a premium is lost during the 90 day warranty period.* Under this proposal, lenders would pay a portion of the premium received into an insurance fund that would be run by an entity not related to SBA or to SBA participating lenders. If a borrower prepays or defaults, the investor would file a claim with the insurance fund. SBA's role in the implementation of such an option would consist only of removing the warranty language from the Form 1086; the fund would be established and run by a private sector entity.

4. *Make the warranty period optional.* Under this proposal, SBA would modify the Form 1086 and related documents to allow the buyers and sellers to decide whether they wanted a warranty included in the terms of the agreement for a particular sale. Commenters are requested to provide suggestions on how warranty information for a particular sale could be communicated to potential purchasers under this proposal as such purchasers would need to know in advance whether a particular certificate included a warranty. Implementing this change would require modifications to both the Form 1086 and SBA's contract with its Fiscal and Transfer Agent.

Commenters are encouraged to submit other suggestions or actions that could minimize any adverse impact of FAS 166 on the 7(a) loan program and/or SBA Secondary Market participants. SBA is also seeking comments on whether the existing warranty should be left in place as it is currently structured.

Authority: 15 U.S.C. 634(b)(7)

Dated: March 5, 2010.

Eric R. Zarnikow,

Associate Administrator of Capital Access.

[FR Doc. 2010–6101 Filed 3–18–10; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 6924]

Bureau of Political-Military Affairs; Statutory Debarment Under the Arms Export Control Act and the International Traffic in Arms Regulations

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of State has imposed statutory debarment pursuant to § 127.7(c) of the International Traffic in Arms Regulations ("ITAR") (22 CFR parts 120 to 130) on persons convicted of violating, attempting to violate or conspiring to violate Section 38 of the Arms Export Control Act, as amended, ("AECA") (22 U.S.C. 2778).

DATES: *Effective Date:* Date of conviction as specified for each person.

FOR FURTHER INFORMATION CONTACT: Lisa Studtmann, Director, Office of Defense Trade Controls Compliance, Bureau of Political-Military Affairs, Department of State, (202) 663–2980.

SUPPLEMENTARY INFORMATION: Section 38(g)(4) of the AECA, 22 U.S.C. 2778(g)(4), prohibits the Department of State from issuing licenses or other approvals for the export of defense articles or defense services where the applicant, or any party to the export, has been convicted of violating certain statutes, including the AECA. In implementing this provision, Section 127.7 of the ITAR provides for "statutory

debarment" of any person who has been convicted of violating or conspiring to violate the AECA. Persons subject to statutory debarment are prohibited from participating directly or indirectly in the export of defense articles, including technical data, or in the furnishing of defense services for which a license or other approval is required.

Statutory debarment is based solely upon conviction in a criminal proceeding, conducted by a United States Court, and as such the administrative debarment procedures outlined in Part 128 of the ITAR are not applicable.

The period for debarment will be determined by the Assistant Secretary for Political-Military Affairs based on the underlying nature of the violations, but will generally be for three years from the date of conviction. At the end of the debarment period, export privileges may be reinstated only at the request of the debarred person followed by the necessary interagency consultations, after a thorough review of the circumstances surrounding the conviction, and a finding that appropriate steps have been taken to mitigate any law enforcement concerns, as required by Section 38(g)(4) of the AECA. Unless export privileges are reinstated, however, the person remains debarred.

Department of State policy permits debarred persons to apply to the Director, Office of Defense Trade Controls Compliance, for reinstatement beginning one year after the date of the debarment. Any decision to grant reinstatement can be made only after the statutory requirements of Section 38(g)(4) of the AECA have been satisfied.

Exceptions, also known as transaction exceptions, may be made to this debarment determination on a case-by-case basis at the discretion of the Assistant Secretary of State for Political-Military Affairs, after consulting with the appropriate U.S. agencies. However, such an exception would be granted only after a full review of all circumstances, paying particular attention to the following factors: Whether an exception is warranted by overriding U.S. foreign policy or national security interests; whether an exception would further law enforcement concerns that are consistent with the foreign policy or national security interests of the United States; or whether other compelling circumstances exist that are consistent with the foreign policy or national security interests of the United States, and that do not conflict with law enforcement concerns. Even if exceptions are granted, the debarment continues until subsequent reinstatement.

Pursuant to Section 38(g)(4) of the AECA and Section 127.7(c) of the ITAR, the following persons are statutorily debarred as of the date of their AECA conviction:

(1) Jesus Lorenzo Torres-Lopez, November 19, 2009, U.S. District Court, District of Arizona, Case # CR 09–00616–002–TUC–JMR (HCE).

(2) Peter K. Spitz, November 25, 2008, U.S. District Court, Southern District of Florida, Case # 0:08–CR–60128–COHN.

(3) Traian Bujduveanu, June 12, 2009, U.S. District Court, Southern District of Florida, Case # 1:08–20612–CR–SEITZ–002.

(4) Ugur Yildiz, December 23, 2009, U.S. District Court, Northern District of Illinois, Case # 08 CR 480–1.

(5) Bing Xu, July 2, 2009, U.S. District Court, District of New Jersey, Case # CR–08–240–01 (RMB).

(6) Artur (AKA Alex) Solomonyan, March 6, 2009, U.S. District Court, Southern District of New York, Case # S1:05 cr 00327–01 (RJH).

(7) Christiaan Dewet (AKA David) Spies, July 16, 2009, U.S. District Court, Southern District of New York, Case # S1:05 cr 00327–02 (RJH).

(8) Ioseb (AKA Soso) Kharabadze, March 11, 2009, U.S. District Court, Southern District of New York, Case # S1:05 cr 00327–03 (RJH).

(9) John Reece Roth, July 28, 2009, U.S. District Court, Eastern District of Tennessee, Case # 3:08–CR–00069–1.

(10) Jose Luis Hernandez-Ochoa, December 19, 2008, U.S. District Court, Southern District of Texas, Case # 7:07CR00586–001.

(11) Luis Miguel Hernandez-Hernandez, December 19, 2008, U.S. District Court, Southern District of Texas, Case # 7:07CR00586–002.

(12) Fernando Venegas-Arias, December 31, 2008, U.S. District Court, Southern District of Texas, Case # 7:07CR00586–003.

(13) Pedro Javier Lopez-Lopez, December 31, 2008, U.S. District Court, Southern District of Texas, Case # 7:07CR00586–004.

(14) Amado Iracheta-Delgado, April 9, 2009, U.S. District Court, Southern District of Texas, Case # 7:07CR00595–001.

(15) Laiza Moreno, April 9, 2009, U.S. District Court, Southern District of Texas, Case # 7:07CR00595–002.

(16) Julio Cesar Tamez-Hernandez, February 16, 2009, U.S. District Court, Southern District of Texas, Case # 7:07CR01349–001.

(17) Obed Damian Guajardo-Silva, February 16, 2009, U.S. District Court, Southern District of Texas, Case # 7:07CR01349–002.

(18) Juan Carlos Bocanegra, August 12, 2009, U.S. District Court, Southern District of Texas, Case # 7:08CR00005–001.

(19) Ramon Salazar-Rostro, January 19, 2009, U.S. District Court, Southern District of Texas, Case # 7:08CR00956–001.

(20) Justo Manuel Fernandez-Hernandez, February 25, 2009, U.S. District Court, Southern District of Texas, Case # 1:08CR01058–001.

(21) Alejandro Reyes-Baez, June 1, 2009, U.S. District Court, Southern District of Texas, Case # 7:08CR01617–001.

(22) Nestor Rangel, June 12, 2009, U.S. District Court, Southern District of Texas, Case # 7:08CR01617–002.

(23) Juan Vasquez, August 12, 2009, U.S. District Court, Southern District of Texas, Case #7:08CR01610–001.

(24) Reynol Garcia, June 12, 2009, U.S. District Court, Southern District of Texas, Case #7:08CR01754–001.

(25) Antonio Rodriguez-Capetillo, January 16, 2010, U.S. District Court, Southern District of Texas, Case # 7:08CR01415–001.

(26) Mario Hector Quilantan-Garcia, December 9, 2009, U.S. District Court, Southern District of Texas, Case # 7:09CR00874–001.

(27) Pedro Cayetano Gonzalez-Flores, December 31, 2009, U.S. District Court, Southern District of Texas, Case # 7:09CR01019–001.

(28) Roberto Carlos Garcia-Salazar, January 31, 2009, U.S. District Court, Southern District of Texas, Case # 7:08CR01045–001.

(29) Manuel Rangel Rivera, January 9, 2009, U.S. District Court, Western District of Texas, Case # DR–07–CR–668(1)–AML.

(30) Ding Zhengxing (AKA Zhengxing Ding and Zheng Xing Ding), July 21, 2009, U.S. District Court, Western District of Texas, Case # EP–07–CR–3289–FM(1).

(31) Su Yang (AKA Yang Su), May 22, 2009, U.S. District Court, Western District of Texas, Case # EP–07–CR–3289–FM(3).

(32) Taipan Enterprises, Ltd., January 7, 2010, U.S. District Court, Eastern District of Virginia, Case # 1:10CR00002–001.

As noted above, at the end of the three-year period following the date of conviction, the above named persons/entities remain debarred unless export privileges are reinstated.

Debarred persons are generally ineligible to participate in activity regulated under the ITAR (*see e.g.,* sections 120.1(c) and (d), and 127.11(a)).

Also, under Section 127.1(c) of the ITAR, any person who has knowledge that another person is subject to debarment or is otherwise ineligible may not, without disclosure to and written approval from the Directorate of Defense Trade Controls, participate, directly or indirectly, in any export in which such ineligible person may benefit therefrom or have a direct or indirect interest therein.

This notice is provided for purposes of making the public aware that the persons listed above are prohibited from participating directly or indirectly in activities regulated by the ITAR, including any brokering activities and in any export from or temporary import into the United States of defense articles, related technical data, or defense services in all situations covered by the ITAR. Specific case information may be obtained from the Office of the Clerk for the U.S. District Courts mentioned above and by citing the court case number where provided.

Dated: March 10, 2010.

Andrew J. Shapiro,

Assistant Secretary, Bureau of Political-Military Affairs, Department of State.

[FR Doc. 2010–6067 Filed 3–18–10; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35358]

Regional Transportation District—Acquisition Exemption—BNSF Railway Company in Jefferson County, CO

Regional Transportation District (RTD),[1] has filed a verified notice of exemption under 49 CFR 1150.41 to acquire from BNSF Railway Company (BNSF) a segment of the property, approximately 9.55 miles in length, known as the Golden Subdivision in Jefferson County, CO, extending from milepost 6.3, in Utah Junction, CO, to the end of the line at approximately milepost 15.85, in Golden, CO. RTD will acquire the Golden Subdivision in two separate but contiguous segments, including: (1) The Gold Corridor East portion between milepost 6.3 and milepost 10.83; and (2) the Gold Corridor West portion between milepost 10.83 and milepost 15.85.[2] According to RTD, BNSF will retain an exclusive freight easement for the trackage on the Golden Subdivision, and BNSF will retain the exclusive right to operate freight service on the entire line.

RTD states that RTD and BNSF anticipate that they will execute three agreements in conjunction with this transaction before consummating the transaction on or about April 5, 2010, after the April 4, 2010 effective date of this exemption (30 days after the exemption was filed). These agreements include: (a) Purchase and Sale Agreement; (b) Relocation and Construction Agreement; and (c) Joint Corridor Use Agreement. According to RTD, it will acquire no right or obligation to provide freight rail service on the Golden Subdivision, and it is acquiring the property for the purpose of providing intrastate passenger commuter rail operations.[3] RTD certifies that, because it will conduct no freight operations on the line segments being acquired, its annual revenues from freight operations as a result of this transaction will not result in the creation of a Class I or Class II rail carrier.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction. Petitions for stay must be filed no later than March 26, 2010 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35358, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Charles A. Spitulnik, 1001 Connecticut Avenue, NW., Suite 800, Washington, DC 20036.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: March 15, 2010.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Kulunie L. Cannon,

Clearance Clerk.

[FR Doc. 2010–6037 Filed 3–18–10; 8:45 am]

BILLING CODE 4915–01–P

[1] RTD is a political subdivision of the State of Colorado.

[2] RTD will also acquire an easement over a portion of BNSF's Front Range Subdivision from milepost 0 to approximately milepost 6.3, for the operation of passenger commuter rail service. RTD states BNSF will retain its fee interest in the Front Range Subdivision and will continue its existing freight operations on that line.

[3] RTD states that it will separately file a motion to dismiss this notice of exemption because it avers that it will not become a rail carrier providing transportation subject to Board jurisdiction.

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Application of Charter Air Transport, Inc. for Commuter Authority

Correction

In notice document 2010–5555 appearing on page 12328 in the issue of Monday, March 15, 2010, make the following correction:

In the second column, in the first paragraph, in the first line, " (insert date 5 business days from publication)" should read "March 22, 2010".

[FR Doc. C1–2010–5555 Filed 3–18–10; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety; Notice of Application for Special Permits

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

ACTION: List of applications for modification of special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier Federal Register publications, they are not repeated here. Requests for modification of special permits (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix "M" denote a modification request. These applications have been separated from the new application for special permits to facilitate processing.

DATES: Comments must be received on or before April 5, 2010.

Address Comments to: Record Center, Pipeline and Hazardous Materials, Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue, Southeast, Washington, DC, or at *http://regulations.gov.*

This notice of receipt of applications for modification of special permit is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5 117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on March 11, 2010.

Delmer F. Billings,

Director, Office of Hazardous Materials, Special Permits and Approvals.

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permits thereof
		Modification Special Permits		
8815–M		Florex Explosives, Inc., Crystal River, FL.	49 CFR 173.62	To modify the special permit by adding an additional Division 1.5D explosive.
8826–M		Phoenix Air Group, Inc., Cartersville, GA.	49 CFR 172.101; 172.204(c)(3); 173.27; 175.30(a)(1); 175.320(b).	To modify the special to reflect the current statutes and regulations changes.
9880–M		G.E. Reuter-Stokes, Inc., Twinsburg, OH.	49 CFR 173.302; 175.3; Part 172 Subpart E and F.	To modify the special permit to authorize one drop test instead of 5 drop tests every 24 months and in section 8.e. add "e.e. radiation sensor" after "Each packaging manufactured".
10049–M		Martin Transport, Inc., Kilgore, TX.	49 CFR 173.318; 173.338; 173.320; 177.840.	To modify the special permit to authorize in Section 7.2.b to state Design temperature is −320 Deg. F for inner tank.
10869–M		Norris Cylinder Company, Longview, TX.	49 CFR 173.301(b); 173.302(a)(5); 173.304(a); 175.3.	To modify the special permit to authorize a new 4130 Modified Cr-Mo steel chemistry; removed the K1C test; replace the one-per-heat flawed cylinder pressure test with a one-per-lot burst test; and add 3 new drawings for pressure 4500, 5000, and 6000 psi with the new steel chemistry.
11489–M		TRW, Washington, MI	49 CFR 172.320; 173.56(b).	To modify the special permit to authorize an additional Division 1.4C explosive article.
11911–M		Transfer Flow, Inc., Chico, CA.	49 CFR 178.700 thru 178.819.	To modify the special permit to authorize new part numbers for tank drawings; to add several new refueling systems; to add two new fuel caps; and to add several new fuel tanks to the special permit.
13998–M		3AL Testing Corp., Denver, CO.	49 CFR 172.203(a); 172.302a(b)(2), (4)(5); 180.205(f)(g); 180.209(a), (b)(1)(iv).	To modify the special permit to authorize the use of tare weight to identify DOT 3A/3AA cylinders.
14206–M		Digital Wave Corporation, Englewood, CO.	49 CFR 180.205	To modify the special Corporation permit to authorize the use of tare weight to identify DOT 3A/3AA cylinders.
14808–M		Amtrol, Inc., West Warwick, RI.	49 CFR 178.51(b), (f)(1) and (2) and (g).	To modify the special permit to authorize removal of paragraph 7(d)(2) under Operational Controls.
14926–M		Lynden Air Cargo, Anchorage, AK.	49 CFR 173.302(f)	To modify the special permit to authorize the removal of the restriction of Human Health care and Veterinary services from the special permit.

[FR Doc. 2010–5897 Filed 3–18–10; 8:45 am]

BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety; Notice of Application for Special Permits

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

ACTION: List of applications for special permits

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations (49 CFR part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before April 19, 2010.

Address Comments To: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, East Building, PHH–30, 1200 New Jersey Avenue, Southeast, Washington, DC or at *http://regulations.gov.*

This notice of receipt of applications for special permit is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on March 11, 2010.

Delmer F. Billings,

Director, Office of Hazardous Materials, Special Permits and Approvals.

NEW SPECIAL PERMITS

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permits thereof
14977–N		Air Products and Chemicals, Inc. Allentown, PA.	49 CFR 173.301(f)	To authorize the transportation in commerce of certain DOT Specification 3T cylinders containing Silane without pressure relief devices by motor vehicle and cargo vessel. (modes 1, 3).
14978–N		Air Products and Chemicals, Inc. Allentown, PA.	49 CFR 173.181	To authorize the transportation in commerce of pyrophoric liquids in inner metal containers (bubblers) with openings greater than 25mm (1 inch) which are engineered to specific electronics applications that require a larger opening. (modes 1, 3).
149979–N		M & N Aviation, Carolina Inc.	49 CFR 172.101 Column (9B).	To authorize the air transportation in commerce of certain explosives which are forbidden or exceed quantity limits for shipment by cargo-only aircraft. (mode 4).
14980–N		Fisk Tank Carrier, Inc. Columbus, WI.	49 CFR 173.315 (j)(4)	To authorize the one-way transportation in commerce of certain non-DOT specification storage tanks containing propane. (mode 1).
14981–N		Eclipse Aerospace, Inc. (EAI) Albuquerque, NM.	49 CFR 173.309(b)	To authorize the manufacture, marking, sale and use of non-DOT specification cylinders for use as fire extinguishers. (modes 1, 2, 3, 4, 5).

[FR Doc. 2010–5898 Filed 3–18–10; 8:45 am]

BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Availability of Draft Environmental Assessment; Ann Arbor Municipal Airport, Ann Arbor, MI

AGENCY: The Federal Aviation Administration is issuing this notice on behalf of the Michigan Department of Transportation (MDOT), Bureau of Aeronautics and Freight Services.

ACTION: Notice of Availability of a Draft Environmental Assessment (EA) for public review and comment.

SUMMARY: The FAA has delegated selected responsibilities for compliance with the National Environmental Protection Act to the MDOT as part of the State Block Grant Agreement authorized under Title 49 U.S.C., Section 47128. This notice is to advise the public pursuant to the National Environmental Policy Act of 1969, as amended, (NEPA) 42 U.S.C. 4332(2)(c) that MDOT has prepared a Draft EA for the proposed extension of runway 6/24 at the Ann Arbor Municipal Airport. While not required for an EA, the FAA is issuing this notice to facilitate public involvement. The Draft EA assesses the potential environmental impacts resulting from the proposed extension of runway 6/24 from 3,500 feet to 4,300 feet. This evaluation also includes the relocation or replacement of the Federally Owned Omni Directional Approach Lighting System. All reasonable alternatives were considered including the no action alternative.

DATES: Written comments on the Draft EA must be received by MDOT on or before 5:00 p.m. on April 12, 2010. Comments may be sent by electronic mail to Molly Lamrouex at *lamrouexm@michigan.gov* or written comments may be submitted to Molly Lamrouex, MDOT Bureau of Aeronautics and Freight Services, 2700 Port Lansing Road, Lansing, MI 48906. The Draft EA can be reviewed at the following locations:

(a) Ann Arbor City Library, 343 S. Fifth Ave., Ann Arbor, MI 48104
(b) Pittsfield Township Hall, 6201 W. Michigan Ave., Ann Arbor, MI 48108
(c) Ann Arbor Municipal Airport, 801 Airport Dr., Ann Arbor, MI 48103
(d) Ann Arbor City Hall, 100 N. Fifth Ave., Ann Arbor, MI 48104
(e) MDOT BAFS, 2700 Port Lansing Road, Lansing MI 48906

Copies of the Draft EA are available by contacting Molly Lamrouex, MDOT Bureau of Aeronautics and Freight Services, 2700 Port Lansing Road, Lansing, MI 48906 or by phone at 517–335–9866. The Draft EA is also available at *http://www.a2gov.org/government/publicservices/fleetandfacility/Airport/Pages/default.aspx* A public hearing to provide information on the draft EA and accept comments from the public will be held from 4 to 7 p.m. on Wednesday, March 31, 2010 at the Cobblestone Farm Barn, 2781 Packard Rd., Ann Arbor, MI 48108.

SUPPLEMENTARY INFORMATION: The EA includes analysis used to evaluate the potential environmental impacts in the study area. Upon publication of the Draft EA and a Final EA, MDOT will be coordinating with federal, state and local agencies, as well as the public, to obtain comments and suggestions regarding the EA for the proposed project. The Draft EA assesses impacts and reasonable alternatives including a no action alternative pursuant to NEPA; FAA Order 1050.1, Policies and Procedures for Considering Environmental Impacts; FAA Order 5050.4B, National Environmental Policy Act (NEPA) Implementing Instructions for Airport Actions; and the President's Council on Environmental Quality (CEQ) Regulations implementing the

provisions of NEPA, and other appropriate Agency guidance.

Joe Hebert,

Acting Manager, Detroit Airports District Office, Great Lakes Region.

[FR Doc. 2010–5521 Filed 3–18–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Notice of Limitation on Claims Against Proposed Public Transportation Projects

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of Limitation on Claims.

SUMMARY: This notice announces final environmental actions taken by the Federal Transit Administration (FTA) for the following projects: (1) Jacksonville Transit Authority, Rapid Transit System Phase One, Jacksonville, FL; (2) Salem-Keizer Transit, Keizer Transit Center Project, Salem, OR; (3) Massachusetts Bay Transportation Authority, Installation of Elevators at Park Street Station Project, Boston, MA; (4) Erie Metropolitan Transit Authority, Expansion of the 14th Street Bus Facility, Erie, PA; and (5) Metropolitan Council, Central Corridor Light Rail Transit Project—Construction of Three Infill Stations, St. Paul, MN. The purpose of this notice is to announce publicly the environmental decisions by FTA on the subject projects and to activate the limitation on any claims that may challenge these final environmental actions.

DATES: By this notice, FTA is advising the public of final agency actions subject to Section 139(l) of Title 23, United States Code (U.S.C.). A claim seeking judicial review of the FTA actions announced herein for the listed public transportation projects will be barred unless the claim is filed on or before September 14, 2010.

FOR FURTHER INFORMATION CONTACT: Antoinette Quagliata, Environmental Protection Specialist, Office of Planning and Environment, 202–366–4265, or Christopher Van Wyk, Attorney-Advisor, Office of Chief Counsel, 202–366–1733. FTA is located at 1200 New Jersey Avenue, SE., Washington, DC 20590. Office hours are from 9 a.m. to 5:30 p.m., EST, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FTA has taken final agency actions by issuing certain approvals for the public transportation projects listed below. The actions on these projects, as well as the laws under which such actions were taken, are described in the documentation issued in connection with each project to comply with the National Environmental Policy Act (NEPA) and in other documents in the FTA administrative record for the project. Interested parties may contact either the project sponsor or the relevant FTA Regional Office for more information on these projects. Contact information for FTA's Regional Offices may be found at *http://www.fta.dot.gov*.

This notice applies to all FTA decisions on the listed projects as of the issuance date of this notice and all laws under which such actions were taken, including, but not limited to, NEPA [42 U.S.C. 4321–4375], Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303], Section 106 of the National Historic Preservation Act [16 U.S.C. 470f], and the Clean Air Act [42 U.S.C. 7401–7671q]. This notice does not, however, alter or extend the limitation period of 180 days for challenges of project decisions subject to previous notices published in the **Federal Register**. For example, this notice does not extend the limitation on claims announced in the **Federal Register** on September 2, 2009 (74 FR 169) for the original Record of Decision (ROD) issued for the Central Corridor Light Rail Transit Project.

The projects and actions that are the subject of this notice are:

1. *Project name and location:* Jacksonville Rapid Transit System Phase One—Downtown Transit Enhancements, Jacksonville, FL. *Project sponsor:* Jacksonville Transit Authority. *Project description:* The project will construct a Bus Rapid Transit system in Jacksonville, Florida. This project is a part of an overall strategy to bring high-capacity public transit to downtown Jacksonville. The 5.6 mile system will include: Restructured bus routes, 2.84 miles of dedicated bus lanes, 15 station-stop enhancements, a traffic signal priority system, and a real-time traveler information network. *Final agency actions:* Section 106 finding of no adverse effect; project-level air quality conformity determination; no use of Section 4(f) properties; and a Finding of No Significant Impact (FONSI) signed February 11, 2010. *Supporting documentation:* Supplemental Environmental Assessment dated November 2009 and Environmental Assessment dated September 2008.

2. *Project name and location:* Keizer Transit Center Project, Salem, OR. *Project sponsor:* Salem-Keizer Transit. *Project description:* The project will construct a transit hub for the medium-sized community of Salem, Oregon, located 40 miles south of Portland. The proposed Keizer Transit Center will accommodate transfers between bus routes, have a 70-space park-and-ride lot, a passenger plaza, a kiss-and-ride lot, a transit information kiosk, and bicycle storage units. *Final agency actions:* Section 106 finding of no adverse effect; project-level air quality conformity determination; no use of Section 4(f) properties; and a Finding of No Significant Impact (FONSI) signed February 4, 2010. *Supporting documentation:* Environmental Assessment dated December 2009.

3. *Project name and location:* Installation of Elevators at Park Street Station, Boston, MA. *Project sponsor:* Massachusetts Bay Transportation Authority. *Project description:* The project will modernize elevators at the Park Street Station of the Massachusetts Bay Transportation Authority. Park Street is an intersection point for both the Green and Red subway lines. The station has a unique historic heritage, originally built in 1897, as one of America's first street-level subway systems. The current travel path between the Green and Red Lines requires three elevator transfers and an approximate 0.10 mile walk. This path is unduly long and can pose a challenge for persons with limited mobility or low physical stamina. The purpose of the project is to provide a shorter elevator-accessible path between the Green Line westbound platform and Red Line center platform. *Final agency actions:* Section 106 finding of no adverse effect; project-level air quality conformity determination; Section 4(f) de minimis impact determination; and a Finding of No Significant Impact (FONSI) signed December 29, 2009. *Supporting documentation:* Environmental Assessment dated August 2009.

4. *Project name and location:* Expansion of the 14th Street Bus Facility, Erie, PA. *Project sponsor:* Erie Metropolitan Transit Authority. *Project description:* The project involves the expansion of a bus maintenance and storage facility in Erie, Pennsylvania. Located on the western coast of Pennsylvania, the city of Erie is 120 miles north of Pittsburg. The proposed 9-acre site will house bus maintenance, storage, fueling, and washing facilities. Site plans also include provisions for additional parking and administrative office space. In total, the project will centralize operations from nine under-utilized buildings into the new facility. *Final agency actions:* Section 106 finding of no adverse effect; project-level air quality conformity

determination; no use of Section 4(f) properties; and a Finding of No Significant Impact (FONSI) signed February 17, 2010. *Supporting documentation:* Environmental Assessment dated December 2009.

5. *Project name and location:* Three Infill Stations for the Central Corridor Light Rail Transit Project, St. Paul, MN. *Project sponsor:* Metropolitan Council. *Project description:* The project will construct three infill stations on the Central Corridor Light Rail Transit Project that will connect downtown Minneapolis and St. Paul, Minnesota. Previously, in August 2009, a Record of Decision was issued by FTA for constructing the original 10.9 mile light rail project that included only the below-grade infrastructure for the infill stations but did not include the above-grade stations. After the ROD was issued, however, a decision was made to construct the three above-ground infill stations in the Midway East section of the rail corridor. The Midway East section contains both residential and commercial properties. *Final agency actions:* Section 106 finding of no adverse effect; project-level air quality conformity determination; no use of Section 4(f) properties; and a Finding of No Significant Impact (FONSI) signed February 26, 2010. *Supporting documentation:* Environmental Assessment dated January 2010.

Issued on: March 15, 2010.

Susan Borinsky,

Associate Administrator for Planning and Environment, Washington, DC.

[FR Doc. 2010–5995 Filed 3–18–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Sunshine Act Meetings; Unified Carrier Registration Plan Board of Directors

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

TIME AND DATE: April 8, 2010, 12 noon to 3 p.m., Eastern Standard Time.

PLACE: This meeting will take place telephonically. Any interested person may call Mr. Avelino Gutierrez at (505) 827–4565 to receive the toll free number and pass code needed to participate in this meeting by telephone.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Board of Directors (the Board) will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement and to that end, may consider matters properly before the Board.

FOR FURTHER INFORMATION CONTACT: Mr. Avelino Gutierrez, Chair, Unified Carrier Registration Board of Directors at (505) 827–4565.

Issued on: March 12, 2010.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. 2010–6223 Filed 3–17–10; 4:15 pm]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In February 2010, there were three applications approved. Additionally, two approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of § 15829.

PFC Applications Approved

Public Agency: Port of Portland, Portland, Oregon.

Application Number: 10–10–C–00–PDX.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $55,895,170.

Earliest Charge Effective Date: March 1,2018.

Estimated Charge Expiration Date: August 1, 2020.

Classes of Air Carriers not Required to Collect PFC'S: (1) Nonscheduled/on-demand air carriers that enplane less than 2,500 passengers per year at Portland International Airport (PDX); and (2) commuters or small certificated air carriers that enplane less than 2,500 passengers per year at PDX.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that each approved class accounts for less than 1 percent of the total annual enplanements at PDX.

Brief Description of Project Approved for Collection and Use at a $4.50 PFC Level:

In-line baggage screening improvements.

Brief Description of Projects Approved for Collection and Use at a $3.00 PFC Level:

Taxiway connectors rehabilitation.
Rehabilitate taxiways E and F intersection.
Snow storage pad slurry seal.
Glycol apron slurry seal.
Rehabilitate east general aviation apron.
General aviation apron slurry seal.

Decision Date: February 5, 2010.

FOR FURTHER INFORMATION CONTACT: Trang Tran, Seattle Airports District Office, (425) 227–1662.

Public Agency: Monroe County Board of County Commissioners, Key West, Florida.

Application Number: 10–14–C–00–EYW.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $877,692.

Earliest Charge Effective Date: December 1, 2015.

Estimated Charge Expiration Date: January 1, 2017.

Class of Air Carriers not Required to Collect PFC'S: None.

Brief Description of Projects Approved for Collection at Key West International Airport (EYW) and Use at EYW:

Runway safety area design.
Runway safety area construction.
Approach clearing—design.
Runway obstruction clearing—design.
Runway obstruction clearing, phase II—construction.
Noise implementation plan, phase 6—design.
Noise implementation plan, phase 6—construction.
Noise implementation plan, phase 7—design.
Noise implementation plan, phase 7—construction.
Airport layout plan update.
Wildlife plan implementation.
Apron drainage rehabilitation.
Apron concrete parking.
Prepare PFC application.

Brief Description of Projects Approved for Collection at EYW and Use at the Florida Keys Marathon Airport:

Airport layout plan update.
Enhance taxiway markings.
Environmental assessment, runway relocation and extension.
Mark runway pavement.

Brief Description of Disapproved Project:

Man-lift.

Determination: The FAA determined that this equipment is for maintenance purposes and, therefore, is not PFC eligible.

Decision Date: February 10, 2010.

FOR FURTHER INFORMATION CONTACT: Susan Moore, Orlando Airports District Office, (407) 812–6331.

Public Agency: Palm Beach County Department of Airports, West Palm Beach, Florida.

Application Number: 10–10–C–00–PBI.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $11,868,332.

Earliest Charge Effective Date: April 1, 2010.

Estimated Charge Expiration Date: September 1, 2010.

Class Of Air Carriers not Required to Collect PFC'S: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Palm Beach International Airport (PBI).

Brief Description of Projects Approved for Collection at PBI and USE at PBI at a $4.50 PFC Level:

Runway pavement rehabilitation and repairs.
Taxiway pavement rehabilitation and repairs.
Apron pavement rehabilitation and repairs.
Air cargo ramp expansion.

Brief Description of Projects Approved for Collection at PBI and USE at PBI at a $3.00 PFC Level:

Baggage system improvements—programming and conceptual design.
Common use terminal equipment.
PFC implementation and administrative costs.

Brief Description of Project Approved for Collection at PBI for Future use at North Palm Beach General Aviation Airport (F45) at a $3.00 PFC Level:

Wetland mitigation credits.

BRIEF DESCRIPTION OF PROJECT APPROVED FOR COLLECTION AT PBI AND USE AT F45 AT A $3.00 PFC LEVEL:

Connection to county water and sewer service.

Brief Description of Projects Approved for Collection At PBI and Use at Palm Beach County Park at a $3.00 PFC Level:

Runway 15/33 repair/rehabilitation.
Terminal apron rehabilitation.
Taxiway C rehabilitation.

Brief Description of Project Partially Approved for Collection at PBI and Use at PBI at a $3.00 PFC Level:

Federal inspection services expansion.

DETERMINATION: Partially approved. The FAA determined that the renovation of the Customs and Immigration offices is ineligible per paragraph 611c of FAA Order 5100.38C, Airport Improvement Program Handbook (June 28, 2006). In addition, the cost of the three new immigration booths is not eligible because the public agency did not provide documentation from the United States Citizenship and Immigration Services indicating that this agency would staff the additional facilities.

Brief Description of Withdrawn Project:

Remote receiver relocation.

Date of Withdrawal: December 2, 2009.

Decision Date: February 23, 2010.

FOR FURTHER INFORMATION CONTACT: Susan Moore, Orlando Airports District Office, (407) 812–6331.

AMENDMENTS TO PFC APPROVALS

Amendment number, city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
04–02–C–01–ROA Roanoke, VA.	2/03/10	$8,483,280	$8,158,043	01/01/11	11/01/11
06–04–C–01–BRD Brainerd MN.	2/09/10	1,437,204	1,424,855	07/01/24	08/01/33

Issued in Washington, DC on March 11, 2010.

Joe Hebert,

Manager, Financial Analysis and Passenger Facility Charge Branch.

[FR Doc. 2010–5899 Filed 3–18–10; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In December 2009, there were nine applications approved. This notice also includes information on one other application, disapproved in November 2009, inadvertently left off the November 2009 notice. Additionally, five approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Application Disapproved

Public Agency: Greater Orlando Aviation Authority, Orlando, Florida.

Application Number: 09–12–C–00–MCO.

Application Type: Impose and use a PFC.

Determination: This application involved a request to blend four previously issued decisions (00–08–C–00–MCO, 02–09–C–00–MCO, 05–10–C–00–MCO and 07–11–C–00–MCO) into a new decision in order to maintain a consistent PFC level of $4.50. The FAA examined the public agency's request and found that it was not consistent with the FAA's policies and procedures for blending decisions. Therefore, the FAA denied the public agency's request which had the ultimate effect of disapproving the application request.

Decision Date: November 9, 2009.

For Further Information Contact: Susan Moore, Orlando Airports District Office, (407) 812–6331, extension 120.

PFC Applications Approved

Public Agency: Hillsborough County Aviation Authority, Tampa, Florida.

Application Number: 09–08–C–00–TPA.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $50,436,700.

Earliest Charge Effective Date: March 1, 2016.

Estimated Charge Expiration Date: May 1, 2017.

Class of Air Carriers Not Required To Collect PFC's:

On-demand air taxi/commercial operators that do not enplane or deplane passengers at the public agency's main passenger terminal buildings or enplane less than 500 passengers per year at the airport.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Tampa International Airport.

Brief Description of Project Approved for Collection and Use at a $4.50 PFC Level:

Taxiway B rehabilitation and bridge.

Brief Description of Projects Approved for Collection and Use at a $3.00 PFC Level:

North terminal complex conceptual design.

Cargo service road.

Decision Date: December 1, 2009.

For Further Information Contact: Susan Moore, Orlando Airports District Office, (407) 812–6331, extension 120.

Public Agency: City of Del Rio, Texas.

Application Number: 10–01–C–00–DRT.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $403,739.

Earliest Charge Effective Date: February 1, 2010.

Estimated Charge Expiration Date: December 1, 2015.

Class of Air Carriers Not Required To Collect PFC's:

None.

Brief Description of Projects Approved for Collection and Use:

Construct heliport/helipad.

Install apron lighting system.

Install taxiway A lighting system.

Expand terminal building.

Improve service road with fencing and gates.

PFC application and administrative fees.

Decision Date: December 8, 2010.

For Further Information Contact: Marcelino Sanchez, Texas Airports Development Office, (817) 222–5652.

Public Agency: Luzerne and Lackawanna Counties, Avoca, Pennsylvania.

Application Number: 09–07–C–00–AVP.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $164,000.

Earliest Charge Effective Date: August 1, 2017.

Estimated Charge Expiration Date: August 1, 2018.

Class of Air Carriers Not Required To Collect PFC's:

None.

Brief Description of Projects Approved for Collection and Use:

Upgrade terminal security system.

Wildlife assessment survey.

Handicapped passenger boarding ramp.

Decision Date: December 10, 2009.

For Further Information Contact: Lori Ledebohm, Harrisburg Airports District Office, (717) 730–2835.

Public Agency: Columbus Airport Commission, Columbus, Georgia.

Application Number: 10–04–C–00–CSG.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $1,032,681.

Earliest Charge Effective Date: February 1, 2010.

Estimated Charge Expiration Date: February 1, 2012.

Class of Air Carriers Not Required To Collect PFC's:

Air taxi/commercial operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Columbus Airport.

Brief Description of Projects Approved for Collection and Use:

Prepare PFC application.

Obstruction clearing easements—runway 24.

Taxiway C relocation—pave and light.

Crack seal, seal coat, and mark general aviation apron.

Obstruction clearing easements—runway 6.

Terminal building improvements.

Airfield electrical improvements.

Security access controls (phase IV).

Security training software.

Upgrade security access control (phases I and II).

Aircraft rescue and firefighting building (design).

Runway 24 runway safety area improvements (design).

Runway 24 runway safety area improvements (grading/drainage).

Runway 6 localizer (design).

Aircraft rescue and firefighting building (design part 2).

Security access controls (phase III).

Runway 6/24 rehabilitation phase II (design).

Runway 6 localizer (construction).

Aircraft rescue and firefighting building (construction).

Fiber optics for aircraft rescue and firefighting building.

Runway 6/24 rehabilitation phase II (construction).

Obstruction clearing easements runway 24.

Brief Description of Project Approved for Collection:

Perimeter road and fencing replacement.

Decision Date: December 11, 2009.

For Further Information Contact: Anna Guss, Atlanta Airports District Office, (404) 305–7146.

Public Agency: Port of Oakland, Oakland, California.

Applications Number: 10–15–I–00–OAK.

Application Type: Impose a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $70,259,000.

Earliest Charge Effective Date: April 1, 2021.

Estimated Charge Expiration Date: May 1, 2023.

Class of Air Carriers Not Required To Collect PFC's:

Nonscheduled/on-demand air carriers filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Metropolitan Oakland International Airport.

Brief Description of Project Approved for Collection:

Bay Area Rapid Transit Airport Connector.

Decision Date: December 14, 2009.

For Further Information Contact: Gretchen Kelly, San Francisco Airports District Office, (650) 876–2778, extension 623.

Public Agency: Broome County Department of Aviation, Johnson City, New York.

Application Number: 10–13–C–00–BGM.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $492,974.

Earliest Charge Effective Date: April 1, 2011.

Estimated Charge Expiration Date: July 1, 2012.

Class of Air Carriers Not Required To Collect PFC's:

Non-scheduled/on-demand air carriers filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Greater Binghamton Airport.

Brief Description of Projects Approved for Collection and Use:

Runway safety area improvements—environmental assessment.

Runway 24 engineered mass arresting system retrofit.

Airport master plan—phase II capital improvement planning program.

Security improvements.

Snow equipment purchase—liquid deice truck.

Brief Description of Project Approved for Use:

Main apron rehabilitation construction.

Decision Date: December 18, 2009.

For Further Information Contact: Andrew Brooks, New York Airports District Office, (516) 227–3816.

Public Agency: Duluth Airport Authority, Duluth, Minnesota.

Application Number: 09–09–C–00–DLH.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $427,727.

Earliest Charge Effective Date: October 1, 2010.

Estimated Charge Expiration Date: November 1, 2011.

Class of Air Carriers Not Required To Collect PFC's:

Part 135 air taxi/commercial operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Duluth International Airport.

Brief Description of Projects Approved for Collection and Use:

Preparation of PFC notice of intent.

Rehabilitate runway 3/21.

Remove taxiway A4.

Design services for replacement terminal.

Replace passenger boarding bridges (gates 1 and 4).

Update airport layout plan and master plan.

Prepare storm water pollution prevention plan.

Decision Date: December 22, 2009.

For Further Information Contact: Gordon Nelson, Minneapolis Airports District Office, (612) 713–4358.

Public Agency: City of Chicago, Department of Aviation, Chicago, Illinois.

Application Number: 09–22–C–00–ORD.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $247,195,313.

Earliest Charge Effective Date: May 1, 2026.

Estimated Charge Expiration Date: April 1, 2028.

Class of Air Carriers Not Required To Collect PFC's: Air taxi.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Chicago O'Hare International Airport.

Brief Description of Project Partially Approved for Collection and Use: Residential insulation.

Determination: Partially approved for collection and use. Costs identified as "contingencies" in the detailed cost information were not allowed.

Decision Date: December 23, 2009.

For Further Information Contact: Amy Hanson, Chicago Airports District Office, (847) 294–7354.

Public Agency: City of Dallas, Texas.

Application Number: 10–03–C–00–DAL.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $345,323,728.

Earliest Charge Effective Date: February 1, 2010.

Estimated Charge Expiration Date: March 1, 2022.

Class of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Dallas Love Field.

Brief Description of Projects Approved for Collection and Use at a $4.50 PFC Level:

Aircraft apron and fuel system.

New terminal.

Brief Description of Projects Approved for Collection and Use at a $3.00 PFC Level:

Reconstruct taxiways A, B, and D.

Taxiways L and D1 reconstruction and extension.

Taxiway B modifications.

Taxiway M extension.

Holding pad reconstruction.

North and west airfield electrical vaults.

Storm water outflow controls system.

Runway safety area enhancements.

New field maintenance facility.

Taxiway C and K rehabilitation.

Aircraft rescue and firefighting vehicle—acquire 3,000 gallon replacement.

Perimeter road rehabilitation.

Rehabilitate runways.

Taxiways B, C, and N—construct and rehabilitate.

Runway lighting update.

Concourse aprons—east/west rehabilitate.

Terminal rehabilitation.

Enhance security.

Service road rehabilitation.

Noise mitigation.

Conduct planning studies.

Acquire safety equipment.

Access road—rehabilitate.

Brief Description of Disapproved Project:

Security controls enhancement (perimeter fence).

Determination: Disapproved for collection and use. This project was determined to be ineligible for PFC funding.

Decision Date: December 24, 2009.

For Further Information Contact: Rodney Clark, Texas Airports Development Office, (817) 222–5659.

AMENDMENTS TO PFC APPROVALS

Amendment No. city, state	Amendment approved date	Originial approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
96–01–C–02–ORF, Norfolk, VA	11/12/09	$64,005,536	$64,951,249	03/01/10	01/01/10
01–02–C–02–BJI, Bemidji, MN	12/01/09	416,452	401,336	08/01/05	08/01/05

AMENDMENTS TO PFC APPROVALS—Continued

Amendment No. city, state	Amendment approved date	Originial approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
06–10–C–01–COS, Colorado Springs, CO	12/16/09	3,012,574	3,000,889	06/01/09	06/01/09
07–11–C–02–COS, Colorado Springs, CO	12/16/09	1,942,578	2,243,400	12/01/09	01/01/11
08–05–C–01–MSL, Muscle Shoals, AL	12/23/09	120,000	41,425	04/01/13	04/01/10

Issued in Washington, DC on March 11, 2010.

Joe Hebert,

Manager, Financial Analysis and Passenger Facility Charge Branch.

[FR Doc. 2010–5901 Filed 3–18–10; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In January 2010, there were five applications approved. This notice also includes information on three applications, one approved in September 2009 and the other two approved in December 2009, inadvertently left off the September 2009 and December 2009 notices, respectively. Additionally, eight approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: Charleston County Aviation Authority, Charleston, South Carolina.

Application Number: 09–01–C–00–CHS.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total Pfc Revenue Approved in this Decision: $7,933,920.

Earliest Charge Effective Date: March 1, 2010.

Estimated Charge Expiration Date: August 1, 2011.

Class of Air Carriers not Required to Collect PFC's:

Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Charleston International Airport (CHS).

Brief Description of Projects Approved for Collection at CHS and Use at CHS:

Upgrade police radio communications.

Design flight/baggage information display system.

Modify terminal building, phase II—construct terminal rain cover.

Rehabilitate passenger boarding bridge.

Master plan update.

Flight/baggage information display system.

Terminal redevelopment and expansion—design.

Standardize airfield signage.

Restripe airfield taxiway and ramp edge.

Improve airport access roads—design and construction.

Terminal roof repairs—design and construction.

Heating, ventilation, and air conditioning improvements.

Rehabilitate passenger boarding bridges phase II—construction.

Upgrade baggage makeup area.

Miscellaneous security improvements.

PFC implementation and administration.

Brief Description of Projects Approved for Collection at CHS and USE at Charleston Executive Airport:

Rehabilitate east/west taxiway, phase I—design.

Construct new general aviation apron—design and construction.

Improve runway safety area—runway safety area study, runway 9/27.

Update airport layout plan.

Rehabilitate east/west taxiway, phase II—construction.

Reconstruct runway 9/27 and improvements to runway safety area—environmental assessment and design.

Reconstruct runway 9/27 and improvements to runway safety area—construction.

Relocate runway 9/27 glide slope.

Pavement repairs to north south taxiway—runway 4/22.

Brief Description of Projects Approved for Collection at CHS and Use at Mt. Pleasant Regional Airport:

Rehabilitate airfield lighting.

Update airport layout plan.

Apron expansion project—design and construction.

Terminal facility improvements—design and construction.

Runway pavement overlay—design and construction.

Sanitary sewer improvements—design and construction.

Land use planning.

Brief Description of Disapproved Project:

Design terminal maintenance facilities.

Determination: Disapproved. This project was found to be ineligible in accordance with paragraph 601 of FAA Order 5100.38C, Airport Improvement Program Handbook which limits eligibility of terminal areas to those directly related to the movement of passengers and baggage. The maintenance area is an ineligible, indirect support area of the terminal.

Decision Date: September 9, 2009.

FOR FURTHER INFORMATION CONTACT: Anna Guss, Atlanta Airports District Office, (404) 305–7146.

Public Agency: City of Santa Barbara, California.

Application Number: 09–07–C–00–SBA.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $19,945,000.

Earliest Charge Effective Date: April 1,2010.

Estimated Charge Expiration Date: July 1, 2039.

Class of Air Carriers not Required to Collect PFC's: Non-scheduled I on demand air carriers filing FAA Form 1800–31.

Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Santa Barbara Municipal Airport.

Brief Description of Project Approved for Collection and Use:

Airline terminal improvements.

Decision Date: December 22, 2009.

FOR FURTHER INFORMATION CONTACT: Darlene Williams, Los Angeles Airports District Office, (310) 725–3625.

Public Agency: County of Milwaukee, Milwaukee, Wisconsin.

Applications Number: 09–15–C–00–MKE.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in this Decision: $25,068,451.

Earliest Charge Effective Date: August 1, 2020.

Estimated Charge Expiration Date: August 1, 2022.

Class of Air Carriers not Required to Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at General Mitchell International Airport.

Brief Description of Projects Approved for Collection and Use:

Noise compatibility program—phase II residential sound insulation.

Noise monitoring system.

Vacant land and residential property acquisition.

Runway safety area construction—runways 1L, 19R, 7R, and 25L.

Runways 1L/19R and 7R/25L intersection repaving—design.

Runway guard lights.

Inline baggage security design (phase 2).

Terminal south escalator reorientation—design.

Concourse D restroom renovation—design.

Gate D52 design and construction.

Cargo deicer pads.

Expansion of fleet portion of combined maintenance facility—design.

Equipment storage building for snow plows—design.

Acquire snow removal equipment.

Cargo ramp gate 3D.

Decision Date: December 31, 2009.

FOR FURTHER INFORMATION CONTACT: Nancy Nistler, Minneapolis Airports District Office, (612) 713–4353.

Public Agency: Counties of Colbert and Lauderdale, Muscle Shoals, Alabama.

Application Number: 10–06–C–00–MSL.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $220,000.

Earliest Charge Effective Date: April 1,2010.

Estimated Charge Expiration Date: April 1, 2015.

Class of Air Carriers not Required to Collect PFC's: None.

Brief Description of Project Approved for Collection and Use:

Terminal improvements.

Decision Date: January 7, 2010.

FOR FURTHER INFORMATION CONTACT: Kevin Morgan, Jackson Airports District Office, (601) 664–9891.

Public Agency: City of New Orleans and New Orleans Aviation Board, New Orleans, Louisiana.

Applications Number: 09–10–C–00–MSY.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $70,531,906.

Earliest Charge Effective Date: July 1, 2023.

Estimated Charge Expiration Date: August 1, 2026.

Class of Air Carriers not Required to Collect PFC's: On-demand air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Louis Armstrong New Orleans International Airport.

Brief Description of Projects Approved for Collection and Use at a $450 PFC Level:

Northwest service (perimeter) road.

Baggage handling system.

Airfield lighting vault.

Runway 6/24 downgrade.

Brief Description of Projects Approved for Collection and Use at a $3.00 PFC Level:

Terminal apron rehabilitation.

Facility improvement program.

Utility building (design and construct).

Concourse C and D sterile corridor.

Decision Date: January 11, 2010.

FOR FURTHER INFORMATION CONTACT: Andy Velayos, Louisiana/New Mexico Airports Development Office, (817) 222–5647.

Public Agency: City of Little Rock, Arkansas.

Applications Number: 10–07–C–00–LIT.

Application Type: Impose and use a PFC.

PFC Level: $450.

Total PFC Revenue Approved in this Decision: $9,595,910.

Earliest Charge Effective Date: November 1, 2011.

Estimated Charge Expiration Date: August 1, 2013.

Class of Air Carriers not Required to Collect PFC's: On-demand air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Little Rock National Airport.

Brief Description of Projects Approved for Collection and Use:

Runway 4R122L rehabilitation and safety area improvements.

Runway 4L/22R rehabilitation and safety area improvements.

Runway 18/36 rehabilitation and safety area improvements.

Airfield lighting and surface movement.

Taxiway reconstruction and repair.

Apron rehabilitation and repair.

Safety and security systems and checkpoints.

Terminal improvements.

Noise mitigation measures.

Airport studies.

Snow plows.

Duct for new tower.

PFC application administrative costs.

Decision Date: January 15, 2010.

FOR FURTHER INFORMATION CONTACT: Bill Bell, Arkansas/Oklahoma Airports Development Office, (817) 222–5664.

Public Agency: Clark County Department of Aviation, Las Vegas, Nevada.

Applications Number: 09–08–C–00–LAS.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $1,855,265,472.

Earliest Charge Effective Date: December 1, 2026.

Estimated Charge Expiration Date: November 1, 2053.

Class of Air Carriers not Required to Collect PFC's: Air taxi/commercial operators—nonscheduled/on-demand air carriers that exclusively file FAA Form 1800–31 and enplane less than 2,500 passengers at Las Vegas McCarran International Airport.

Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Las Vegas McCarran International Airport.

Brief Description of Project Partially Approved for Collection and Use at a $4.50 PFC Level:

Construction of terminal 3.

Determination: Partially approved. The FAA determined that several items identified by the public agency in the application's detailed cost information as eligible were, in fact, not PFC eligible. As a result, the FAA decreased the approved amount from that requested by $200,262,528.

Brief Description of Disapproved Project:

Construction of heliport.

Determination: Disapproved for collection. The FAA determined that the public agency did not demonstrate that this project meets the requirements of § 158.15 and 158.17 with respect to PFC eligibility, PFC objective, adequate justification, and significant contribution.

Decision Date: January 15, 2010.

FOR FURTHER INFORMATION CONTACT: Gretchen Kelly, San Francisco Airports District Office, (650) 876–2778, extension 623.

Public Agency: Bert Mooney Airport Authority, Butte, Montana.

Applications Number: 10–09–C–00–BTM.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $271,635.

Earliest Charge Effective Date: March 1, 2010.

Estimated Charge Expiration Date: February 1, 2013.

Class of Air Carriers not Required to Collect PFC's:

Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Bert Mooney Airport.

Brief Description of Projects Approved for Collection and Use:

Relocate airport perimeter road.

Install medium intensity approach lighting system with runway alignment indicator lights on runway 15.

Rehabilitate taxiway D end segments (maintenance).

Rehabilitate aprons (maintenance).

Rehabilitate runway 15/33 (maintenance).

Rehabilitate taxiway A.

Environmental assessment for relocation of perimeter road.

Pavement condition index survey.

Wildlife hazard assessment.

Acquire security equipment.

Acquire friction decelerometer.

Upgrade terminal heating controls.

Decision Date: January 22, 2010.

FOR FURTHER INFORMATION CONTACT: Dave Stelling, Helena Airports District Office, (406) 449–5257.

AMENDMENTS TO PFC APPROVALS

Amendment No., city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
04–01–C–01–GSN Saipan, MP	01/13/10	$29,920,680	$29,533,680	08/01/16	08/01/16
04–01–C–01–GRO Rota, MP	01/13/10	1,797,042	1,775,542	08/01/16	08/01/16
04–01–C–01–TNI Tinian, MP	01/13/10	1,724,826	1,703,326	08/01/16	08/01/16
92–01–C–08–SJU San Juan, PR	01/13/10	47,738,284	45,027,956	05/01/97	05/01/97
93–02–U–04–SJU San Juan, PR	01/13/10	NA	NA	05/01/97	05/01/97
07–05–C–01–JST Johnstown, PA	01/14/10	132,000	285,335	04/01/10	05/01/14
03–10–C–02–BNA Nashville, TN	01/14/10	5,773,678	2,591,683	10/01/02	10/01/02
06–12–C–03–BNA Nashville, TN	01/14/10	11,400,201	10,066,488	10/01/10	09/01/10

Issued in Washington, DC on March 11, 2010.

Joe Hebert,

Manager, Financial Analysis and Passenger Facility Charge Branch.

[FR Doc. 2010–5900 Filed 3–18–10; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket ID PHMSA–2010–0084]

Pipeline Safety: Workshop on Distribution Pipeline Construction

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

ACTION: Notice of Workshop.

SUMMARY: PHMSA is conducting a workshop cosponsored by the National Association of Pipeline Safety Representatives (NAPSR) on new distribution pipeline construction. The workshop will allow stakeholders in the pipeline safety community to learn about and discuss construction issues and current practices in natural gas distribution pipeline construction management and quality control. This workshop will address common issues, focusing on the results of Federal and state regulators' perspectives, and explore potential solutions.

DATES: The workshop will be held on April 20, 2010. Name badge pick up and on-site registration will be available starting at 7:30 a.m., with the workshop taking place from 8:30 a.m. until approximately 5 p.m. Refer to the meeting Web site for updated agenda and times at *https://primis.phmsa.dot.gov/meetings/Mtg63.mtg.* Please note that all workshop presentations will be available on the meeting Web site within 30 days following the workshop.

ADDRESSES: The workshop will be held at the Hilton St. Louis at the Ballpark, 1 South Broadway, St. Louis, MO 63102. Hotel reservations under the "U.S. DOT Distribution Workshop" room block for the nights of April 19 and 20, 2010, can be made at 1–877–845–7354. A daily base rate of $110.00 is available. The meeting room will be posted at the hotel on the day of the workshop.

FOR FURTHER INFORMATION CONTACT: Vincent Holohan at (202) 366–1933, or by e-mail at *vincent.holohan@dot.gov.*

SUPPLEMENTARY INFORMATION:

Registration: Members of the public may attend this free workshop. To help assure that adequate space is provided, all attendees are encouraged to register for the workshop at *https://primis.phmsa.dot.gov/meetings/Mtg63.mtg.* Hotel reservations must be made by contacting the hotel directly.

Comments: Members of the public may also submit written comments, either before or after the workshop. Comments should reference Docket ID PHMSA–2010–0084. Comments may be submitted in the following ways:

- *E-Gov Web Site: http://www.regulations.gov.* This site allows the public to enter comments on any

Federal Register notice issued by any agency. Follow the instructions for submitting comments.

- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590.
- *Hand Delivery:* DOT Docket Management System, Room W12–140, on the ground floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: Identify the Docket ID at the beginning of your comments. If you submit your comments by mail, submit two copies. If you wish to receive confirmation that PHMSA has received your comments, include a self-addressed stamped postcard. Internet users may submit comments at *http://www.regulations.gov.* Note: Comments will be posted without changes or edits to *http://www.regulations.gov* including any personal information provided. Please see the Privacy Act heading in the Regulatory Analyses and Notices section of the **SUPPLEMENTARY INFORMATION** for additional information.

Privacy Act Statement: Anyone may search the electronic form of all comments received for any of our dockets. You may review DOT's complete Privacy Act Statement in the **Federal Register** published 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 request special assistance at the meeting, please contact Vincent Holohan at (202) 366–1933, or by e-mail at *vincent.holohan@dot.gov* by April 8, 2010.

Issue Description: Last year, PHMSA, NAPSR, the Federal Energy Regulatory Commission, and the National Energy Board of Canada jointly sponsored a construction workshop focusing on transmission pipeline construction issues. This workshop will focus on natural gas distribution construction. Natural gas distribution pipelines are subject to a unique subset of construction-related risks and issues, as compared to transmission and other pipelines. Federal and state regulator inspections of distribution pipeline construction projects occasionally observe patterns of similar findings. Poor construction quality has led to short and long term pipeline integrity issues and risk to public safety. The workshop will include presentations highlighting areas of concern based on inspection results and industry presentations describing practices and possible solutions. The panel format will offer the opportunity for dialogue and sharing of ideas for solutions to avoid construction quality issues.

PHMSA developed this workshop in collaboration with NAPSR, state partners, and the American Gas Association to inform the public and review lessons learned from inspections, and to improve distribution pipeline construction practices. This workshop will focus solely on natural gas distribution pipelines.

Preliminary Workshop Agenda

The workshop will include:

(1) Federal and state observations related to inspection findings.

(2) Distribution materials, Quality Assurance/Quality Control, related best practices.

(3) Construction Issues, Joining, Horizontal Directional Drill/Boring, Excavation Damage.

(4) Discussions of solutions.

Refer to the meeting Web site for a more detailed agenda: *https://primis.phmsa.dot.gov/meetings/Mtg63.mtg.*

Issued in Washington, DC on March 15, 2010.

Alan K. Mayberry,

Deputy Associate Administrator for Field Operations.

[FR Doc. 2010–6129 Filed 3–18–10; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network; Proposed Renewal Without Change; Comment Request; Imposition of Special Measure Against Banco Delta Asia, Including Its Subsidiaries Delta Asia Credit Limited and Delta Asia Insurance Limited, as a Financial Institution of Primary Money Laundering Concern

AGENCY: Financial Crimes Enforcement Network, Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of our continuing effort to reduce paperwork and respondent burden, we invite comment on a renewal, without change, to information collection requirements finalized on March 19, 2007 (72 FR 12730, RIN 1506–AA83) imposing a special measure against Banco Delta Asia, including its subsidiaries Delta Asia Credit Limited and Delta Asia Insurance Limited, as a financial institution of primary money laundering concern. This request for comments is being made pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. 3506(c)(2)(A).

DATES: Written comments are welcome and must be received on or before May 18, 2010.

ADDRESSES: Written comments should be submitted to: Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183, Attention: Comment Request; Imposition of Special Measure against Banco Delta Asia, Comments also may be submitted by electronic mail to the following Internet address: *regcomments@fincen.gov,* again with a caption, in the body of the text, "Attention: Comment Request; Imposition of Special Measure against Banco Delta Asia."

Inspection of comments: Comments may be inspected, between 10 a.m. and 4 p.m., in the FinCEN reading room in Vienna, VA. Persons wishing to inspect the comments submitted must request an appointment with the Disclosure Officer by telephoning (703) 905–5034 (not a toll free call).

FOR FURTHER INFORMATION CONTACT: Financial Crimes Enforcement Network, Regulatory Policy and Programs Division at (800) 949–2732, Option 6.

SUPPLEMENTARY INFORMATION: *Abstract:* The Director of the Financial Crimes Enforcement Network is the delegated administrator of the Bank Secrecy Act ("Act"). The Act authorizes the Director to issue regulations to require all financial institutions defined as such in the Act to maintain or file certain reports or records that have been determined to have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, or in the conduct of intelligence or counter-intelligence activities, including analysis, to protect against international terrorism.[1]

The notice of final rulemaking implementing section 5318A of title 31, United States Code, finalized 31 CFR 103 to add 31 CFR 103.193. In general, the regulations require financial institutions, as defined in 31 U.S.C. 5312(a)(2) and 31 CFR 103.11 to establish, document, and maintain programs as an aid in protecting and securing the U.S. financial system.

Title: Imposition of Special Measure Against Banco Delta Asia, including its

[1] Public Law 91–508, as amended and codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959 and 31 U.S.C. 5311–5332. Language expanding the scope of the Bank Secrecy Act to intelligence or counter-intelligence activities to protect against international terrorism was added by section 358 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001, Public Law 107–56.

subsidiaries Delta Asia Credit Limited and Delta Asia Insurance Limited, as a financial institution of primary money laundering concern.

Office of Management and Budget Control Number: 1506–0045.

Abstract: The Financial Crimes Enforcement Network is issuing this notice to renew the control number for the imposition of a special measure against Banco Delta Asia, including its subsidiaries Delta Asia Credit Limited and Delta Asia Insurance Limited, as a financial institution of primary money laundering concern pursuant to the authority contained in 31 U.S.C. 5318A.

Current Action: Renewal without change for existing regulations.

Type of Review: Extension of a currently approved information collection.

Affected Public: Business and other for-profit institutions.

Burden: Estimated Number of Respondents: 5,000.

Estimated Number of Responses: 5,000.

Estimated Number of Hours: 5,000.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget. Records required to be retained under the Act must be retained for five years. Generally, information collected pursuant to the Act is confidential but may be shared as provided by law with regulatory and law enforcement authorities.

Request for Comments:

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

Dated: March 15, 2010.

James H. Freis, Jr.,

Director, Financial Crimes Enforcement Network.

[FR Doc. 2010–6089 Filed 3–18–10; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[Docket ID OTS–2010–0007]

Open Meeting of the OTS Minority Depository Institutions Advisory Committee

AGENCY: Department of the Treasury, Office of Thrift Supervision.

ACTION: Notice of meeting.

SUMMARY: The OTS Minority Depository Institutions Advisory Committee (MDIAC) will convene a meeting on Wednesday, April 14, 2010, in Conference Room 6A of the Office of Thrift Supervision, 1700 G Street, NW., Washington, DC, beginning at 9 a.m. Eastern Time. The meeting will be open to the public.

DATES: The meeting will be held on Wednesday, April 14, 2010, at 9 a.m. Eastern Time.

ADDRESSES: The meeting will be held at the Office of Thrift Supervision, 1700 G Street, NW., Washington, DC in Conference Room 6A. The public is invited to submit written statements to the MDIAC by any one of the following methods:

- *E-mail address: Commaffairs@ots.treas.gov;* or
- *Mail:* To Montrice Godard Yakimov, Acting Designated Federal Official, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552 in triplicate.

The agency must receive statements no later than April 7, 2010.

FOR FURTHER INFORMATION CONTACT: Montrice Godard Yakimov, Acting Designated Federal Official, (202) 906–6173, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: By this notice, the Office of Thrift Supervision is announcing that the OTS Minority Depository Institutions Advisory Committee will convene a meeting on Wednesday, April 14, 2010, in Conference Room 6A at the Office of Thrift Supervision, 1700 G Street, NW., Washington, DC, beginning at 9 a.m. Eastern Time. The meeting will be open to the public. Because the meeting will be held in a secured facility with limited space, members of the public who plan to attend the meeting, and members of the public who require auxiliary aid, must contact the Office of Community Affairs at 202–906–7891 by 5 p.m. Eastern Time on Wednesday, April 7, 2010, to inform OTS of their desire to attend the meeting and to provide the information that will be required to facilitate entry into the OTS building. To enter the building, attendees should provide a government issued ID (e.g., driver's license, voter registration card, etc.) with their full name, date of birth, and address. The purpose of the meeting is to advise OTS on ways to meet the goals established by section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), Public Law 101–73, Title III, 103 Stat. 353, 12 U.S.C. 1463 note. The goals of section 308 are to preserve the present number of minority institutions, preserve the minority character of minority-owned institutions in cases involving mergers or acquisitions, provide technical assistance, and encourage the creation of new minority institutions. The MDIAC will help OTS meet those goals by providing informed advice and recommendations regarding a range of issues involving minority depository institutions.

Dated: March 15, 2010.

By the Office of Thrift Supervision.

Montrice Godard Yakimov,

Acting Designated Federal Official.

[FR Doc. 2010–6099 Filed 3–18–10; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF THE TREASURY

United States Mint

Revised Meeting Time for Citizens Coinage Advisory Committee March 2010 Public Meeting

AGENCY: United States Mint, Department of the Treasury.

ACTION: Notification.

SUMMARY: Pursuant to United States Code, Title 31, section 5135(b)(8)(C), the United States Mint announces the Citizens Coinage Advisory Committee (CCAC) public meeting scheduled for March 23, 2010.

Date: March 23, 2010.

Time: 2:30 p.m. to 5 p.m.

Location: 8th Floor Boardroom, United States Mint, 801 9th Street, NW., Washington, DC 20220.

Subject: Review candidate designs for the 2010 American Eagle Platinum Coin Program and discuss the 2009 and 2010 Annual Reports.

Interested persons should call 202–354–7502 for the latest update on meeting time and room location.

In accordance with 31 U.S.C. 5135, the CCAC:

- Advises the Secretary of the Treasury on any theme or design proposals relating to circulating coinage, bullion coinage, Congressional Gold Medals, and national and other medals.
- Advises the Secretary of the Treasury with regard to the events, persons, or places to be commemorated by the issuance of commemorative coins in each of the five calendar years succeeding the year in which a commemorative coin designation is made.
- Makes recommendations with respect to the mintage level for any commemorative coin recommended.

FOR FURTHER INFORMATION CONTACT: Cliff Northup, United States Mint Liaison to the CCAC; 801 9th Street, NW., Washington, DC 20220; or call 202–354–7200.

Any member of the public interested in submitting matters for the CCAC's consideration is invited to submit them by fax to the following number: 202–756–6830.

Authority: 31 U.S.C. 5135(b)(8)(C).

Dated: March 12, 2010.

Edmund C. Moy,

Director, United States Mint.

[FR Doc. 2010–6043 Filed 3–18–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

United States Mint

Pricing for Certain 2010 United States Mint Products

AGENCY: United States Mint, Department of the Treasury.

ACTION: Notice.

SUMMARY: The United States Mint is announcing the price of the 2010 United States Mint Presidential $1 Coin and First Spouse Medal Sets™, 2010 United States Mint Official American Presidency $1 Coin Covers and 2010 Presidential $1 Coin Uncirculated Set™.

The 2010 United States Mint Presidential $1 Coin and First Spouse Medal Sets will be priced at $11.95 each. The first set, featuring Millard and Abigail Fillmore, will be released March 26, 2010.

The 2010 United States Mint Official American Presidency $1 Coin Covers will be priced at $15.95 each. The first set, featuring Millard Fillmore, will be released April 2, 2010.

The 2010 Presidential $1 Coin Uncirculated Set will be priced at $18.95. This set will be released April 13, 2010.

FOR FURTHER INFORMATION CONTACT: B.B. Craig, Associate Director for Sales and Marketing, United States Mint, 801 9th Street, NW., Washington, DC 20220; or call 202–354–7500.

Authority: 31 U.S.C. 5111, 5112 & 9701.

Dated: March 11, 2010.

Edmund C. Moy,

Director, United States Mint.

[FR Doc. 2010–6042 Filed 3–18–10; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

United States Mint

Pricing for Certain United States Mint Products

AGENCY: United States Mint, Department of the Treasury.

ACTION: Notice.

SUMMARY: The United States Mint is announcing the price of First Spouse Bronze Medals and 2010 First Spouse Bronze Medal Series: Four-Medal Set.

The 2010 First Spouse Bronze Medals, featuring Abigail Fillmore, Jane Pierce, Buchanan's Liberty and Mary Todd Lincoln, will be priced at $5.50 each. The first medal in the 2010 series, featuring Abigail Fillmore, will be released March 18, 2010. This price will apply to all First Spouse Medals currently on sale, effective March 18, 2010.

The 2010 First Spouse Bronze Medal Series: Four-Medal Set will be priced at $15.95 and will contain all four 2010 First Spouse Bronze Medals. The release date for this set will be available on the United States Mint Web site.

FOR FURTHER INFORMATION CONTACT: B.B. Craig, Associate Director for Sales and Marketing, United States Mint, 801 9th Street NW., Washington, DC 20220; or call 202–354–7500.

Authority: 31 U.S.C. 5111, 5112 & 9701.

Dated: March 12, 2010.

Edmund C. Moy,

Director, United States Mint.

[FR Doc. 2010–6041 Filed 3–18–10; 8:45 am]

BILLING CODE P

Federal Register

Friday,
March 19, 2010

Part II

Department of Housing and Urban Development

Federal Property Suitable as Facilities To Assist the Homeless; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5375–N–10]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7266, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for "off-site use only" recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Theresa Rita, Division of Property Management, Program Support Center, HHS, room 5B–17, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: ARMY: Ms. Veronica Rines, Department of the Army, Office of the Assistant Chief of Staff for Installation Management, DAIM–ZS, Room 8536, 2511 Jefferson Davis Hwy, Arlington, VA 22202; (703) 601–2545; (These are not toll-free numbers).

Dated: March 11, 2009.

Mark R. Johnston,

Deputy Assistant Secretary for Special Needs.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 03/19/2010

Suitable/Available Properties

Building

Alaska

Bldg. 00001
Kiana Natl Guard Armory
Kiana, AK 99749
Landholding Agency: Army
Property Number: 21200340075
Status: Excess
Comments: 1200 sq. ft., butler bldg., needs repair, off-site use only

Bldg. 00001
Holy Cross Armory
High Cross, AK 99602
Landholding Agency: Army
Property Number: 21200710051
Status: Excess
Comments: 1200 sq. ft. armory, off-site use only

Bldg. 136
Ft. Richardson
Ft. Richardson, AK 99505
Landholding Agency: Army
Property Number: 21200820147
Status: Excess
Comments: 2383 sq. ft., most recent use—housing, off-site use only

Arizona

Bldg. S–306
Yuma Proving Ground
Yuma Co: Yuma/La Paz, AZ 85365–9104
Landholding Agency: Army
Property Number: 21199420346
Status: Unutilized
Comments: 4103 sq. ft., 2-story, needs major rehab, off-site use only

Bldg. 503, Yuma Proving Ground
Yuma Co: Yuma, AZ 85365–9104
Landholding Agency: Army
Property Number: 21199520073
Status: Underutilized
Comments: 3789 sq. ft., 2-story, major structural changes required to meet floor loading code requirements, presence of asbestos, off-site use only

Bldg. 43002
Fort Huachuca
Cochise, AZ 85613–7010
Landholding Agency: Army
Property Number: 21200440066
Status: Excess
Comments: 23,152 sq. ft., presence of asbestos/lead paint, most recent use—dining, off-site use only

Bldg. 90551
Fort Huachuca
Cochise, AZ 85613
Landholding Agency: Army
Property Number: 21200920001
Status: Excess
Comments: 1270 sq. ft., most recent use—office, off-site use only

California

Bldgs. 18026, 18028
Camp Roberts
Monterey, CA 93451–5000
Landholding Agency: Army
Property Number: 21200130081
Status: Excess
Comments: 2024 sq. ft., concrete, poor condition, off-site use only

Bldg. 00052
Moffett Community Housing
Vernon Ave.
Santa Clara, CA 94035
Landholding Agency: Army
Property Number: 21200930002
Status: Unutilized
Comments: 4530 sq. ft., most recent use—mini mart/meeting rooms, off-site use only

Colorado

Bldgs. 25, 26, 27
Pueblo Chemical Depot
Pueblo, CO 81006
Landholding Agency: Army
Property Number: 21200420178
Status: Unutilized
Comments: 1311 sq. ft., presence of asbestos/lead paint, most recent use—housing, off-site use only

Bldg. 00127
Pueblo Chemical Depot
Pueblo, CO 81006
Landholding Agency: Army
Property Number: 21200420179
Status: Unutilized
Comments: 8067 sq. ft., presence of asbestos, most recent use—barracks, off-site use only

Bldg. 01516
Fort Carson
El Paso, CO 80913
Landholding Agency: Army
Property Number: 21200640116
Status: Unutilized
Comments: 723 sq. ft., needs repair, most recent use—storage, off-site use only

Georgia

Bldg. 322
Fort Benning
Ft. Benning Co: Muscogee, GA 31905
Landholding Agency: Army
Property Number: 21199720156
Status: Unutilized
Comments: 9600 sq. ft., needs rehab, most recent use—admin., off-site use only

Bldg. 2593
Fort Benning
Ft. Benning Co: Muscogee, GA 31905
Landholding Agency: Army
Property Number: 21199720167
Status: Unutilized
Comments: 13644 sq. ft., needs rehab, most recent use—parachute shop, off-site use only

Bldg. 2595
Fort Benning
Ft. Benning Co: Muscogee, GA 31905
Landholding Agency: Army
Property Number: 21199720168
Status: Unutilized
Comments: 3356 sq. ft., needs rehab, most recent use—chapel, off-site use only

Bldg. 4232
Fort Benning
null Co: Muscogee, GA 31905
Landholding Agency: Army
Property Number: 21199830291
Status: Unutilized
Comments: 3720 sq. ft., needs rehab, most recent use—maint. bay, off-site use only

Bldgs. 5974–5978
Fort Benning
Ft. Benning Co: Muscogee, GA 31905
Landholding Agency: Army
Property Number: 21199930135
Status: Unutilized
Comments: 400 sq. ft., most recent use—storage, off-site use only

Bldg. 5993
Fort Benning
Ft. Benning Co: Muscogee, GA 31905
Landholding Agency: Army
Property Number: 21199930136
Status: Unutilized
Comments: 960 sq. ft., most recent use—storage, off-site use only

Bldg. T–1003
Fort Stewart
Hinesville Co: Liberty, GA 31514
Landholding Agency: Army
Property Number: 21200030085
Status: Excess
Comments: 9267 sq. ft., poor condition, most recent use—admin., off-site use only

Bldg. T0130
Fort Stewart
Hinesville Co: Liberty, GA 31314–5136
Landholding Agency: Army
Property Number: 21200230041
Status: Excess
Comments: 10,813 sq. ft., off-site use only

Bldg. T0157
Fort Stewart
Hinesville Co: Liberty, GA 31314–5136
Landholding Agency: Army
Property Number: 21200230042
Status: Excess
Comments: 1440 sq. ft., off-site use only

Bldgs. T291, T292
Fort Stewart
Hinesville Co: Liberty, GA 31314–5136
Landholding Agency: Army
Property Number: 21200230044
Status: Excess
Comments: 5220 sq. ft. each, off-site use only

Bldg. T0295
Fort Stewart
Hinesville Co: Liberty, GA 31314–5136
Landholding Agency: Army
Property Number: 21200230045
Status: Excess
Comments: 5220 sq. ft., off-site use only

Bldg. 4476
Fort Benning
Ft. Benning Co: Chattachoochee, GA 31905
Landholding Agency: Army
Property Number: 21200420034
Status: Excess
Comments: 3148 sq. ft., most recent use—veh. maint. shop, off-site use only

Bldg. 9029
Fort Benning
Ft. Benning Co: Chattachoochee, GA 31905
Landholding Agency: Army
Property Number: 21200420050
Status: Excess
Comments: 7356 sq. ft., most recent use—heat plant bldg., off-site use only

Bldg. T924
Fort Stewart
Ft. Stewart Co: Liberty, GA 31314
Landholding Agency: Army
Property Number: 21200420194
Status: Excess
Comments: 9360 sq. ft., most recent use—warehouse, off-site use only

Bldg. 00924
Fort Stewart
Ft. Stewart Co: Liberty, GA 31314
Landholding Agency: Army
Property Number: 21200510065
Status: Excess
Comments: 9360 sq. ft., most recent use—warehouse, off-site use only

Bldg. 08585
Hunter Army Airfield
Savannah Co: Chatham, GA 31409
Landholding Agency: Army
Property Number: 21200530078
Status: Excess
Comments: 165 sq. ft., most recent use—plant, off-site use only

Bldg. 01150
Hunter Army Airfield
Savannah Co: Chatham, GA 31409
Landholding Agency: Army
Property Number: 21200610037
Status: Excess
Comments: 137 sq. ft., most recent use—flam mat storage, off-site use only

Bldg. 01151
Hunter Army Airfield
Savannah Co: Chatham, GA 31409
Landholding Agency: Army
Property Number: 21200610038
Status: Excess
Comments: 78 sq. ft., most recent use—flam mat storage, off-site use only

Bldg. 01153
Hunter Army Airfield
Savannah Co: Chatham, GA 31409
Landholding Agency: Army
Property Number: 21200610039
Status: Excess
Comments: 211 sq. ft., most recent use—flam mat storage, off-site use only

Bldg. 01530
Fort Stewart
Liberty, GA 31314
Landholding Agency: Army
Property Number: 21200610048
Status: Excess
Comments: 80 sq. ft., most recent use—scale house, off-site use only

Bldg. 08032
Fort Stewart
Liberty, GA 31314
Landholding Agency: Army
Property Number: 21200610051
Status: Excess
Comments: 2592 sq. ft., needs rehab, most recent use—storage/stable, off-site use only

Bldg. 07783
Fort Stewart
Hinesville, GA 31314
Landholding Agency: Army
Property Number: 21200640093
Status: Excess
Comments: 8640 sq. ft., most recent use—maintenance hangar, off-site use only

Bldg. 08061
Fort Stewart
Hinesville, GA 31314

Landholding Agency: Army
Property Number: 21200640094
Status: Excess
Comments: 1296 sq. ft., most recent use—weather station, off-site use only

Bldg. 00100
Hunter Army Airfield
Chatham, GA 31409
Landholding Agency: Army
Property Number: 21200740052
Status: Excess
Comments: 10893 sq. ft., most recent use—battalion hdqts., off-site use only

Bldg. 00129
Hunter Army Airfield
Chatham, GA 31409
Landholding Agency: Army
Property Number: 21200740053
Status: Excess
Comments: 4815 sq. ft., presence of asbestos, most recent use—religious education facility, off-site use only

Bldg. 00145
Hunter Army Airfield
Chatham, GA 31409
Landholding Agency: Army
Property Number: 21200740054
Status: Excess
Comments: 11590 sq. ft., presence of asbestos, most recent use—post chapel, off-site use only

Bldg. 00811
Hunter Army Airfield
Chatham, GA 31409
Landholding Agency: Army
Property Number: 21200740055
Status: Excess
Comments: 42853 sq. ft., most recent use—co hq bldg., off-site use only

Bldg. 00812
Hunter Army Airfield
Chatham, GA 31409
Landholding Agency: Army
Property Number: 21200740056
Status: Excess
Comments: 1080 sq. ft., most recent use—power plant, off-site use only

Bldg. 00850
Hunter Army Airfield
Chatham, GA 31409
Landholding Agency: Army
Property Number: 21200740057
Status: Excess
Comments: 108,287 sq. ft., presence of asbestos, most recent use—aircraft hangar, off-site use only

Bldg. 00860
Hunter Army Airfield
Chatham, GA 31409
Landholding Agency: Army
Property Number: 21200740058
Status: Excess
Comments: 10679 sq. ft., presence of asbestos, most recent use—maint. hangar, off-site use only

Bldg. 01028
Hunter Army Airfield
Chatham, GA 31409
Landholding Agency: Army
Property Number: 21200740059
Status: Excess
Comments: 870 sq. ft., most recent use—storage, off-site use only

Bldg. 00955
Fort Stewart
Hinesville, GA 31314
Landholding Agency: Army
Property Number: 21200740060
Status: Excess
Comments: 120 sq. ft., most recent use—storage, off-site use only

Bldg. 00957
Fort Stewart
Hinesville, GA 31314
Landholding Agency: Army
Property Number: 21200740061
Status: Excess
Comments: 6072 sq. ft., most recent use—recycling facility, off-site use only

Bldg. 00971
Fort Stewart
Hinesville, GA 31314
Landholding Agency: Army
Property Number: 21200740062
Status: Excess
Comments: 4000 sq. ft., most recent use—vehicle maint., off-site use only

Bldg. 01015
Fort Stewart
Hinesville, GA 31314
Landholding Agency: Army
Property Number: 21200740063
Status: Excess
Comments: 7496 sq. ft., most recent use—storage, off-site use only

Bldg. 01209
Fort Stewart
Hinesville, GA 31314
Landholding Agency: Army
Property Number: 21200740064
Status: Excess
Comments: 4786 sq. ft., presence of asbestos, most recent use—vehicle maint. off-site use only

Bldg. 07335
Fort Stewart
Hinesville, GA 31314
Landholding Agency: Army
Property Number: 21200740065
Status: Excess
Comments: 4400 sq. ft., most recent use—chapel, off-site use only

Bldg. 245
Fort Benning
Ft. Benning, GA 31905
Landholding Agency: Army
Property Number: 21200740178
Status: Unutilized
Comments: 1102 sq. ft., most recent use—fld ops, off-site use only

Bldg. 2748
Fort Benning
Ft. Benning, GA 31905
Landholding Agency: Army
Property Number: 21200740180
Status: Unutilized
Comments: 3990 sq. ft., most recent use—office, off-site use only

Bldg. 3866
Fort Benning
Ft. Benning, GA 31905
Landholding Agency: Army
Property Number: 21200740182
Status: Unutilized
Comments: 944 sq. ft., most recent use—office, off-site use only

Bldg. 8682
Fort Benning
Ft. Benning, GA 31905
Landholding Agency: Army
Property Number: 21200740183
Status: Unutilized
Comments: 780 sq. ft., most recent use—admin., off-site use only

Bldg. 10800
Fort Benning
Ft. Benning, GA 31905
Landholding Agency: Army
Property Number: 21200740184
Status: Unutilized
Comments: 16,628 sq. ft., off-site use only

Bldgs. 11302, 11303, 11304
Fort Benning
Ft. Benning, GA 31905
Landholding Agency: Army
Property Number: 21200740185
Status: Unutilized
Comments: various sq. ft., most recent use—ACS center, off-site use only

Bldg. 0297
Ft. Benning
Chattahoochie, GA 31905
Landholding Agency: Army
Property Number: 21200810045
Status: Excess
Comments: 4839 sq. ft., most recent use—riding stable, off-site use only

Bldg. 3819
Ft. Benning
Chattahoochie, GA 31905
Landholding Agency: Army
Property Number: 21200810046
Status: Excess
Comments: 4241 sq. ft., most recent use—training, off-site use only

Bldg. 10802
Ft. Benning
Chattahoochie, GA 31905
Landholding Agency: Army
Property Number: 21200810047
Status: Excess
Comments: 3182 sq. ft., most recent use—storage, off-site use only

Bldg. 00926
Hunter Army Airfield
Savannah, GA 31409
Landholding Agency: Army
Property Number: 21200840061
Status: Excess
Comments: 1752 sq. ft., most recent use—BN, HQ bldg., off-site use only

Bldg. 01021
Hunter Army Airfield
Savannah, GA 31409
Landholding Agency: Army
Property Number: 21200840062
Status: Excess
Comments: 6855 sq. ft., most recent use—admin., presence of asbestos, off-site use only

Bldg. 07335
Fort Stewart
Hinesville, GA 31314
Landholding Agency: Army
Property Number: 21200840063
Status: Excess
Comments: 4400 sq. ft., most recent use—chapel, off-site use only

Bldg. 07778
Fort Stewart
Hinesville, GA 31314
Landholding Agency: Army

Property Number: 21200840064
Status: Excess
Comments: 1189 sq. ft., most recent use—admin., off-site use only

7 Bldgs.
Fort Stewart
Hinesville, GA 31314
Landholding Agency: Army
Property Number: 21200840065
Status: Excess
Directions: 12601, 12602, 12603, 12605, 12606, 12607, 12609
Comments: 2953 sq. ft. each, presence of asbestos, most recent use—barracks, off-site use only

9 Bldgs.
Fort Stewart
Hinesville, GA 31314
Landholding Agency: Army
Property Number: 21200840066
Status: Excess
Directions: 12610, 12611, 12612, 12613, 12614, 12615, 12616, 12617, 12618
Comments: 2953 sq. ft., presence of asbestos, most recent use—barracks, off-site use only

Bldg. 12619
Fort Stewart
Hinesville, GA 31314
Landholding Agency: Army
Property Number: 21200840067
Status: Excess
Comments: 3099 sq. ft. presence of asbestos, most recent use—barracks, off-site use only

Bldg. 12682
Fort Stewart
Hinesville, GA 31314
Landholding Agency: Army
Property Number: 21200840068
Status: Excess
Comments: 120 sq. ft., presence of asbestos, most recent use—fuel/POL bldg., off-site use only

Hawaii

P–88
Aliamanu Military Reservation
Honolulu Co: Honolulu, HI 96818
Landholding Agency: Army
Property Number: 21199030324
Status: Unutilized
Directions: Approximately 600 feet from Main Gate on Aliamanu Drive.
Comments: 45,216 sq. ft. underground tunnel complex, pres. of asbestos clean-up required of contamination, use of respirator required by those entering property, use limitations

Illinois

Bldg. 54
Rock Island Arsenal
Rock Island Co: Rock Island, IL 61299
Landholding Agency: Army
Property Number: 21199620666
Status: Unutilized
Comments: 2000 sq. ft., most recent use—oil storage, needs repair, off-site use only

Bldg. AR112
Sheridan Reserve
Arlington Heights, IL 60052–2475
Landholding Agency: Army
Property Number: 21200110081
Status: Unutilized
Comments: 1000 sq. ft., off-site use only

Bldgs. 634, 639
Fort Sheridan
Ft. Sheridan, IL 60037
Landholding Agency: Army
Property Number: 21200740186
Status: Unutilized
Comments: 3731/3706 sq. ft., most recent use—classroom/storage, off-site use only

Iowa

Bldg. 00691
Iowa Army Ammo Plant
Middletown Co: Des Moines, IA 52638
Landholding Agency: Army
Property Number: 21200510073
Status: Unutilized
Comments: 2581 sq. ft. residence, presence of lead paint, possible asbestos

Bldg. 00691
Iowa Army Ammo Plant
Middletown Co: Des Moines, IA 52638
Landholding Agency: Army
Property Number: 21200520113
Status: Unutilized
Comments: 2581 sq. ft., presence of asbestos/lead paint, most recent use—

Kansas

Bldgs. 7224, 7227, 7612, 7618 Fort Riley
Geary, KS 66442
Landholding Agency: Army
Property Number: 21200930010
Status: Unutilized
Comments: 52,027/41,892 sq. ft., concrete block, most recent use—residential, use only

Kentucky

Bldgs. 02660, 03706 Fort Campbell
Christian, KY 42223
Landholding Agency: Army
Property Number: 21200830003
Status: Underutilized
Comments: 4000 sq. ft. each, off-site use only

Louisiana

Bldg. 8423, Fort Polk
Ft. Polk Co: Vernon Parish, LA 71459
Landholding Agency: Army
Property Number: 21199640528
Status: Underutilized
Comments: 4172 sq. ft., most recent use—barracks

Bldg. T7125
Fort Polk
Ft. Polk, LA 71459
Landholding Agency: Army
Property Number: 21200540088
Status: Unutilized
Comments: 1875 sq. ft., off-site use only

Bldgs. T7163, T8043
Fort Polk
Ft. Polk, LA 71459
Landholding Agency: Army
Property Number: 21200540089
Status: Unutilized
Comments: 4073/1923 sq. ft., off-site use only

Maryland

Bldg. 0459B
Aberdeen Proving Ground
Aberdeen Co: Harford, MD 21005–5001
Landholding Agency: Army
Property Number: 21200120106
Status: Unutilized
Comments: 225 sq. ft., poor condition, most recent use—equipment bldg., off-site use only

Bldg. 00785
Aberdeen Proving Ground
Aberdeen Co: Harford, MD 21005–5001
Landholding Agency: Army
Property Number: 21200120107
Status: Unutilized
Comments: 160 sq. ft., poor condition, most recent use—shelter, off-site use only

Bldg. E5239
Aberdeen Proving Ground
Aberdeen Co: Harford, MD 21005–5001
Landholding Agency: Army
Property Number: 21200120113
Status: Unutilized
Comments: 230 sq. ft., most recent use—storage, off-site use only

Bldg. E5317
Aberdeen Proving Ground
Aberdeen Co: Harford, MD 21005–5001
Landholding Agency: Army
Property Number: 21200120114
Status: Unutilized
Comments: 3158 sq. ft., presence of asbestos/lead paint, most recent use—lab, off-site use only

Bldg. E5637
Aberdeen Proving Ground
Aberdeen Co: Harford, MD 21005–5001
Landholding Agency: Army
Property Number: 21200120115
Status: Unutilized
Comments: 312 sq. ft., presence of asbestos/lead paint, most recent use—lab, off-site use only

Bldg. 219
Ft. George G. Meade
Ft. Meade Co: Anne Arundel, MD 20755
Landholding Agency: Army
Property Number: 21200140078
Status: Unutilized
Comments: 8142 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 294
Ft. George G. Meade
Ft. Meade Co: Anne Arundel, MD 20755
Landholding Agency: Army
Property Number: 21200140081
Status: Unutilized
Comments: 3148 sq. ft., presence of asbestos/lead paint, most recent use—entomology facility, offsite use only

Bldg. 1007
Ft. George G. Meade
Ft. Meade Co: Anne Arundel, MD 20755
Landholding Agency: Army
Property Number: 21200140085
Status: Unutilized
Comments: 3108 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 2214
Fort George G. Meade
Fort Meade Co: Anne Arundel, MD 20755
Landholding Agency: Army
Property Number: 21200230054
Status: Unutilized
Comments: 7740 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—storage, offsite use only

Bldg. 00375
Aberdeen Proving Grounds
Aberdeen Co: Harford, MD 21005
Landholding Agency: Army

Property Number: 21200320107
Status: Unutilized
Comments: 64 sq. ft., most recent use—storage, off-site use only

Bldg. 0385A
Aberdeen Proving Grounds
Aberdeen Co: Harford, MD 21005
Landholding Agency: Army
Property Number: 21200320110
Status: Unutilized
Comments: 944 sq. ft., off-site use only

Bldg. 00523
Aberdeen Proving Grounds
Aberdeen Co: Harford, MD 21005
Landholding Agency: Army
Property Number: 21200320113
Status: Unutilized
Comments: 3897 sq. ft., most recent use—paint shop, off-site use only

Bldg. 0700B
Aberdeen Proving Grounds
Aberdeen Co: Harford, MD 21005
Landholding Agency: Army
Property Number: 21200320121
Status: Unutilized
Comments: 505 sq. ft., off-site use only

Bldg. 01113
Aberdeen Proving Grounds
Aberdeen Co: Harford, MD 21005
Landholding Agency: Army
Property Number: 21200320128
Status: Unutilized
Comments: 1012 sq. ft., off-site use only

Bldgs. 01124, 01132
Aberdeen Proving Grounds
Aberdeen Co: Harford, MD 21005
Landholding Agency: Army
Property Number: 21200320129
Status: Unutilized
Comments: 740/2448 sq. ft., most recent use—lab, off-site use only

Bldg. 03558
Aberdeen Proving Grounds
Aberdeen Co: Harford, MD 21005
Landholding Agency: Army
Property Number: 21200320133
Status: Unutilized
Comments: 18,000 sq. ft., most recent use—storage, off-site use only

Bldg. 05262
Aberdeen Proving Grounds
Aberdeen Co: Harford, MD 21005
Landholding Agency: Army
Property Number: 21200320136
Status: Unutilized
Comments: 864 sq. ft., most recent use—storage, off-site use only

Bldg. 05608
Aberdeen Proving Grounds
Aberdeen Co: Harford, MD 21005
Landholding Agency: Army
Property Number: 21200320137
Status: Unutilized
Comments: 1100 sq. ft., most recent use—maint bldg., off-site use only

Bldg. E5645
Aberdeen Proving Grounds
Aberdeen Co: Harford, MD 21005
Landholding Agency: Army
Property Number: 21200320150
Status: Unutilized
Comments: 548 sq. ft., most recent use—storage, off-site use only

Bldg. 00435
Aberdeen Proving Grounds
Aberdeen Co: Harford, MD 21005
Landholding Agency: Army
Property Number: 21200330111
Status: Unutilized
Comments: 1191 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. 0449A
Aberdeen Proving Grounds
Aberdeen Co: Harford, MD 21005
Landholding Agency: Army
Property Number: 21200330112
Status: Unutilized
Comments: 143 sq. ft., needs rehab, most recent use—substation switch bldg., off-site use only

Bldg. 0460
Aberdeen Proving Grounds
Aberdeen Co: Harford, MD 21005
Landholding Agency: Army
Property Number: 21200330114
Status: Unutilized
Comments: 1800 sq. ft., needs rehab, most recent use—electrical EQ bldg., off-site use only

Bldg. 00914
Aberdeen Proving Grounds
Aberdeen Co: Harford, MD 21005
Landholding Agency: Army
Property Number: 21200330118
Status: Unutilized
Comments: needs rehab, most recent use—safety shelter, off-site use only

Bldg. 00915
Aberdeen Proving Grounds
Aberdeen Co: Harford, MD 21005
Landholding Agency: Army
Property Number: 21200330119
Status: Unutilized
Comments: 247 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. 01189
Aberdeen Proving Grounds
Aberdeen Co: Harford, MD 21005
Landholding Agency: Army
Property Number: 21200330126
Status: Unutilized
Comments: 800 sq. ft., needs rehab, most recent use—range bldg., off-site use only

Bldg. E1413
Aberdeen Proving Grounds
Aberdeen Co: Harford, MD 21005
Landholding Agency: Army
Property Number: 21200330127
Status: Unutilized
Comments: needs rehab, most recent use—observation tower, off-site use only

Bldg. E3175
Aberdeen Proving Grounds
Aberdeen Co: Harford, MD 21005
Landholding Agency: Army
Property Number: 21200330134
Status: Unutilized
Comments: 1296 sq. ft., needs rehab, most recent use—hazard bldg., off-site use only

4 Bldgs.
Aberdeen Proving Grounds
Aberdeen Co: Harford, MD 21005
Landholding Agency: Army
Property Number: 21200330135
Status: Unutilized
Directions: E3224, E3228, E3230, E3232, E3234
Comments: sq. ft. varies, needs rehab, most recent use—lab test bldgs., off-site use only

Bldg. E3241
Aberdeen Proving Grounds
Aberdeen Co: Harford, MD 21005
Landholding Agency: Army
Property Number: 21200330136
Status: Unutilized
Comments: 592 sq. ft., needs rehab, most recent use—medical res bldg., off-site use only

Bldg. E3300
Aberdeen Proving Grounds
Aberdeen Co: Harford, MD 21005
Landholding Agency: Army
Property Number: 21200330139
Status: Unutilized
Comments: 44,352 sq. ft., needs rehab, most recent use—chemistry lab, off-site use only

Bldg. E3335
Aberdeen Proving Grounds
Aberdeen Co: Harford, MD 21005
Landholding Agency: Army
Property Number: 21200330144
Status: Unutilized
Comments: 400 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldgs. E3360, E3362, E3464
Aberdeen Proving Grounds
Aberdeen Co: Harford, MD 21005
Landholding Agency: Army
Property Number: 21200330145
Status: Unutilized
Comments: 3588/236 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. E3542
Aberdeen Proving Grounds
Aberdeen Co: Harford, MD 21005
Landholding Agency: Army
Property Number: 21200330148
Status: Unutilized
Comments: 1146 sq. ft., needs rehab, most recent use—lab test bldg., off-site use only

Bldg. E4420
Aberdeen Proving Grounds
Aberdeen Co: Harford, MD 21005
Landholding Agency: Army
Property Number: 21200330151
Status: Unutilized
Comments: 14,997 sq. ft., needs rehab, most recent use—police bldg., off-site use only

4 Bldgs.
Aberdeen Proving Grounds
Aberdeen Co: Harford, MD 21005
Landholding Agency: Army
Property Number: 21200330154
Status: Unutilized
Directions: E5005, E5049, E5050, E5051
Comments: sq. ft. varies, needs rehab, most recent use—storage, off-site use only

Bldg. E5068
Aberdeen Proving Grounds
Aberdeen: Harford Co, MD 21005
Landholding Agency: Army
Property Number: 21200330155
Status: Unutilized
Comments: 1200 sq. ft., needs rehab, most recent use—fire station, off-site use only

Bldgs. 05448, 05449
Aberdeen Proving Grounds
Aberdeen: Harford Co, MD 21005
Landholding Agency: Army
Property Number: 21200330161
Status: Unutilized
Comments: 6431 sq. ft., needs rehab, most recent use—enlisted UHP, off-site use only

Bldg. 05450
Aberdeen Proving Grounds
Aberdeen: Harford Co, MD 21005
Landholding Agency: Army
Property Number: 21200330162
Status: Unutilized
Comments: 2730 sq. ft., needs rehab, most recent use—admin., off-site use only

Bldgs. 05451, 05455
Aberdeen Proving Grounds
Aberdeen: Harford Co, MD 21005
Landholding Agency: Army
Property Number: 21200330163
Status: Unutilized
Comments: 2730/6431 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. 05453
Aberdeen Proving Grounds
Aberdeen: Harford Co, MD 21005
Landholding Agency: Army
Property Number: 21200330164
Status: Unutilized
Comments: 6431 sq. ft., needs rehab, most recent use—admin., off-site use only

Bldg. E5609
Aberdeen Proving Grounds
Aberdeen: Harford Co, MD 21005
Landholding Agency: Army
Property Number: 21200330167
Status: Unutilized
Comments: 2053 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. E5611
Aberdeen Proving Grounds
Aberdeen: Harford Co, MD 21005
Landholding Agency: Army
Property Number: 21200330168
Status: Unutilized
Comments: 11,242 sq. ft., needs rehab, most recent use—hazard bldg., off-site use only

Bldg. E5634
Aberdeen Proving Grounds
Aberdeen: Harford Co, MD 21005
Landholding Agency: Army
Property Number: 21200330169
Status: Unutilized
Comments: 200 sq. ft., needs rehab, most recent use—flammable storage, off-site use only

Bldg. E5654
Aberdeen Proving Grounds
Aberdeen: Harford Co, MD 21005
Landholding Agency: Army
Property Number: 21200330171
Status: Unutilized
Comments: 21,532 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. E5942
Aberdeen Proving Grounds
Aberdeen: Harford Co, MD 21005
Landholding Agency: Army
Property Number: 21200330176
Status: Unutilized
Comments: 2147 sq. ft., needs rehab, most recent use—igloo storage, off-site use only

Bldgs. E5952, E5953
Aberdeen Proving Grounds
Aberdeen: Harford Co, MD 21005
Landholding Agency: Army
Property Number: 21200330177
Status: Unutilized
Comments: 100/24 sq. ft., needs rehab, most recent use—compressed air bldg., off-site use only

Bldgs. E7401, E7402
Aberdeen Proving Grounds
Aberdeen: Harford Co, MD 21005
Landholding Agency: Army
Property Number: 21200330178
Status: Unutilized
Comments: 256/440 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. E7407, E7408
Aberdeen Proving Grounds
Aberdeen: Harford Co, MD 21005
Landholding Agency: Army
Property Number: 21200330179
Status: Unutilized
Comments: 1078/762 sq. ft., needs rehab, most recent use—decon facility, off-site use only

Bldg. 3070A
Aberdeen Proving Ground
Harford Co, MD 21005
Landholding Agency: Army
Property Number: 21200420055
Status: Unutilized
Comments: 2299 sq. ft., most recent use—heat plant, off-site use only

Bldg. E5026
Aberdeen Proving Ground
Harford Co, MD 21005
Landholding Agency: Army
Property Number: 21200420056
Status: Unutilized
Comments: 20,536 sq. ft., most recent use—storage, off-site use only

Bldg. 05261
Aberdeen Proving Ground
Harford Co, MD 21005
Landholding Agency: Army
Property Number: 21200420057
Status: Unutilized
Comments: 10067 sq. ft., most recent use—maintenance, off-site use only

Bldg. E5876
Aberdeen Proving Grounds
Aberdeen: Harford Co, MD 21005
Landholding Agency: Army
Property Number: 21200440073
Status: Unutilized
Comments: 1192 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. 00688
Aberdeen Proving Ground
Aberdeen: Harford Co, MD 21005
Landholding Agency: Army
Property Number: 21200530080
Status: Unutilized
Comments: 24,192 sq. ft., most recent use—ammo, off-site use only

Bldg. 04925
Aberdeen Proving Ground
Aberdeen: Harford Co, MD 21005
Landholding Agency: Army
Property Number: 21200540091
Status: Unutilized
Comments: 1326 sq. ft., off-site use only

Bldg. 00255
Aberdeen Proving Ground
Harford Co, MD 21005
Landholding Agency: Army
Property Number: 21200720052
Status: Unutilized
Comments: 64 sq. ft., most recent use—storage, off-site use only

Bldg. 00638
Aberdeen Proving Ground
Harford Co, MD 21005
Landholding Agency: Army
Property Number: 21200720053
Status: Unutilized
Comments: 4295 sq. ft., most recent use—storage, off-site use only

Bldg. 00721
Aberdeen Proving Ground
Harford Co, MD
Landholding Agency: Army
Property Number: 21200720054
Status: Unutilized
Comments: 135 sq. ft., most recent use—storage, off-site use only

Bldgs. 00936, 00937
Aberdeen Proving Ground
Harford Co, MD 21005
Landholding Agency: Army
Property Number: 21200720055
Status: Unutilized
Comments: 2000 sq. ft., most recent use—storage, off-site use only

Bldgs. E1410, E1434
Aberdeen Proving Ground
Harford Co, MD 21005
Landholding Agency: Army
Property Number: 21200720056
Status: Unutilized
Comments: 2276/3106 sq. ft., most recent use—laboratory, off-site use only

Bldg. 03240
Aberdeen Proving Ground
Harford, MD 21005
Landholding Agency: Army
Property Number: 21200720057
Status: Unutilized
Comments: 10,049 sq. ft., most recent use—office, off-site use only

Bldg. E3834
Aberdeen Proving Ground
Harford, MD 21005
Landholding Agency: Army
Property Number: 21200720058
Status: Unutilized
Comments: 72 sq. ft., most recent use—office, off-site use only

Bldgs. E4465, E4470, E4480
Aberdeen Proving Ground
Harford, MD 21005
Landholding Agency: Army
Property Number: 21200720059
Status: Unutilized
Comments: 17658/16876/17655 sq. ft., most recent use—office, off-site use only

Bldgs. E5137, 05219
Aberdeen Proving Ground
Harford, MD 21005
Landholding Agency: Army
Property Number: 21200720060
Status: Unutilized
Comments: 3700/8175 sq. ft., most recent use—office, off-site use only

Bldg. E5236
Aberdeen Proving Ground
Harford, MD 21005
Landholding Agency: Army
Property Number: 21200720061
Status: Unutilized
Comments: 10,325 sq. ft., most recent use—storage, off-site use only

Bldg. E5282
Aberdeen Proving Ground
Harford, MD 21005
Landholding Agency: Army

Property Number: 21200720062
Status: Unutilized
Comments: 4820 sq. ft., most recent use—hazard bldg., off-site use only

Bldgs. E5736, E5846, E5926
Aberdeen Proving Ground
Harford, MD 21005
Landholding Agency: Army
Property Number: 21200720063
Status: Unutilized
Comments: 1069/4171/11279 sq. ft., most recent use—storage, off-site use only

Bldg. E6890
Aberdeen Proving Ground
Harford, MD 21005
Landholding Agency: Army
Property Number: 21200720064
Status: Unutilized
Comments: 1 sq. ft., most recent use—impact area, off-site use only

Bldg. 00310
Aberdeen Proving Ground
Harford, MD 21005
Landholding Agency: Army
Property Number: 21200820077
Status: Unutilized
Comments: 56516 sq. ft., most recent use—admin., off-site use only

Bldg. 00315
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820078
Status: Unutilized
Comments: 74396 sq. ft., most recent use—mach shop, off-site use only

Bldg. 00338
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820079
Status: Unutilized
Comments: 45443 sq. ft., most recent use—gnd tran eqp, off-site use only

Bldg. 00360
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820080
Status: Unutilized
Comments: 15287 sq. ft., most recent use—general inst., off-site use only

Bldg. 00445
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820081
Status: Unutilized
Comments: 6367 sq. ft., most recent use—lab, off-site use only

Bldg. 00851
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820082
Status: Unutilized
Comments: 694 sq. ft., most recent use—range bldg., off-site use only

E1043
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820083
Status: Unutilized
Comments: 5200 sq. ft., most recent use—lab, off-site use only

Bldg. 01089
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820084
Status: Unutilized
Comments: 12369 sq. ft., most recent use—veh maint, off-site use only

Bldg. 01091
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820085
Status: Unutilized
Comments: 2201 sq. ft., most recent use—storage, off-site use only

Bldg. E1386
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820086
Status: Unutilized
Comments: 251 sq. ft., most recent use—eng/mnt, off-site use only

5 Bldgs.
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820087
Status: Unutilized
Directions: E1440, E1441, E1443, E1445, E1455
Comments: 112 sq. ft., most recent use—safety shelter, off-site use only

Bldgs. E1467, E1485
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820088
Status: Unutilized
Comments: 160/800 sq. ft., most recent use—storage, off-site use only

Bldg. E1521
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820090
Status: Unutilized
Comments: 1200 sq. ft., most recent use—overhead protection, off-site use only

Bldg. E1570
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820091
Status: Unutilized
Comments: 47027 sq. ft., most recent use—office, off-site use only

Bldg. E1572
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820092
Status: Unutilized
Comments: 1402 sq. ft., most recent use—maint. off-site use only

4 Bldgs.
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820093
Status: Unutilized
Directions: E1645, E1675, E1677, E1930
Comments: various sq. ft., most recent use—office, off-site use only

Bldgs. E2160, E2184, E2196
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820094
Status: Unutilized
Comments: 12440/13816 sq. ft., most recent use—storage, off-site use only

Bldg. E2174
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820095
Status: Unutilized
Comments: 132 sq. ft., off-site use only

Bldgs. 02208, 02209
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820096
Status: Unutilized
Comments: 11566/18085 sq. ft., most recent use—lodging, off-site use only

Bldg. 02353
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820097
Status: Unutilized
Comments: 19252 sq. ft., most recent use—veh maint, off-site use only

Bldgs. 02482, 02484
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820098
Status: Unutilized
Comments: 8359 sq. ft., most recent use—gen purp, off-site use only

Bldg. 02483
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820099
Status: Unutilized
Comments: 1360 sq. ft., most recent use—heat plt, off-site use only

Bldgs. 02504, 02505
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820100
Status: Unutilized
Comments: 11720/17434 sq. ft., most recent use—lodging, off-site use only

Bldgs. 02831, E3488
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820101
Status: Unutilized
Comments: 576/64 sq. ft., most recent use—access cnt fac, off-site use only

Bldg. 2831A
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820102
Status: Unutilized
Comments: 1200 sq. ft., most recent use—overhead protection, off-site use only

Bldg. 03320
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820103
Status: Unutilized
Comments: 10600 sq. ft., most recent use—admin, off-site use only

Bldg. E3466
Aberdeen Proving Ground
Aberdeen, MD
Landholding Agency: Army
Property Number: 21200820104
Status: Unutilized
Comments: 236 sq. ft., most recent use—protective barrier, off-site use only

4 Bldgs.
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820105
Status: Unutilized
Directions: E3510, E3570, E3640, E3832
Comments: various sq. ft., most recent use—lab, off-site use only

Bldg. E3544
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820106
Status: Unutilized
Comments: 5400 sq. ft., most recent use—ind waste, off-site use only

Bldgs. E3561, 03751
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820107
Status: Unutilized
Comments: 64/189 sq. ft., most recent use—access cnt fac, off-site use only

Bldg. 03754
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820108
Status: Unutilized
Comments: 324 sq. ft., most recent use—classroom, off-site use only

Bldg. 3823A
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820109
Status: Unutilized
Comments: 113 sq. ft., most recent use—shed, off-site use only

Bldg. E3948
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820110
Status: Unutilized
Comments: 3420 sq. ft., most recent use—emp chg fac, off-site use only

4 Bldgs.
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820111
Status: Unutilized
Directions: E5057, E5058, E5246, 05258
Comments: various sq. ft., most recent use—storage, off-site use only

Bldgs. E5106, 05256
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820112
Status: Unutilized
Comments: 18621/8720 sq. ft., most recent use—office, off-site use only

Bldg. E5126
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820113
Status: Unutilized
Comments: 17664 sq. ft., most recent use—heat plt, off-site use only

Bldg. E5128
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820114
Status: Unutilized
Comments: 3750 sq. ft., most recent use—substation, off-site use only

Bldg. E5188
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820115
Status: Unutilized
Comments: 22790 sq. ft., most recent use—lab, off-site use only

Bldg. E5179
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820116
Status: Unutilized
Comments: 47335 sq. ft., most recent use—info sys, off-site use only

Bldg. E5190
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820117
Status: Unutilized
Comments: 874 sq. ft., most recent use—storage, off-site use only

Bldg. 05223
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820118
Status: Unutilized
Comments: 6854 sq. ft., most recent use—gen rep inst, off-site use only

Bldgs. 05259, 05260
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820119
Status: Unutilized
Comments: 10067 sq. ft., most recent use—maint, off-site use only

Bldgs. 05263, 05264
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820120
Status: Unutilized
Comments: 200 sq. ft., most recent use—org space, off-site use only

5 Bldgs.
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820121
Status: Unutilized
Directions: 05267, E5294, E5327, E5441, E5485
Comments: various sq. ft., most recent use—storage, off-site use only

Bldg. E5292
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820122
Status: Unutilized
Comments: 1166 sq. ft., most recent use—comp rep inst, off-site use only

Bldg. E5380
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820123
Status: Unutilized
Comments: 9176 sq. ft., most recent use—lab, off-site use only

Bldg. E5452
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820124
Status: Unutilized
Comments: 9623 sq. ft., off-site use only

Bldg. 05654
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820125
Status: Unutilized
Comments: 38 sq. ft. most recent use—shed, off-site use only

Bldg. 05656
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820126
Status: Unutilized
Comments: 2240 sq. ft., most recent use—overhead protection off-site use only

5 Bldgs.
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820127
Status: Unutilized
Directions: E5730, E5738, E5915, E5928, E6875
Comments: various sq. ft., most recent use—storage, off-site use only

Bldg. E5770
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820128
Status: Unutilized
Comments: 174 sq. ft., most recent use—cent wash, off-site use only

Bldg. E5840
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820129
Status: Unutilized
Comments: 14200 sq. ft., most recent use—lab, off-site use only

Bldg. E5946

Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820130
Status: Unutilized
Comments: 2147 sq. ft., most recent use—igloo str, off-site use only

Bldg. E6872
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820131
Status: Unutilized
Comments: 1380 sq. ft., most recent use—dispatch, off-site use only

Bldgs. E7331, E7332, E7333
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820132
Status: Unutilized
Comments: most recent use—protective barrier, off-site use only

Bldg. E7821
Aberdeen Proving Ground
Harford, MD
Landholding Agency: Army
Property Number: 21200820133
Status: Unutilized
Comments: 3500 sq. ft., most recent use—xmitter bldg, off-site use only

Bldg. 02483
Aberdeen Proving Ground
Harford MD 21005
Landholding Agency: Army
Property Number: 21200920025
Status: Unutilized
Comments: 1360 sq. ft., most recent use—heat plt bldg., off-site use only

Bldg. 03320
Aberdeen Proving Ground
Harford MD 21005
Landholding Agency: Army
Property Number: 21200920026
Status: Unutilized
Comments: 10,600 sq. ft., most recent use—admin., off-site use only

Missouri

Bldg. T1497
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199420441
Status: Underutilized
Comments: 4720 sq. ft., 2-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only

Bldg. T2139
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199420446
Status: Underutilized
Comments: 3663 sq. ft., 1-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only

Bldg. T2385
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473
Landholding Agency: Army
Property Number: 21199510115
Status: Excess
Comments: 3158 sq. ft., 1-story, wood frame, most recent use—admin., to be vacated 8/95, off-site use only

Bldg. 2167
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199820179
Status: Unutilized
Comments: 1296 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldgs. 2192, 2196, 2198
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199820183
Status: Unutilized
Comments: 4720 sq. ft., presence of asbestos/lead paint, most recent use—barracks, off-site use only

12 Bldgs
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200410110
Status: Unutilized
Directions: 07036, 07050, 07054, 07102, 07400, 07401, 08245, 08249, 08251, 08255, 08257, 08261.
Comments: 7152 sq. ft., 6 plex housing quarters, potential contaminants, off-site use only.

6 Bldgs
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200410111
Status: Unutilized
Directions: 07044, 07106, 07107, 08260, 08281, 08300
Comments: 9520 sq ft., 8 plex housing quarters, potential contaminants, off-site use only.

15 Bldgs
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200410112
Status: Unutilized
Directions: 08242, 08243, 08246–08248, 08250, 08252–08254, 08256, 08258–08259, 08262–08263, 08265
Comments: 4784 sq ft., 4 plex housing quarters, potential contaminants, off-site use only.

Bldgs. 08283, 08285
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200410113
Status: Unutilized
Comments: 2240 sq ft, 2 plex housing quarters, potential contaminants, off-site use only

15 Bldgs
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–0827
Landholding Agency: Army
Property Number: 21200410114
Status: Unutilized
Directions: 08267, 08269, 08271, 08273, 08275, 08277, 08279, 08290, 08296, 08301
Comments: 4784 sq ft., 4 plex housing quarters, potential contaminants, off-site use only

Bldg 09432
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200410115
Status: Unutilized
Comments: 8724 sq ft., 6-plex housing quarters, potential contaminants, off-site use only.

Bldgs. 5006 and 5013
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200430064
Status: Unutilized
Comments: 192 sq. ft., needs repair, most recent use—generator bldg., off-site use only

Bldgs. 13210, 13710
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200430065
Status: Unutilized
Comments: 144 sq. ft. each, needs repair, most recent use—communication, off-site use only

Montana

Bldg. 00405
Fort Harrison
Ft. Harrison Co: Lewis/Clark MT 59636
Landholding Agency: Army
Property Number: 21200130099
Status: Unutilized
Comments: 3467 sq. ft., most recent use—storage, security limitations

Bldg. T0066
Fort Harrison
Ft. Harrison Co: Lewis/Clark MT 59636
Landholding Agency: Army
Property Number: 21200130100
Status: Unutilized
Comments: 528 sq. ft., needs rehab, presence of asbestos, security limitations

Bldg. 00001
Sheridan Hall USARC
Helena MT 59601
Landholding Agency: Army
Property Number: 21200540093
Status: Unutilized
Comments: 19,321 sq. ft., most recent use—Reserve Center

Bldg. 00003
Sheridan Hall USARC
Helena MT 59601
Landholding Agency: Army
Property Number: 21200540094
Status: Unutilized
Comments: 1950 sq. ft., most recent use—maintenance/storage

New Jersey

Bldg. 732
Armament R Engineering Center

Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199740315
Status: Unutilized
Comments: 9077 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. 816C
Armament R, D, Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21200130103
Status: Unutilized
Comments: 144 sq. ft., most recent use—storage, off-site use only

5 Bldgs.
Picatinny Arsenal
Dover NJ 07806
Landholding Agency: Army
Property Number: 21200940032
Status: Unutilized
Directions: 3710, 3711, 3712, 3713, 3714
Comments: residential trailers, needs rehab, off-site use only

Bldgs. 3704, 3706
Picatinny Arsenal
Dover NJ 07806
Landholding Agency: Army
Property Number: 21201010016
Status: Unutilized
Comments: 768 sq. ft. residential trailers, needs rehab, off-site use only

New Mexico

Bldg. 34198
White Sands Missile Range
Dona Ana NM 88002
Landholding Agency: Army
Property Number: 21200230062
Status: Excess
Comments: 107 sq. ft., most recent use—security, off-site use only

New York

Bldg. 1227
U.S. Military Academy
Highlands Co: Orange NY 10996–1592
Landholding Agency: Army
Property Number: 21200440074
Status: Unutilized
Comments: 3800 sq. ft., needs repair, possible asbestos/lead paint, most recent use—maintenance, off-site use only

Bldg. 2218
Stewart Newburg USARC
New Windsor Co: Orange NY 12553–9000
Landholding Agency: Army
Property Number: 21200510067
Status: Unutilized
Comments: 32,000 sq. ft., poor condition, requires major repairs, most recent use—storage/services

7 Bldgs.
Stewart Newburg USARC
New Windsor Co: Orange NY 12553–9000
Landholding Agency: Army
Property Number: 21200510068
Status: Unutilized
Directions: 2122, 2124, 2126, 2128, 2106, 2108, 2104
Comments: sq. ft. varies, poor condition, needs major repairs, most recent use—storage/services

Bldg. 1230
U.S. Army Garrison
Orange NY 10996
Landholding Agency: Army
Property Number: 21200940014
Status: Unutilized
Comments: 4538 sq. ft., possible asbestos/lead paint, most recent use—clubhouse, off-site use only

Bldg. 4802
Fort Drum
Jefferson NY 13602
Landholding Agency: Army
Property Number: 21201010019
Status: Unutilized
Comments: 3300 sq. ft., most recent use—hdgts. facility, off-site use only

Bldgs. 4813
Fort Drum
Jefferson NY 13602
Landholding Agency: Army
Property Number: 21201010020
Status: Unutilized
Comments: 750 sq. ft., most recent use—wash rack, off-site use only

Bldg. 4814
Fort Drum
Jefferson NY 13602
Landholding Agency: Army
Property Number: 21201010021
Status: Unutilized
Comments: 2592 sq. ft., most recent use—item repair, off-site use only

Bldgs. 1240, 1255
Fort Drum
Jefferson NY 13602
Landholding Agency: Army
Property Number: 21201010022
Status: Unutilized
Comments: various sq. ft., most recent use—vehicle maint. facility, off-site use only

6 Bldgs.
Fort Drum
Jefferson NY 13602
Landholding Agency: Army
Property Number: 21201010023
Status: Unutilized
Directions: 1248, 1250, 1276, 2361, 4816, 4817
Comments: various sq. ft., most recent use—storage, off-site use only

Bldg. 1050
Fort Drum
Jefferson NY 13602
Landholding Agency: Army
Property Number: 21201010024
Status: Unutilized
Comments: 1493 sq. ft., most recent use—training, off-site use only

Bldg. 10791
Fort Drum
Jefferson NY 13602
Landholding Agency: Army
Property Number: 21201010025
Status: Unutilized
Comments: 72 sq. ft., most recent use—smoking shelter, off-site use only

Oklahoma

Bldg. T–838, Fort Sill
838 Macomb Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199220609
Status: Unutilized
Comments: 151 sq. ft., wood frame, 1 story, and off-site removal only, most recent use—vet facility (quarantine stable).

Bldg. T–954, Fort Sill
954 Quinette Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199240659
Status: Unutilized
Comments: 3571 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—motor repair shop.

Bldg. T–3325, Fort Sill
3325 Naylor Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199240681
Status: Unutilized
Comments: 8832 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—warehouse.

Bldg. T–4226
Fort Sill
Lawton Co: Comanche OK 73503
Landholding Agency: Army
Property Number: 21199440384
Status: Unutilized
Comments: 114 sq. ft., 1-story wood frame, possible asbestos and lead paint, most recent use—storage, off-site use only

Bldg. P–1015
Fort Sill
Lawton Co: Comanche OK 73501–5100
Landholding Agency: Army
Property Number: 21199520197
Status: Unutilized
Comments: 15402 sq. ft., 1-story, most recent use—storage, off-site use only

Bldg. P–366, Fort Sill
Lawton Co: Comanche OK 73503
Landholding Agency: Army
Property Number: 21199610740
Status: Unutilized
Comments: 482 sq. ft., possible asbestos, most recent use—storage, off-site use only

Building P–5042, Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199710066
Status: Unutilized
Comments: 119 sq. ft., possible asbestos and lead paint, most recent use—heat plant, off-site use only

4 Buildings
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199710086
Status: Unutilized
Directions: T–6465, T–6466, T–6467, T–6468
Comments: various sq. ft., possible asbestos and lead paint, most recent use—range support, off site use only

Bldg. T–810
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730350
Status: Unutilized
Comments: 7205 sq. ft., possible asbestos/lead paint, most recent use—hay storage, off-site use only

Bldgs. T–837, T–839
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730351

Status: Unutilized
Comments: approx. 100 sq. ft. each, possible asbestos/lead paint, most recent use—storage, offsite use only

Bldg. P–934
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730353
Status: Unutilized
Comments: 402 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–1468, T–1469
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730357
Status: Unutilized
Comments: 114 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–1470
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730358
Status: Unutilized
Comments: 3120 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–1954, T–2022
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730362
Status: Unutilized
Comments: approx. 100 sq. ft. each, possible asbestos/lead paint, most recent use—storage, offsite use only

Bldg. T–2184
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730364
Status: Unutilized
Comments: 454 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–2186, T–2188, T–2189
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730366
Status: Unutilized
Comments: 1656–3583 sq. ft., possible asbestos/lead paint, most recent use—vehicle maint. shop, off-site use only

Bldg. T–2187
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730367
Status: Unutilized
Comments: 1673 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–2291 thru T–2296
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730372
Status: Unutilized
Comments: 400 sq. ft. each, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–3001, T–3006
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730383
Status: Unutilized
Comments: approx. 9300 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–3314
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730385
Status: Unutilized
Comments: 229 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. T–5041
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730409
Status: Unutilized
Comments: 763 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–5420
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730414
Status: Unutilized
Comments: 189 sq. ft., possible asbestos/lead paint, most recent use—fuel storage, off-site use only

Bldg. T–7775
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730419
Status: Unutilized
Comments: 1452 sq. ft., possible asbestos/lead paint, most recent use—private club, off-site use only

4 Bldgs.
Fort Sill
P–617, P–1114, P–1386, P–1608
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910133
Status: Unutilized
Comments: 106 sq. ft., possible asbestos/lead paint, most recent use—utility plant, off-site use only

Bldg. P–746
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910135
Status: Unutilized
Comments: 6299 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only

Bldg. P–2582
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910141
Status: Unutilized
Comments: 3672 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only

Bldg. P–2914
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910146
Status: Unutilized
Comments: 1236 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. P–5101
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910153
Status: Unutilized
Comments: 82 sq. ft., possible asbestos/lead paint, most recent use—gas station, off-site use only

Bldg. S–6430
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910156
Status: Unutilized
Comments: 2080 sq. ft., possible asbestos/lead paint, most recent use—range support, off-site use only

Bldg. T–6461
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910157
Status: Unutilized
Comments: 200 sq. ft., possible asbestos/lead paint, most recent use—range support, off-site use only

Bldg. T–6462
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910158
Status: Unutilized
Comments: 64 sq. ft., possible asbestos/lead paint, most recent use—control tower, off-site use only

Bldg. P–7230
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910159
Status: Unutilized
Comments: 160 sq. ft., possible asbestos/lead paint, most recent use—transmitter bldg., off-site use only

Bldg. S–4023
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200010128
Status: Unutilized
Comments: 1200 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. P–747
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200120120
Status: Unutilized
Comments: 9232 sq. ft., possible asbestos/lead paint, most recent use—lab, off-site use only

Bldg. P–842
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200120123
Status: Unutilized
Comments: 192 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–911
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200120124
Status: Unutilized
Comments: 3080 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. P–1672
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200120126
Status: Unutilized
Comments: 1056 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. S–2362
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200120127
Status: Unutilized
Comments: 64 sq. ft., possible asbestos/lead paint, most recent use—gatehouse, off-site use only

Bldg. P–2589
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200120129
Status: Unutilized
Comments: 3672 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. 00937, 00957
Fort Sill
Lawton OK 73501
Landholding Agency: Army
Property Number: 21200710104
Status: Unutilized
Comments: 1558 sq. ft., most recent use—storage shed off-site use only

Bldg. 01514
Fort Sill
Lawton OK 73501
Landholding Agency: Army
Property Number: 21200710105
Status: Unutilized
Comments: 1602 sq. ft., most recent use—storage, off-site use only

Bldg. 05685
Fort Sill
Lawton OK 73501
Landholding Agency: Army
Property Number: 21200820152
Status: Unutilized
Comments: 24,072 sq. ft., concrete block/w brick, off-site use only

Bldg. 07480
Fort Sill
Lawton OK 73501
Landholding Agency: Army
Property Number: 21200920002
Status: Unutilized
Comments: 1200 sq. ft., most recent use—recreation, off-site use only

Bldgs. 01509, 01510
Fort Sill
Lawton OK 73501
Landholding Agency: Army
Property Number: 21200920060
Status: Unutilized
Comments: various sq. ft., most recent use—vehicle maint. shop, off-site use only

4 Bldgs.
Fort Sill
2591, 2593, 2595, 2604
Lawton OK 73501
Landholding Agency: Army
Property Number: 21200920061
Status: Unutilized
Comments: various sq. ft., most recent use—classroom/admin, off-site use only

Bldg. 06456
Fort Sill
Lawton OK 73501
Landholding Agency: Army
Property Number: 21200930003
Status: Unutilized
Comments: 413 sq. ft. range support facility, off-site use only

South Dakota

Bldg. 03001
Jonas H. Lien AFRC
Sioux Falls SD 57104
Landholding Agency: Army
Property Number: 21200740187
Status: Unutilized
Comments: 33282 sq. ft., most recent use—training center

Bldg. 03003
Jonas H. Lien AFRC
Sioux Falls SD 57104
Landholding Agency: Army
Property Number: 21200740188
Status: Unutilized
Comments: 4675 sq. ft., most recent use—vehicle maint. shop

Tennessee

Bldg. Trail
Fort Campbell
Montgomery TN 42223
Landholding Agency: Army
Property Number: 21200920010
Status: Excess
Comments: 2104 sq. ft., double-wide trailer, off-site use only

Bldg. 00001
Fort Campbell
Christian TN 42223
Landholding Agency: Army
Property Number: 21200920027
Status: Unutilized
Comments: double wide trailer, off-site use only

Texas

Bldg. 7137, Fort Bliss
El Paso Co: El Paso TX 79916
Landholding Agency: Army
Property Number: 21199640564
Status: Unutilized
Comments: 35,736 sq. ft., 3-story, most recent use—housing, off-site use only

Bldg. 92043
Fort Hood
Ft. Hood Co: Bell TX 76544
Landholding Agency: Army
Property Number: 21200020206
Status: Unutilized
Comments: 450 sq. ft., most recent use—storage, off-site use only

Bldg. 92044
Fort Hood
Ft. Hood Co: Bell TX 76544
Landholding Agency: Army
Property Number: 21200020207
Status: Unutilized
Comments: 1920 sq. ft., most recent use—admin., off-site use only

Bldg. 92045
Fort Hood
Ft. Hood Co: Bell TX 76544
Landholding Agency: Army
Property Number: 21200020208
Status: Unutilized
Comments: 2108 sq. ft., most recent use—maint. off-site use only

Bldg. 56305 Fort Hood
Ft. Hood Co: Bell TX 76544
Landholding Agency: Army
Property Number: 21200220143
Status: Unutilized
Comments: 2160 sq. ft., most recent use—admin., off-site use only

Bldgs. 56620, 56621
Fort Hood
Ft. Hood Co: Bell TX 76544
Landholding Agency: Army
Property Number: 21200220146
Status: Unutilized
Comments: 1120 sq. ft., most recent use—shower, off-site use only

Bldgs. 56626, 56627
Fort Hood
Ft. Hood Co: Bell TX 76544
Landholding Agency: Army
Property Number: 21200220147
Status: Unutilized
Comments: 1120 sq. ft., most recent use—shower, off-site use only

Bldg. 56628
Fort Hood
Ft. Hood Co: Bell TX 76544
Landholding Agency: Army
Property Number: 21200220148
Status: Unutilized
Comments: 1133 sq. ft., most recent use—shower, off-site use only

Bldgs. 56636, 56637 Fort Hood
Ft. Hood Co: Bell TX 76544
Landholding Agency: Army
Property Number: 21200220150
Status: Unutilized
Comments: 1120 sq. ft., most recent use—shower, off-site use only

Bldg. 56638
Fort Hood
Ft. Hood Co: Bell TX 76544
Landholding Agency: Army
Property Number: 21200220151
Status: Unutilized
Comments: 1133 sq. ft., most recent use—shower, off-site use only

Bldgs. 56703, 56708
Fort Hood
Ft. Hood Co: Bell TX 76544
Landholding Agency: Army
Property Number: 21200220152
Status: Unutilized

Comments: 1306 sq. ft., most recent use—shower, off-site use only

Bldg. 56758
Fort Hood
Ft. Hood Co: Bell TX 76544
Landholding Agency: Army
Property Number: 21200220154
Status: Unutilized
Comments: 1133 sq. ft., most recent use—shower, off-site use only

Bldgs. P6220, P6222 Fort Sam Houston
Camp Bullis
San Antonio Co: Bexar TX
Landholding Agency: Army
Property Number: 21200330197
Status: Unutilized
Comments: 384 sq. ft., most recent use—carport/storage, off-site use only

Bldgs. P6224, P6226
Fort Sam Houston
Camp Bullis
San Antonio Co: Bexar TX
Landholding Agency: Army
Property Number: 21200330198
Status: Unutilized
Comments: 384 sq. ft., most recent use—carport/storage, off-site use only

Bldg. 92039
Fort Hood
Ft. Hood Co: Bell TX 76544
Landholding Agency: Army
Property Number: 21200640101
Status: Excess
Comments: 80 sq. ft., most recent use—storage, off-site use only

Bldgs. 04281, 04283
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200720085
Status: Excess
Comments: 4000/8020 sq. ft., most recent use—storage shed off-site use only

Bldg. 04284
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200720086
Status: Excess
Comments: 800 sq. ft., presence of asbestos, most recent use—storage shed off-site use only

Bldg. 04285
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200720087
Status: Excess
Comments: 8000 sq. ft., most recent use—storage shed, off-site use only

Bldg. 04286
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200720088
Status: Excess
Comments: 36,000 sq. ft., presence of asbestos, most recent use—storage shed, off-site use only

Bldg. 04291
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200720089
Status: Excess
Comments: 6400 sq. ft., presence of asbestos, most recent use—storage shed, off-site use only

Bldg. 4410
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200720090
Status: Excess
Comments: 12,956 sq. ft., presence of asbestos, most recent use—simulation center, off-site use only

Bldgs. 10031, 10032, 10033
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200720091
Status: Excess
Comments: 2578/3383 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Bldgs. 56524, 56532
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200720092
Status: Excess
Comments: 600 sq. ft., presence of asbestos, most recent use—dining, off-site use only

Bldg. 56435
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200720093
Status: Excess
Comments: 3441 sq. ft., presence of asbestos, most recent use—barracks, off-site use only

Bldg. 05708
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200720094
Status: Excess
Comments: 1344 sq. ft., most recent use—community center, off-site use only

Bldg. 90001
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200720095
Status: Excess
Comments: 3574 sq. ft., presence of asbestos, most recent use—transmitter bldg., off-site use only

Bldg. 93013
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200720099
Status: Excess
Comments: 800 sq. ft., most recent use—club, off-site use only

5 Bldgs.
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740195
Status: Excess
Directions: 56541, 56546, 56547, 56548, 56638
Comments: 1120/1133 sq. ft., presence of asbestos, most recent use—lavatory, off-site use only

4 Bldgs.
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200810048
Status: Unutilized
Directions: 00229, 00230, 00231, 00232
Comments: various sq. ft., presence of asbestos, most recent use—training aids center, off-site use only

Bldg. 00324
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200810049
Status: Unutilized
Comments: 13,319 sq. ft., most recent use—roller skating rink, off-site use only

Bldgs. 00710, 00739, 00741
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200810050
Status: Unutilized
Comments: various sq. ft., presence of asbestos, most recent use—repair shop, off-site use only

5 Bldgs.
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200810051
Status: Unutilized
Directions: 00711, 00712, 02219, 02612, 05780
Comments: various sq. ft., presence of asbestos, most recent use—storage, off-site use only

Bldg. 00713
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200810052
Status: Unutilized
Comments: 3200 sq. ft., presence of asbestos, most recent use—hdqts. bldg., off-site use only

Bldgs. 1938, 04229
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200810053
Status: Unutilized
Comments: 2736/9000 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Bldgs. 02218, 02220
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200810054
Status: Unutilized
Comments: 7289/1456 sq. ft., presence of asbestos, most recent use—museum, off-site use only

Bldg. 0350
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200810055
Status: Unutilized
Comments: 28,290 sq. ft., presence of asbestos, most recent use—veh. maint. shop, off-site use only

Bldg. 04449

Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200810056
Status: Unutilized
Comments: 3822 sq. ft., most recent use—police station, off-site use only

Bldg. 91077
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200810057
Status: Unutilized
Comments: 3200 sq. ft., presence of asbestos, most recent use—educational facility, off-site use only

Bldg. 1610 Fort Bliss
El Paso TX 79916
Landholding Agency: Army
Property Number: 21200810059
Status: Excess
Comments: 11056 sq. ft., concrete/stucco, most recent use—gas station/store, off-site use only

Bldg. 1680
Fort Bliss
El Paso TX 79916
Landholding Agency: Army
Property Number: 21200810060
Status: Excess
Comments: 3690 sq. ft., concrete/stucco, most recent use—restaurant, off-site use only

12 Bldgs.
Fort Hood
Ft. Hood TX 76544
Landholding Agency: Army
Property Number: 21200820153
Status: Excess
Directions: 56522, 56523, 56525, 56533, 56534, 56535, 56539, 56542, 56543, 56544, 56545, 56549
Comments: 600/607 sq. ft., presence of asbestos, most recent use—dining, off-site use only

10 Bldgs.
Fort Hood
Ft. Hood TX 76544
Landholding Agency: Army
Property Number: 21200820154
Status: Excess
Directions: 56622, 56623, 56624, 56625, 56629, 56632, 56633, 56634, 56635, 56639
Comments: 500/507 sq. ft., presence of asbestos, most recent use—dining, off-site use only

6 Bldgs.
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200840070
Status: Excess
Directions: 56412, 57023, 57024, 57025, 57009, 57010
Comments: Presence of asbestos, most recent use—storage, off-site use only

9 Bldgs.
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200840071
Status: Excess
Directions: 56529, 56618, 56702, 56710, 56752, 56753, 56754, 56755, 56759
Comments: Presence of asbestos, most recent use—dining facility, off-site use only

Bldgs. 56703
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200840072
Status: Excess
Comments: 1306 sq. ft., presence of asbestos, most recent use—shower, off-site use only

Bldg. 57005
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200840073
Status: Excess
Comments: 500 sq. ft., presence of asbestos, most recent use—water supply/treatment, off-site use only

Utah

Bldg. 00001
Borgstrom Hall USARC
Ogden UT 84401
Landholding Agency: Army
Property Number: 21200740196
Status: Excess
Comments: 16543 sq. ft., most recent use—training center, off-site use only

Bldg. 00002
Borgstrom Hall USARC
Ogden UT 84401
Landholding Agency: Army
Property Number: 21200740197
Status: Excess
Comments: 3842 sq. ft., most recent use—vehicle maint. shop, off-site use only

Bldg. 00005
Borgstrom Hall USARC
Ogden UT 84401
Landholding Agency: Army
Property Number: 21200740198
Status: Excess
Comments: 96 sq. ft., most recent use—storage, off-site use only

Virginia

Fort Story
Ft. Story VA 23459
Landholding Agency: Army
Property Number: 21200720065
Status: Unutilized
Comments: 525 sq. ft., most recent use—power plant, off-site use only

Bldg. 01633
Fort Eustis
Ft. Eustis VA 23604
Landholding Agency: Army
Property Number: 21200720076
Status: Unutilized
Comments: 240 sq. ft., most recent use—storage, off-site use only

Bldg. 02786
Fort Eustis
Ft. Eustis VA 23604
Landholding Agency: Army
Property Number: 21200720084
Status: Unutilized
Comments: 1596 sq. ft., most recent use—admin., off-site use only

Bldg. P0838
Fort Eustis
Ft. Eustis VA 23604
Landholding Agency: Army
Property Number: 21200830005
Status: Unutilized
Comments: 576 sq. ft., most recent use—rec shelter, off-site use only

Washington

Bldg. CO909, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630205
Status: Unutilized
Comments: 1984 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 1164, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630213
Status: Unutilized
Comments: 230 sq. ft., possible asbestos/lead paint, most recent use—storehouse, off-site use only

Bldg. 1307, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630216
Status: Unutilized
Comments: 1092 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 1309, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630217
Status: Unutilized
Comments: 1092 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 2167, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630218
Status: Unutilized
Comments: 288 sq. ft., possible asbestos/lead paint, most recent use—warehouse, off-site use only

Bldg. 4078, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630219
Status: Unutilized
Comments: 10200 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—warehouse, off-site use only

Bldg. 9599, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630220
Status: Unutilized
Comments: 12366 sq. ft., possible asbestos/lead paint, most recent use—warehouse, off-site use only

Bldg. A1404, Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199640570
Status: Unutilized
Comments: 557 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. EO347
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199710156
Status: Unutilized
Comments: 1800 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. B1008

Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199720216
Status: Unutilized
Comments: 7387 sq. ft., 2-story, needs rehab, possible asbestos/lead paint, most recent use—medical clinic, off-site use only

Bldgs. CO509, CO709, CO720
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199810372
Status: Unutilized
Comments: 1984 sq. ft., possible asbestos/lead paint, needs rehab, most recent use—storage, offsite use only

Bldg. 5162
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199830419
Status: Unutilized
Comments: 2360 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—office, offsite use only

Bldg. 5224
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199830433
Status: Unutilized
Comments: 2360 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—educ. fac., off-site use only

Bldg. U001B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920237
Status: Excess
Comments: 54 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

Bldg. U001C
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920238
Status: Unutilized
Comments: 960 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—supply, offsite use only

10 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920239
Status: Excess
Directions: U002B, U002C, U005C, U015I, U016E, U019C, U022A, U028B, 0091A, U093C
Comments: 600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

6 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920240
Status: Unutilized
Directions: U003A, U004B, U006C, U015B, U016B, U019B
Comments: 54 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

Bldg. U004D
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920241
Status: Unutilized
Comments: 960 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—supply, offsite use only

Bldg. U005A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920242
Status: Unutilized
Comments: 360 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

7 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920245
Status: Excess
Directions: U014A, U022B, U023A, U043B, U059B, U060A, U101A
Comments: needs repair, presence of asbestos/lead paint, most recent use—ofc/tower/support, offsite use only

Bldg. U015J
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920246
Status: Excess
Comments: 144 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—tower, offsite use only

Bldg. U018B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920247
Status: Unutilized
Comments: 121 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

Bldg. U018C
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920248
Status: Unutilized
Comments: 48 sq. ft., needs repair, presence of asbestos/lead paint, off-site use only

Bldg. U024D
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920250
Status: Unutilized
Comments: 120 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—ammo bldg., off-site use only

Bldg. U027A
Fort Lewis
Ft. Lewis Co: Pierce WA
Landholding Agency: Army
Property Number: 21199920251
Status: Excess
Comments: 64 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—tire house, off-site use only

Bldg. U031A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920253
Status: Excess
Comments: 3456 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—line shed, off-site use only

Bldg. U031C
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920254
Status: Unutilized
Comments: 32 sq. ft., needs repair, presence of asbestos/lead paint, off-site use only

Bldg. U040D
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920255
Status: Excess
Comments: 800 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

Bldgs. U052C, U052H
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920256
Status: Excess
Comments: Various sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

Bldgs. U035A, U035B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920257
Status: Excess
Comments: 192 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—shelter, off-site use only

Bldg. U035C
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920258
Status: Excess
Comments: 242 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

Bldg. U039A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920259
Status: Excess
Comments: 36 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

Bldg. U039B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920260
Status: Excess
Comments: 1600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—grandstand/bleachers, off-site use only

Bldg. U039C
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920261
Status: Excess
Comments: 600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—support, off-site use only

Bldg. U043A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920262
Status: Excess
Comments: 132 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

Bldg. U052A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920263
Status: Excess
Comments: 69 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—tower, offsite use only

Bldg. U052E
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920264
Status: Excess
Comments: 600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. U052G
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920265
Status: Excess
Comments: 1600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—shelter, off-site use only

3 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920266
Status: Excess
Directions: U058A, U103A, U018A
Comments: 36 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

Bldg. U059A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920267
Status: Excess
Comments: 16 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—tower, off-site use only

Bldg. U093B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920268
Status: Excess
Comments: 680 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

4 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920269
Status: Excess
Directions: U101B, U101C, U507B, U557A
Comments: 400 sq. ft., needs repair, presence of asbestos/lead paint, off-site use only

Bldg. U110B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920272
Status: Excess
Comments: 138 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—support, off-site use only

6 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920273
Status: Excess
Directions: U111A, U015A, U024E, U052F, U109A, U110A
Comments: 1000 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—support/shelter/mess, off-site use only

Bldg. U112A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920274
Status: Excess
Comments: 1600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—shelter, off-site use only

Bldg. U115A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920275
Status: Excess
Comments: 36 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—tower, off-site use only

Bldg. U507A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920276
Status: Excess
Comments: 400 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—support, off-site use only

Bldg. C0120
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920281
Status: Excess
Comments: 384 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—scale house, off-site use only

Bldg. 01205
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920290
Status: Excess
Comments: 87 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storehouse, off-site use only

Bldg. 01259
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920291
Status: Excess
Comments: 16 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 01266
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920292
Status: Excess
Comments: 45 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—shelter, off-site use only

Bldg. 1445
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920294
Status: Excess
Comments:144 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—generator bldg., off-site use only

Bldgs. 03091, 03099
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920296
Status: Excess
Comments: Various sq. ft., needs repair, presence of asbestos/lead paint, most recent use—sentry station, off-site use only

Bldg. 4040
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920298
Status: Excess
Comments: 8326 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—shed, off-site use only

Bldgs. 4072, 5104
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920299
Status: Excess
Comments: 24/36 sq. ft., needs repair, presence of asbestos/lead paint, off-site use only

Bldg. 4295
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920300
Status: Excess
Comments: 48 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 6191
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920303
Status: Excess
Comments: 3663 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—exchange branch, off-site use only

Bldgs. 08076, 08080
Fort Lewis

Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920304
Status: Excess
Comments: 3660/412 sq .ft., needs repair, presence of asbestos/lead paint, off-site use only

Bldg. 08093
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920305
Status: Excess
Comments: 289 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—boat storage, off-site use only

Bldg. 8279
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920306
Status: Excess
Comments: 210 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—fuel disp. fac., off-site use only

Bldgs. 8280, 8291
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920307
Status: Excess
Comments: 800/464 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 8956
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920308
Status: Excess
Comments: 100 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 9530
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920309
Status: Excess
Comments: 64 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—sentry station, off-site use only

Bldg. 9574
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920310
Status: Excess
Comments: 6005 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—veh. shop., off-site use only

Bldg. 9596
Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920311
Status: Excess
Comments: 36 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—gas station, off-site use only

Land

Maryland

2 acres
Fort Meade
Odenton Rd/Rt 175
Ft. Meade MD 20755
Landholding Agency: Army
Property Number: 21200640095
Status: Unutilized
Comments: Light industrial

16 acres
Fort Meade
Rt 198/Airport Road
Ft. Meade MD 20755
Landholding Agency: Army
Property Number: 21200640096
Status: Unutilized
Comments: Light industrial

Ohio

Land
Defense Supply Center
Columbus Co: Franklin OH 43216–5000
Landholding Agency: Army
Property Number: 21200340094
Status: Excess
Comments: 11 acres, railroad access

Tennessee

Parcel No. 1
Fort Campbell
Tract No. 13M–3
Montgomery TN 42223
Landholding Agency: Army
Property Number: 21200920003
Status: Excess
Comments: 6.89 acres/thick vegetation

Parcel No. 2
Fort Campbell
Tract Nos. 12M–16B & 13M–3
Montgomery TN 42223
Landholding Agency: Army
Property Number: 21200920004
Status: Excess
Comments: 3.41 acres/wooded

Parcel No. 3
Fort Campbell
Tract No. 12M–4
Montgomery TN 42223
Landholding Agency: Army
Property Number: 21200920005
Status: Excess
Comments: 6.56 acre/wooded

Parcel No. 4
Fort Campbell
Tract Nos. 10M–22 & 10M–23
Montgomery TN 42223
Landholding Agency: Army
Property Number: 21200920006
Status: Excess
Comments: 5.73 acres/wooded

Parcel No. 5
Fort Campbell
Tract No. 10M–20
Montgomery TN 42223
Landholding Agency: Army
Property Number: 21200920007
Status: Excess
Comments: 3.86 acres/wooded

Parcel No. 7
Fort Campbell
Tract No. 10M–10
Montgomery TN 42223
Landholding Agency: Army
Property Number: 21200920008
Status: Excess
Comments: 9.47 acres/wooded

Parcel No. 8
Fort Campbell
Tract No. 8M–7
Montgomery TN 42223
Landholding Agency: Army
Property Number: 21200920009
Status: Excess
Comments: 15.13 acres/wooded

Parcel No. 6
Fort Campbell
Hwy 79
Montgomery TN 42223
Landholding Agency: Army
Property Number: 21200940013
Status: Excess
Comments: 4.55 acres, wooded w/dirt road/fire break

Texas

1 acre
Fort Sam Houston
San Antonio Co: Bexar TX 78234
Landholding Agency: Army
Property Number: 21200440075
Status: Excess
Comments: 1 acre, grassy area

Suitable/Unavailable Properties

Building

Alabama

Bldg. 01433
Fort Rucker
Ft. Rucker Co: Dale AL 36362
Landholding Agency: Army
Property Number: 21200220098
Status: Excess
Comments: 800 sq. ft., most recent use—office, off-site use only

Bldg. 30105
Fort Rucker
Ft. Rucker Co: Dale AL 36362
Landholding Agency: Army
Property Number: 21200510052
Status: Excess
Comments: 4100 sq. ft., most recent use—admin., off-site use only

Bldg. 40115
Fort Rucker
Ft. Rucker Co: Dale AL 36362
Landholding Agency: Army
Property Number: 21200510053
Status: Excess
Comments: 34,520 sq. ft., most recent use—storage, off-site use only

Bldg. 25303
Fort Rucker
Dale AL 36362
Landholding Agency: Army
Property Number: 21200520074
Status: Excess
Comments: 800 sq. ft., most recent use—airfield operations, off-site use only

Bldg. 25304
Fort Rucker
Dale AL 36362
Landholding Agency: Army
Property Number: 21200520075
Status: Excess
Comments: 1200 sq. ft., poor condition, most recent use—fire station, off-site use only

Arizona

Bldg. 22529
Fort Huachuca
Cochise AZ 85613–7010
Landholding Agency: Army

Property Number: 21200520077
Status: Excess
Comments: 2543 sq. ft., most recent use—storage, off-site use only

Bldg. 22541
Fort Huachuca
Cochise AZ 85613–7010
Landholding Agency: Army
Property Number: 21200520078
Status: Excess
Comments: 1300 sq. ft., most recent use—storage, off-site use only

Bldg. 30020
Fort Huachuca
Cochise AZ 85613–7010
Landholding Agency: Army
Property Number: 21200520079
Status: Excess
Comments: 1305 sq. ft., most recent use—storage, off-site use only

Bldg. 30021
Fort Huachuca
Cochise AZ 85613–7010
Landholding Agency: Army
Property Number: 21200520080
Status: Excess
Comments: 144 sq. ft., most recent use—storage, off-site use only

Bldg. 22040
Fort Huachuca
Cochise AZ 85613
Landholding Agency: Army
Property Number: 21200540076
Status: Excess
Comments: 1131 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 22540
Fort Huachuca
Cochise AZ 85613–7010
Landholding Agency: Army
Property Number: 21200620067
Status: Excess
Comments: 958 sq. ft., most recent use—storage, off-site use only

Colorado

Bldg. S6264
Fort Carson
Ft. Carson Co: El Paso CO 80913
Landholding Agency: Army
Property Number: 21200340084
Status: Unutilized
Comments: 19,499 sq. ft., most recent use—office, off-site use only

Bldg. S6285
Fort Carson
Ft. Carson Co: El Paso CO 80913
Landholding Agency: Army
Property Number: 21200420176
Status: Unutilized
Comments: 19,478 sq. ft., most recent use—admin., off-site use only

Bldg. S6287
Fort Carson
Ft. Carson Co: El Paso CO 80913
Landholding Agency: Army
Property Number: 21200420177
Status: Unutilized
Comments: 10,076 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Bldg. 06225
Fort Carson
El Paso CO 80913–4001
Landholding Agency: Army
Property Number: 21200520084
Status: Unutilized
Comments: 24,263 sq. ft., most recent use—admin., off-site use only

Georgia

Bldg. T201
Hunter Army Airfield
Garrison Co: Chatham GA 31409
Landholding Agency: Army
Property Number: 21200420002
Status: Excess
Comments: 1828 sq. ft., most recent use—credit union, off-site use only

Bldg. T234
Hunter Army Airfield
Garrison Co: Chatham GA 31409
Landholding Agency: Army
Property Number: 21200420008
Status: Excess
Comments: 2624 sq. ft., most recent use—admin., off-site use only

Bldg. T702
Hunter Army Airfield
Garrison Co: Chatham GA 31409
Landholding Agency: Army
Property Number: 21200420010
Status: Excess
Comments: 9190 sq. ft., most recent use—storage, off-site use only

Bldg. T703
Hunter Army Airfield
Garrison Co: Chatham GA 31409
Landholding Agency: Army
Property Number: 21200420011
Status: Excess
Comments: 9190 sq. ft., most recent use—storage, off-site use only

Bldg. T704
Hunter Army Airfield
Garrison Co: Chatham GA 31409
Landholding Agency: Army
Property Number: 21200420012
Status: Excess
Comments: 9190 sq. ft., most recent use—storage, off-site use only

Bldg. P813
Hunter Army Airfield
Garrison Co: Chatham GA 31409
Landholding Agency: Army
Property Number: 21200420013
Status: Excess
Comments: 43,055 sq. ft., most recent use—maint. hanger/Co Hq., off-site use only

Bldgs. S843, S844, S845
Hunter Army Airfield
Garrison Co: Chatham GA 31409
Landholding Agency: Army
Property Number: 21200420014
Status: Excess
Comments: 9383 sq. ft., most recent use—maint. hanger, off-site use only

Bldg. P925
Hunter Army Airfield
Garrison Co: Chatham GA 31409
Landholding Agency: Army
Property Number: 21200420015
Status: Excess
Comments: 27,681 sq. ft., most recent use—fitness center, off-site use only

Bldg. P1277
Hunter Army Airfield
Garrison Co: Chatham GA 31409
Landholding Agency: Army
Property Number: 21200420024
Status: Excess
Comments: 13,981 sq. ft., most recent use—barracks/dining, off-site use only

Bldg. T1412
Hunter Army Airfield
Garrison Co: Chatham GA 31409
Landholding Agency: Army
Property Number: 21200420025
Status: Excess
Comments: 9186 sq. ft., most recent use—warehouse, off-site use only

Bldg. 8658
Hunter Army Airfield
Garrison Co: Chatham GA 31409
Landholding Agency: Army
Property Number: 21200420029
Status: Excess
Comments: 8470 sq. ft., most recent use—storage, off-site use only

Bldg. 8659
Hunter Army Airfield
Garrison Co: Chatham GA 31409
Landholding Agency: Army
Property Number: 21200420030
Status: Excess
Comments: 8470 sq. ft., most recent use—storage, off-site use only

Bldgs. 8675, 8676
Hunter Army Airfield
Garrison Co: Chatham GA 31409
Landholding Agency: Army
Property Number: 21200420031
Status: Excess
Comments: 4000 sq. ft., most recent use—ship/recv facility, off-site use only

Bldg. 5978
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905
Landholding Agency: Army
Property Number: 21200420038
Status: Excess
Comments: 1344 sq. ft., most recent use—igloo storage, off-site use only

Bldg. 5993
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905
Landholding Agency: Army
Property Number: 21200420041
Status: Excess
Comments: 960 sq. ft., most recent use—storage, off-site use only

Bldg. 5994
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905
Landholding Agency: Army
Property Number: 21200420042
Status: Excess
Comments: 2016 sq. ft., most recent use—ammo storage, off-site use only

Bldg. 5995
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905
Landholding Agency: Army
Property Number: 21200420043
Status: Excess
Comments: 114 sq. ft., most recent use—storage, off-site use only

Bldg. T01
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420181
Status: Excess

Comments: 11,682 sq. ft., most recent use—admin., off-site use only

Bldg. T04
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420182
Status: Excess
Comments: 8292 sq. ft., most recent use—admin., off-site use only

Bldg. T05
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420183
Status: Excess
Comments: 7992 sq. ft., most recent use—admin., off-site use only

Bldg. T06
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420184
Status: Excess
Comments: 3305 sq. ft., most recent use—communication center, off-site use only

Bldg. T55
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420187
Status: Excess
Comments: 6490 sq. ft., most recent use—admin., off-site use only

Bldg. T85
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420188
Status: Excess
Comments: 3283 sq. ft., most recent use—post chapel, off-site use only

Bldg. T131
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420189
Status: Excess
Comments: 4720 sq. ft., most recent use—admin., off-site use only

Bldg. T132
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420190
Status: Excess
Comments: 4720 sq. ft., most recent use—admin., off-site use only

Bldg. T157
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420191
Status: Excess
Comments: 1440 sq. ft., most recent use—education center, off-site use only

Bldg. 01002
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420197
Status: Excess
Comments: 9267 sq. ft., most recent use—maintenance shop, off-site use only

Bldg. 01003
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420198
Status: Excess
Comments: 9267 sq. ft., most recent use—admin, off-site use only

Bldg. 19101
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420215
Status: Excess
Comments: 6773 sq. ft., most recent use—simulator bldg., off-site use only

Bldg. 19102
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420216
Status: Excess
Comments: 3250 sq. ft., most recent use—simulator bldg., off-site use only

Bldg. T19111
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420217
Status: Excess
Comments: 1440 sq. ft., most recent use—admin., off-site use only

Bldg. 19112
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420218
Status: Excess
Comments: 1344 sq. ft., most recent use—storage, off-site use only

Bldg. 19113
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420219
Status: Excess
Comments: 1440 sq. ft., most recent use—admin., off-site use only

Bldg. T19201
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420220
Status: Excess
Comments: 960 sq. ft., most recent use—physical fitness center, off-site use only

Bldg. 19202
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420221
Status: Excess
Comments: 1210 sq. ft., most recent use—community center, off-site use only

Bldg. 19204 thru 19207
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420222
Status: Excess
Comments: 960 sq. ft., most recent use—admin., off-site use only

Bldgs. 19208 thru 19211
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420223
Status: Excess
Comments: 1540 sq. ft., most recent use—general installation bldg., off-site use only

Bldg. 19212
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420224
Status: Excess
Comments: 1248 sq. ft., off-site use only

Bldg. 19213
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420225
Status: Excess
Comments: 1540 sq. ft., most recent use—general installation bldg., off-site use only

Bldg. 19214
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420226
Status: Excess
Comments: 1796 sq. ft., most recent use—transient UPH, off-site use only

Bldg. 19215 Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420227
Status: Excess
Comments: 1948 sq. ft., most recent use—transient UPH, off-site use only

Bldg. 19216
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420228
Status: Excess
Comments: 1540 sq. ft., most recent use—transient UPH, off-site use only

Bldg. 19217
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420229
Status: Excess
Comments: 120 sq. ft., most recent use—nav aids bldg., off-site use only

Bldg. 19218
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420230
Status: Excess
Comments: 2925 sq. ft., most recent use—general installation bldg., off-site use only

Bldgs. 19219, 19220
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420231
Status: Excess
Comments: 1200 sq. ft., most recent use—general installation bldg., off-site use only

Bldg. 19223
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420232
Status: Excess

Comments: 6433 sq. ft., most recent use—transient UPH, off-site use only

Bldg. 19225
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420233
Status: Excess
Comments: 4936 sq. ft., most recent use—dining facility, off-site use only

Bldg. 19226
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420234
Status: Excess
Comments: 136 sq. ft., most recent use—general purpose installation bldg., off-site use only

Bldg. T19228
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420235
Status: Excess
Comments: 400 sq. ft., most recent use—admin., off-site use only

Bldg. 19229
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420236
Status: Excess
Comments: 640 sq. ft., most recent use—vehicle shed, off-site use only

Bldg. 19232
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420237
Status: Excess
Comments: 96 sq. ft., most recent use—general purpose installation, off-site use only

Bldg. 19233
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420238
Status: Excess
Comments: 48 sq. ft., most recent use—fire support, off-site use only

Bldg. 19236
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420239
Status: Excess
Comments: 1617 sq. ft., most recent use—transient UPH, off-site use only

Bldg. 19238
Fort Stewart
Ft. Stewart Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21200420240
Status: Excess
Comments: 738 sq. ft., off-site use only

Bldg. 01674
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905
Landholding Agency: Army
Property Number: 21200510056
Status: Unutilized
Comments: 5311 sq. ft., needs rehab, most recent use—gen. inst., off-site use only

Bldg. 01675
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905
Landholding Agency: Army
Property Number: 21200510057
Status: Unutilized
Comments: 5475 sq. ft., needs rehab, most recent use—gen. inst., off-site use only

Bldg. 01676
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905
Landholding Agency: Army
Property Number: 21200510058
Status: Unutilized
Comments: 7209 sq. ft., needs rehab, most recent use—gen. inst., off-site use only

Bldg. 01677
Fort Benning
Ft. Benning GA 31905
Landholding Agency: Army
Property Number: 21200510059
Status: Unutilized
Comments: 5311 sq. ft., needs rehab, most recent use—gen. inst., off-site use only

Bldg. 01678
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905
Landholding Agency: Army
Property Number: 21200510060
Status: Unutilized
Comments: 6488 sq. ft., needs rehab, most recent use—gen. inst., off-site use only

Bldg. 00051
Fort Stewart
Liberty GA 31314
Landholding Agency: Army
Property Number: 21200520087
Status: Excess
Comments: 3196 sq. ft., most recent use—court room, off-site use only

Bldg. 00052
Fort Stewart
Liberty GA 31314
Landholding Agency: Army
Property Number: 21200520088
Status: Excess
Comments: 1250 sq. ft., most recent use—admin., off-site use only

Bldg. 00053
Fort Stewart
Liberty GA 31314
Landholding Agency: Army
Property Number: 21200520089
Status: Excess
Comments: 2844 sq. ft., most recent use—admin., off-site use only

Bldg. 00054
Fort Stewart
Liberty GA 31314
Landholding Agency: Army
Property Number: 21200520090
Status: Excess
Comments: 4425 sq. ft., most recent use—admin., off-site use only

Bldg. 01243
Hunter Army Airfield
Savannah Co: Chatham GA 31409
Landholding Agency: Army
Property Number: 21200610040
Status: Excess
Comments: 1258 sq. ft., most recent use—ref/ac facility, off-site use only

Bldg. 01244
Hunter Army airfield
Savannah Co: Chatham GA 31409
Landholding Agency: Army
Property Number: 21200610041
Status: Excess
Comments: 4096 sq. ft., presence of asbestos, most recent use—hdqts. facility, off-site use only

Bldg. 01318
Hunter Army Airfield
Savannah Co: Chatham GA 31409
Landholding Agency: Army
Property Number: 21200610042
Status: Excess
Comments: 1500 sq. ft., most recent use—storage, off-site use only

Bldg. 00612
Fort Stewart
Liberty GA 31314
Landholding Agency: Army
Property Number: 21200610043
Status: Excess
Comments: 5298 sq. ft., needs rehab, most recent use—health clinic, off-site use only

Bldg. 00614
Fort Stewart
Liberty GA 31314
Landholding Agency: Army
Property Number: 21200610044
Status: Excess
Comments: 10,157 sq. ft., needs rehab, most recent use—brigade hqtrs, off-site use only

Bldg. 00618
Fort Stewart
Liberty GA 31314
Landholding Agency: Army
Property Number: 21200610045
Status: Excess
Comments: 6137 sq. ft., needs rehab, most recent use—brigade hqtrs, off-site use only

Bldg. 00628
Fort Stewart
Liberty GA 31314
Landholding Agency: Army
Property Number: 21200610046
Status: Excess
Comments: 10,050 sq. ft., needs rehab, most recent use—brigade hqtrs, off-site use only

Bldg. 01079
Fort Stewart
Liberty GA 31314
Landholding Agency: Army
Property Number: 21200610047
Status: Excess
Comments: 7680 sq. ft., most recent use—range/target house, off-site use only

Bldg. 07901
Fort Stewart
Liberty GA 31314
Landholding Agency: Army
Property Number: 21200610049
Status: Excess
Comments: 4800 sq. ft., most recent use—range support, off-site use only

Bldg. 08031
Fort Stewart
Liberty GA 31314
Landholding Agency: Army
Property Number: 21200610050
Status: Excess
Comments: 1296 sq. ft., most recent use—range/target house, off-site use only

Bldg. 08081
Fort Stewart
Liberty GA 31314

Landholding Agency: Army
Property Number: 21200610052
Status: Excess
Comments: 1296 sq. ft., most recent use—range/target house, off-site use only

Bldg. 08252
Fort Stewart
Liberty GA 31314
Landholding Agency: Army
Property Number: 21200610053
Status: Excess
Comments: 145 sq. ft., most recent use—control tower, off-site use only

Kentucky

Bldg. 06894
Fort Campbell
Christian KY 42223
Landholding Agency: Army
Property Number: 21200630070
Status: Unutilized
Comments: 4240 sq. ft., most recent use—vehicle maintenance shop, off-site use only

Bldg. 06895
Fort Campbell
Christian KY 42223
Landholding Agency: Army
Property Number: 21200630071
Status: Unutilized
Comments: 4725 sq. ft., most recent use—storage, off-site use only

Louisiana

Bldg. T401
Fort Polk
Ft. Polk LA 71459
Landholding Agency: Army
Property Number: 21200540084
Status: Unutilized
Comments: 2169 sq. ft., most recent use—admin., off-site use only

Bldgs. T406, T407, T411
Fort Polk
Ft. Polk LA 71459
Landholding Agency: Army
Property Number: 21200540085
Status: Unutilized
Comments: 6165 sq. ft., most recent use—admin., off-site use only

Bldg. T412
Fort Polk
Ft. Polk LA 71459
Landholding Agency: Army
Property Number: 21200540086
Status: Unutilized
Comments: 12,251 sq. ft., most recent use—admin., off-site use only

Bldgs. T414, T421
Fort Polk
Ft. Polk LA 71459
Landholding Agency: Army
Property Number: 21200540087
Status: Unutilized
Comments: 6165/1688 sq. ft., most recent use—admin., off-site use only

Maryland

Bldg. 8608
Fort George G. Meade
Ft. Meade MD 20755–5115
Landholding Agency: Army
Property Number: 21200410099
Status: Unutilized
Comments: 2372 sq. ft., concrete block, most recent use—PX exchange, off-site use only

Bldg. 8612
Fort George G. Meade
Ft. Meade MD 20755–5115
Landholding Agency: Army
Property Number: 21200410101
Status: Unutilized
Comments: 2372 sq. ft., concrete block, most recent use—family life ctr., off-site use only

Bldg. 0001A
Federal Support Center
Olney Co: Montgomery MD 20882
Landholding Agency: Army
Property Number: 21200520114
Status: Unutilized
Comments: 9000 sq. ft., most recent use—storage

Bldg. 0001C
Federal Support Center
Olney Co: Montgomery MD 20882
Landholding Agency: Army
Property Number: 21200520115
Status: Unutilized
Comments: 2904 sq. ft., most recent use—mess hall

Bldgs. 00032, 00H14, 00H24
Federal Support Center
Olney Co: Montgomery MD 20882
Landholding Agency: Army
Property Number: 21200520116
Status: Unutilized
Comments: various sq. ft., most recent use—storage

Bldgs. 00034, 00H016
Federal Support Center
Olney Co: Montgomery MD 20882
Landholding Agency: Army
Property Number: 21200520117
Status: Unutilized
Comments: 400/39 sq. ft., most recent use—storage

Bldgs. 00H10, 00H12
Federal Support Center
Olney Co: Montgomery MD 20882
Landholding Agency: Army
Property Number: 21200520118
Status: Unutilized
Comments: 2160/469 sq. ft., most recent use—vehicle maintenance

Michigan

Bldg. 00001
Sheridan Hall USARC
501 Euclid Avenue
Helena Co: Lewis MI 59601–2865
Landholding Agency: Army
Property Number: 21200510066
Status: Unutilized
Comments: 19,321 sq. ft., most recent use—reserve center

Missouri

Bldg. 1230
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200340087
Status: Unutilized
Comments: 9160 sq. ft., most recent use—training, off-site use only

Bldg. 1621
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200340088
Status: Unutilized
Comments: 2400 sq. ft., most recent use—exchange branch, off-site use only

Bldg. 5760
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200410102
Status: Unutilized
Comments: 2000 sq. ft., most recent use—classroom, off-site use only

Bldg. 5762
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200410103
Status: Unutilized
Comments: 104 sq. ft., off-site use only

Bldg. 5763
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200410104
Status: Unutilized
Comments: 120 sq. ft., most recent use—observation tower, off-site use only

Bldg. 5765
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200410105
Status: Unutilized
Comments: 800 sq. ft., most recent use—range support, off-site use only

Bldg. 5760
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200420059
Status: Unutilized
Comments: 2000 sq. ft., most recent use—classroom, off-site use only

Bldg. 5762
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200420060
Status: Unutilized
Comments: 104 sq. ft., off-site use only

Bldg. 5763
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200420061
Status: Unutilized
Comments: 120 sq. ft., most recent use—obs. tower, off-site use only

Bldg. 5765
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200420062
Status: Unutilized
Comments: 800 sq. ft., most recent use—support bldg., off-site use only

Bldg. 00467

Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743
Landholding Agency: Army
Property Number: 21200530085
Status: Unutilized
Comments: 2790 sq. ft., most recent use—fast food facility, off-site use only

New York

Bldgs. 1511–1518
U.S. Military Academy
Training Area
Highlands Co: Orange NY 10996
Landholding Agency: Army
Property Number: 21200320160
Status: Unutilized
Comments: 2400 sq. ft. each, needs rehab, most recent use—barracks, off-site use only

Bldgs. 1523–1526
U.S. Military Academy
Training Area
Highlands Co: Orange NY 10996
Landholding Agency: Army
Property Number: 21200320161
Status: Unutilized
Comments: 2400 sq. ft. each, needs rehab, most recent use—barracks, off-site use only

Bldgs. 1704–1705, 1721–1722
U.S. Military Academy
Training Area
Highlands Co: Orange NY 10996
Landholding Agency: Army
Property Number: 21200320162
Status: Unutilized
Comments: 2400 sq. ft. each, needs rehab, most recent use—barracks, off-site use only

Bldg. 1723
U.S. Military Academy
Training Area
Highlands Co: Orange NY 10996
Landholding Agency: Army
Property Number: 21200320163
Status: Unutilized
Comments: 2400 sq. ft., needs rehab, most recent use—day room, off-site use only

Bldgs. 1706–1709
U.S. Military Academy
Training Area
Highlands Co: Orange NY 10996
Landholding Agency: Army
Property Number: 21200320164
Status: Unutilized
Comments: 2400 sq. ft. each, needs rehab, most recent use—barracks, off-site use only

Bldgs. 1731–1735
U.S. Military Academy
Training Area
Highlands Co: Orange NY 10996
Landholding Agency: Army
Property Number: 21200320165
Status: Unutilized
Comments: 2400 sq. ft. each, needs rehab, most recent use—barracks, off-site use only

North Carolina

Bldg. N4116
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310
Landholding Agency: Army
Property Number: 21200240087
Status: Excess
Comments: 3944 sq. ft., possible asbestos/lead paint, most recent use—community facility, off-site use only

Texas

Bldgs. 4219, 4227
Fort Hood
Ft. Hood Co: Bell TX 76544
Landholding Agency: Army
Property Number: 21200220139
Status: Unutilized
Comments: 8056, 500 sq. ft., most recent use—admin., off-site use only

Bldgs. 4229, 4230, 4231
Fort Hood
Ft. Hood Co: Bell TX 76544
Landholding Agency: Army
Property Number: 21200220140
Status: Unutilized
Comments: 9000 sq. ft., most recent use—hq. bldg., off-site use only

Bldgs. 4244, 4246
Fort Hood
Ft. Hood Co: Bell TX 76544
Landholding Agency: Army
Property Number: 21200220141
Status: Unutilized
Comments: 9000 sq. ft., most recent use—storage, off-site use only

Bldgs. 4260, 4261, 4262
Fort Hood
Ft. Hood Co: Bell TX 76544
Landholding Agency: Army
Property Number: 21200220142
Status: Unutilized
Comments: 7680 sq. ft., most recent use—storage, off-site use only

Bldg. 04335
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200440090
Status: Excess
Comments: 3378 sq. ft., possible asbestos, most recent use—general, off-site use only

Bldg. 04465
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200440094
Status: Excess
Comments: 5310 sq. ft., possible asbestos, most recent use—general, off-site use only

Bldg. 04468
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200440096
Status: Excess
Comments: 3100 sq. ft., possible asbestos, most recent use—misc., off-site use only

Bldgs. 04475–04476
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200440098
Status: Excess
Comments: 3241 sq. ft., possible asbestos, most recent use—general, off-site use only

Bldg. 04477
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200440099
Status: Excess
Comments: 3100 sq. ft., possible asbestos, most recent use—general, off-site use only

Bldg. 07002
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200440100
Status: Excess
Comments: 2598 sq. ft., possible asbestos, most recent use—fire station, off-site use only

Bldg. 57001
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200440105
Status: Excess
Comments: 53,024 sq. ft., possible asbestos, most recent use—storage, off-site use only

Bldgs. 125, 126
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620075
Status: Excess
Comments: 2700/7200 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Bldg. 190
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620076
Status: Excess
Comments: 2995 sq. ft., presence of asbestos, most recent use—conf. center, off-site use only

Bldg. 02240
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620078
Status: Excess
Comments: 487 sq. ft., presence of asbestos, most recent use—pool svc bldg, off-site use only

Bldg. 04164
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620079
Status: Excess
Comments: 2253 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Bldgs. 04218, 04228
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620080
Status: Excess
Comments: 4682/9000 sq. ft., presence of asbestos, most recent use—admin, off-site use only

Bldg. 04272
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620081
Status: Excess
Comments: 7680 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Bldg. 04415
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620083
Status: Excess
Comments: 1750 sq. ft., presence of asbestos, most recent use—classroom, off-site use only

4 Bldgs
Fort Hood
04419, 04420, 04421, 04424
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620084
Status: Excess
Comments: 5310 sq. ft., presence of asbestos, most recent use—admin., off-site use only

4 Bldgs.
Fort Hood
04425, 04426, 04427, 04429
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620085
Status: Excess
Comments: 5310 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Bldg. 04430
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620087
Status: Excess
Comments: 3241 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Bldg. 04434
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620088
Status: Excess
Comments: 5310 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Bldg. 04439
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620089
Status: Excess
Comments: 3312 sq. ft., presence of asbestos, most recent use—co ops bldg, off-site use only

Bldgs. 04470, 04471
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620090
Status: Excess
Comments: 3241 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Bldg. 04493
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620091
Status: Excess
Comments: 3108 sq. ft., presence of asbestos, most recent use—housing maint., off-site use only

Bldg. 04494
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620092
Status: Excess
Comments: 2686 sq. ft., presence of asbestos, most recent use—repair bays, off-site use only

Bldg. 04632
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620093
Status: Excess
Comments: 4000 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Bldg. 04640
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620094
Status: Excess
Comments: 1600 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Bldg. 04645
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620095
Status: Excess
Comments: 5300 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Bldg. 04906
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620096
Status: Excess
Comments: 1040 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Bldg. 20121
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620097
Status: Excess
Comments: 5200 sq. ft., presence of asbestos, most recent use—rec center, off-site use only

Bldg. 91052
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620101
Status: Excess
Comments: 224 sq. ft., presence of asbestos, most recent use—lab/test, off-site use only

Bldg. 1345
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740070
Status: Excess
Comments: 240 sq. ft., presence of asbestos, most recent use—oil storage, off-site use only

Bldgs. 1348, 1941
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740071
Status: Excess
Comments: 640/900 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Bldg. 1919
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740072
Status: Excess
Comments: 80 sq. ft., presence of asbestos, most recent use—pump station, off-site use only

Bldg. 1943
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740073
Status: Excess
Comments: 780 sq. ft., presence of asbestos, most recent use—rod & gun club, off-site use only

Bldg. 1946
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740074
Status: Excess
Comments: 2880 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Bldg. 4205
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740075
Status: Excess
Comments: 600 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Bldg. 4207
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740076
Status: Excess
Comments: 2240 sq. ft., presence of asbestos, most recent use—maint. shop, off-site use only

Bldg. 4208
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740077
Status: Excess
Comments: 9464 sq. ft., presence of asbestos, most recent use—warehouse, off-site use only

Bldgs. 4210, 4211, 4216
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740078
Status: Excess
Comments: 4625/5280 sq. ft., presence of asbestos, most recent use—maint., off-site use only

Bldg. 4219A
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740079
Status: Excess
Comments: 446 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Bldg. 04252
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740081
Status: Excess
Comments: 9000 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Bldg. 4255
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740082
Status: Excess
Comments: 448 sq ft., presence of asbestos, off-site use only

Bldg. 04480

Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740083
Status: Excess
Comments: 2700 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Bldg. 04485
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740084
Status: Excess
Comments: 640 sq. ft., presence of asbestos, most recent use—maint., off-site use only

Bldgs. 04487, 04488
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740085
Status: Excess
Comments: 48/80 sq. ft., presence of asbestos, most recent use—utility bldg., off-site use only

Bldg. 04489
Fort Hood
Ft. Hood TX 76544
Landholding Agency: Army
Property Number: 21200740086
Status: Excess
Comments: 880 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Bldgs. 4491, 4492
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740087
Status: Excess
Comments: 3108/1040 sq. ft., presence of asbestos, most recent use—maint., off-site use only

Bldgs. 04902, 04905
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740088
Status: Excess
Comments: 2575/6136 sq. ft., presence of asbestos, most recent use—vet bldg., off-site use only

Bldgs. 04914, 04915, 04916
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740089
Status: Excess
Comments: 371 sq. ft., presence of asbestos, most recent use—animal shelter, off-site use only

Bldg. 20102
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740091
Status: Excess
Comments: 252 sq. ft., presence of asbestos, most recent use—recreation services, off-site use only

Bldg. 20118
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740092
Status: Excess
Comments: 320 sq. ft., presence of asbestos, most recent use—maint., off-site use only

Bldg. 29027
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740093
Status: Excess
Comments: 2240 sq. ft., presence of asbestos, most recent use—hdqts. bldg., off-site use only

Bldg. 56017
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740094
Status: Excess
Comments: 2592 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Bldg. 56202
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740095
Status: Excess
Comments: 1152 sq. ft., presence of asbestos, most recent use—training, off-site use only

Bldg. 56224
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740096
Status: Excess
Comments: 80 sq. ft., presence of asbestos, off-site use only

Bldg. 56305
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740097
Status: Excess
Comments: 2160 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Bldg. 56311
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740098
Status: Excess
Comments: 480 sq. ft., presence of asbestos, most recent use—laundry, off-site use only

Bldg. 56327
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740099
Status: Excess
Comments: 6000 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Bldg. 56329
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740100
Status: Excess
Comments: 2080 sq. ft., presence of asbestos, most recent use—officers qtrs., off-site use only

9 Bldgs.
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740101
Status: Excess
Directions: 56526, 56527, 56528, 56530, 56531, 56536, 56537, 56538, 56540
Comments: various sq. ft., presence of asbestos, most recent use—lavatory, off-site use only

Bldg. 92043
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740102
Status: Excess
Comments: 450 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Bldg. 92072
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740103
Status: Excess
Comments: 2400 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Bldg. 92083
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740104
Status: Excess
Comments: 240 sq. ft., presence of asbestos, most recent use—utility bldg., off-site use only

Bldgs. 04213, 04227
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740189
Status: Excess
Comments: 14183/10500 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Bldg. 4404
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740190
Status: Excess
Comments: 8043 sq ft., presence of asbestos, most recent use—training bldg., off-site use only

Bldg. 56607
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740191
Status: Excess
Comments: 3552 sq. ft., presence of asbestos, most recent use—chapel, off-site use only

Bldg. 91041
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740192
Status: Excess
Comments: 1920 sq. ft., presence of asbestos, most recent use—shed, off-site use only

5 Bldgs.
Fort Hood
93010, 93011, 93012, 93014
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740193
Status: Excess
Comments: 210/800 sq. ft., presence of asbestos, most recent use—private club, off-site use only

Bldg. 94031
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740194
Status: Excess
Comments: 1008 sq. ft., presence of asbestos, most recent use—training, off-site use only

Virginia

Bldg. T2827
Fort Pickett
Blackstone Co: Nottoway VA 23824
Landholding Agency: Army
Property Number: 21200320172
Status: Unutilized
Comments: 3550 sq. ft., presence of asbestos, most recent use—dining, off-site use only

Bldg. T2841
Fort Pickett
Blackstone Co: Nottoway VA 23824
Landholding Agency: Army
Property Number: 21200320173
Status: Unutilized
Comments: 2950 sq. ft., presence of asbestos, most recent use—dining, off-site use only

Bldg. 01014
Fort Story
Ft. Story VA 23459
Landholding Agency: Army
Property Number: 21200720067
Status: Unutilized
Comments: 1014 sq. ft., most recent use—admin., off-site use only

Bldg. 01063
Fort Story
Ft. Story VA 23459
Landholding Agency: Army
Property Number: 21200720072
Status: Unutilized
Comments: 2000 sq. ft., most recent use—storage, off-site use only

Bldg. 00215
Fort Eustis
Ft. Eustis VA 23604
Landholding Agency: Army
Property Number: 21200720073
Status: Unutilized
Comments: 2540 sq. ft., most recent use—admin., off-site use only

4 Bldgs.
Fort Eustis
01514, 01523, 01528, 01529
Ft. Eustis VA 23604
Landholding Agency: Army
Property Number: 21200720074
Status: Unutilized
Comments: 4720 sq. ft., most recent use—admin., off-site use only

4 Bldgs.
Fort Eustis
01534, 01542, 01549, 01557
Ft. Eustis VA 23604
Landholding Agency: Army
Property Number: 21200720075
Status: Unutilized
Comments: 4720 sq. ft., most recent use—admin., off-site use only

Bldgs. 01707, 01719
Fort Eustis
Ft. Eustis VA 23604
Landholding Agency: Army
Property Number: 21200720077
Status: Unutilized
Comments: 4720 sq. ft., most recent use—admin., off-site use only

Bldg. 01720
Fort Eustis
Ft. Eustis VA 23604
Landholding Agency: Army
Property Number: 21200720078
Status: Unutilized
Comments: 1984 sq. ft., most recent use—admin., off-site use only

Bldgs. 01721, 01725
Fort Eustis
Ft. Eustis VA 23604
Landholding Agency: Army
Property Number: 21200720079
Status: Unutilized
Comments: 4720 sq. ft., most recent use—admin., off-site use only

Bldgs. 01726, 01735, 01736
Fort Eustis
Ft. Eustis VA 23604
Landholding Agency: Army
Property Number: 21200720080
Status: Unutilized
Comments: 1144 sq. ft., most recent use—admin., off-site use only

Bldgs. 01734, 01745, 01747
Fort Eustis
Ft. Eustis VA 23604
Landholding Agency: Army
Property Number: 21200720081
Status: Unutilized
Comments: 4720 sq. ft., most recent use—admin., off-site use only

Bldg. 01741
Fort Eustis
Ft. Eustis VA 23604
Landholding Agency: Army
Property Number: 21200720082
Status: Unutilized
Comments: 1984 sq. ft., most recent use—admin., off-site use only

Bldg. 02720
Fort Eustis
Ft. Eustis VA 23604
Landholding Agency: Army
Property Number: 21200720083
Status: Unutilized
Comments: 400 sq. ft., most recent use—storage, off-site use only

Washington

Bldg. 05904
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21200240092
Status: Excess
Comments: 82 sq. ft., most recent use—guard shack, off-site use only

Unsuitable Properties

Buildings (by State)

Alabama

136 Bldgs.
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–
Landholding Agency: Army
Property Number: 21200040004–21200040012, 21200120018, 21200220003–21200220004, 21200240007–21200240022, 21200330001–2120330004, 21200340011, 21200340095, 21200420068–21200420071, 21200440001, 21200520002, 21200540002–21200540006, 21200610003, 21200620002, 21200630020, 21200740108, 21200810002, 21200830007, 21200840003–21200840007, 21200920011, 21200940015–21200940017
Status: Unutilized
Reason: Secured Area and Extensive deterioration

34 Bldgs., Fort Rucker
Ft. Rucker Co: Dale AL 36362
Landholding Agency: Army
Property Number: 21200040013, 21200440005, 21200540001, 21200540100, 21200610008, 21200620001, 21200640002–21200640005, 21200720001, 21201010003–21201010005
Status: Unutilized
Reason: Extensive deterioration

Bldg. 01271, Fort McClellan
Ft. McClellan Co: Calhoun AL 36205–5000
Landholding Agency: Army
Property Number: 21200430004
Status: Unutilized
Reason: Extensive deterioration

10 Bldgs., Anniston Army Depot
Calhoun AL 36201
Landholding Agency: Army
Property Number: 21200920029, 21201010002
Status: Unutilized
Reasons: Extensive deterioration

Alaska

3 Bldgs., Fort Wainwright
Ft. Wainwright AK 99703
Landholding Agency: Army
Property Number: 21200610001–21200610002
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured area, and Floodway

6 Bldgs., Fort Richardson
Ft. Richardson Co: AK 99505
Landholding Agency: Army
Property Number: 21200340006, 21200820058, 21200830006
Status: Excess
Reason: Extensive deterioration

Bldg. 02A60
Noatak Armory
Kotzebue AK
Landholding Agency: Army
Property Number: 21200740105
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material

Bldgs. 00655, XTENA
Fort Greely
Fort Greely AK 96740
Landholding Agency: Army
Property Number: 21200930004, 21200940021
Status: Unutilized
Reasons: Secured Area, Extensive deterioration, and Within 2000 ft. of flammable or explosive material

Arizona

32 Bldgs.
Navajo Depot Activity
Bellemont Co: Coconino AZ 86015–
Location: 12 miles west of Flagstaff, Arizona on I–40
Landholding Agency: Army

Property Number: 219014560–219014591
Status: Underutilized
Reason: Secured Area

10 properties: 753 earth covered igloos; above ground standard magazines
Navajo Depot Activity
Bellemont Co: Coconino AZ 86015–
Location: 12 miles west of Flagstaff, Arizona on I–40.
Landholding Agency: Army
Property Number: 219014592–219014601
Status: Underutilized
Reason: Secured Area

7 Bldgs.
Navajo Depot Activity
Bellemont Co: Coconino AZ 86015–5000
Location: 12 miles west of Flagstaff on I–40
Landholding Agency: Army
Property Number: 219030273, 219120177–219120181
Status: Unutilized
Reason: Secured Area

102 Bldgs.
Camp Navajo
Bellemont Co: AZ 86015
Landholding Agency: Army
Property Number: 21200140006–21200140010, 21200740109–21200740114
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area (Most are extensively deteriorated)

7 Bldgs.
Papago Park Military Rsv
Phoenix AZ 85008
Landholding Agency: Army
Property Number: 21200740001–21200740002
Status: Unutilized
Reason: Extensive deterioration, Within airport runway clear zone, and Secured Area

Bldgs. 30025, 43003, Fort Huachuca
Cochise AZ 85613
Landholding Agency: Army
Property Number: 21200920030
Status: Excess
Reason: Extensive deterioration

Arkansas

190 Bldgs., Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219630019, 219630021, 219630029, 219640462–219640477, 21200110001–21200110017, 21200140011–21200140014, 21200530001
Status: Unutilized
Reason: Extensive deterioration

20 Bldgs., Pine Bluff Arsenal
Jefferson AR 71602
Landholding Agency: Army
Property Number: 21200820059–21200820060
Status: Unutilized
Reason: Secured Area

California

Bldg. 18
Riverbank Army Ammunition Plant
5300 Claus Road
Riverbank Co: Stanislaus CA 95367–
Landholding Agency: Army
Property Number: 219012554
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

13 Bldgs.
Riverbank Army Ammunition Plant
Riverbank Co: Stanislaus CA 95367–
Landholding Agency: Army
Property Number:219013582–219013588,219013590, 219240444–219240446, 21200530003, 21200840009
Status: Underutilized
Reason: Secured Area

Bldgs. 13, 171, 178 Riverbank Ammun Plant
5300 Claus Road
Riverbank Co: Stanislaus CA 95367–
Landholding Agency: Army
Property Number: 219120162–219120164
Status: Underutilized
Reason: Secured Area

43 Bldgs.
DDDRW Sharpe Facility
Tracy Co: San Joaquin CA 95331
Landholding Agency: Army
Property Number: 219610289, 21199930021, 21200030005–21200030015, 21200040015, 21200120029–21200120039, 21200130004, 21200240025–21200240030, 21200330007, 21200920031, 21200930005
Status: Unutilized
Reason: Secured Area

62 Bldgs.
Los Alamitos Co: Orange CA 90720–5001
Landholding Agency: Army
Property Number: 219520040, 21200530002, 21200940023
Status: Unutilized
Reason: Extensive deterioration

8 Bldgs.
Sierra Army Depot
Herlong Co: Lassen CA 96113
Landholding Agency: Army
Property Number: 21199840015, 21199920033–21199920036
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

575 Bldgs.,
Camp Roberts
Camp Roberts Co: San Obispo CA
Landholding Agency: Army
Property Number: 21199730014, 219820205–219820234, 21200530004, 21200540007–21200540031, 21200830009–21200830010
Status: Excess
Reason: Secured Area and Extensive deterioration

24 Bldgs.
Presidio of Monterey Annex
Seaside Co: Monterey CA 93944
Landholding Agency: Army
Property Number: 21199940051
Status: Unutilized
Reason: Extensive deterioration

46 Bldgs.
Fort Irwin
Ft. Irwin Co: San Bernardino CA 92310
Landholding Agency: Army
Property Number: 21199920037–21199920038, 21200030016–21200030018, 21200040014, 21200110018–21200110020, 21200130002–21200130003, 21200210001–21200210005, 21200240031–21200240033
Status: Unutilized
Reason: Secured Area, Extensive deterioration

10 Bldgs.
Fort Hunter Liggett
Monterey CA 93928
Landholding Agency: Army
Property Number: 21200840008, 21200940024
Status: Unutilized
Reason: Extensive deterioration

5 Bldgs, March AFRC
Riverside CA 92518
Landholding Agency: Army
Property Number: 21200710001–21200710002
Status: Unutilized
Reason: Extensive deterioration

4 Bldgs., Camp Parks
Dublin CA 94568
Landholding Agency: Army
Property Number: 21201010006
Status: Unutilized
Reason: Extensive deterioration

Bldg. 00053, Moffett Community Housing
Santa Clara CA 94035
Landholding Agency: Army
Property Number: 21200940022
Status: Unutilized
Reason: Extensive deterioration

Colorado

Bldgs. T–317, T–412, 431, 433
Rocky Mountain Arsenal
Commerce Co: Adams CO 80022–2180
Landholding Agency: Army
Property Number: 219320013–219320016
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

21 Bldgs. Fort Carson
Ft. Carson Co: El Paso CO 80913–5023
Landholding Agency: Army
Property Number: 219830024, 21200130006–21200130009, 21200420161–21200420164, 21200720003, 21200740003–21200740004, 21200820063, 21200930007
Status: Unutilized
Reason: Extensive deterioration (Some are within 2000 ft. of flammable or explosive material)

31 Bldgs., Pueblo Chemical Depot
Pueblo CO 81006–9330
Landholding Agency: Army
Property Number: 21200030019–21200030021,21200420165–21200420166, 21200610009–21200610010, 21200630023, 21200720002, 21200720007–21200720008, 21200840013–21200840014, 21200930008
Status: Unutilized
Reason: Extensive deterioration, Secured Area

Georgia

Fort Stewart, Sewage Treatment Plant
Ft. Stewart Co: Hinesville GA 31314–
Landholding Agency: Army
Property Number: 219013922
Status: Unutilized
Reason: Sewage treatment

10 Bldgs., Fort Gordon
Augusta Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 21200610012, 21200720009–21200720010
Status: Unutilized
Reason: Extensive deterioration

168 Bldgs., Fort Benning

Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219610320, 219810028, 219810030, 219830073, 21200030026, 21200330008–21200330010, 21200410001–21200410009, 21200430011–21200430016, 21200440009, 21200510003, 21200610011, 21200620004, 21200630024–21200630027, 21200640007–21200640020, 21200710011, 21200720004–21200720005, 21200740006, 21200740121–21200740122, 21200820064, 21200830011, 21200840015, 21200920014, 21200920032, 21200940027
Status: Unutilized
Reason: Extensive deterioration

33 Bldgs.
Fort Gillem
Forest Park Co: Clayton GA 30050
Landholding Agency: Army
Property Number: 219620815, 21199920044–21199920050, 21200140016, 21200220011–21200220012, 21200230005, 21200340013–21200340016, 21200420074–21200420082, 21200810003
Status: Unutilized
Reason: Extensive deterioration, Secured Area

43 Bldgs. Fort Stewart
Hinesville Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21199940060, 21200540034, 21200710005–21200710009, 21200720011, 21200740007, 21200740123–21200740125, 21200820066, 21200920013, 21200920034, 21200940025
Status: Unutilized
Reason: Extensive Deterioration

19 Bldgs., Hunter Army Airfield
Savannah Co: Chatham GA 31409
Landholding Agency: Army
Property Number: 219830068, 21200710010, 21200720012, 21200740117–21200740119, 21200820065, 21200920012, 21200920033, 21200940026
Status: Unutilized
Reason: Extensive deterioration

6 Bldgs., Fort McPherson
Ft. McPherson Co: Fulton GA 30330–5000
Landholding Agency: Army
Property Number: 21200040016–21200040018, 21200230004, 21200520004
Status: Unutilized
Reason: Secured Area

Bldgs. 00023, 00049, 00070, Camp Merrill
Dahlonega Co: Lumpkin GA 30533
Landholding Agency: Army
Property Number: 21200520005
Status: Unutilized
Reason: Extensive deterioration

Hawaii

44 Bldgs., Schofield Barracks
Wahiawa Co: Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219014836–219014837, 21200540035–21200540037, 21200620008–21200620010, 21200640022, 21200740010–21200740012, 21200840016, 21200920015
Status: Unutilized
Reason: Secured Area (Most are extensively deteriorated)

70 Bldgs.
Kipapa Ammo Storage Site
Honolulu Co: HI 96786
Landholding Agency: Army
Property Number: 21200520006, 21200620011
Status: Unutilized
Reason: Extensive deterioration

10 Bldgs.
Wheeler Army Airfield
Honolulu Co: HI 96786
Landholding Agency: Army
Property Number: 21200520008, 21200620006–21200620007, 21200630028, 21200830012, 21200940040
Status: Unutilized
Reason: Extensive deterioration

140 Bldgs., Aliamanu
Honolulu Co: HI 96818
Landholding Agency: Army
Property Number: 21200440015–21200440017, 21200620005
Status: Unutilized
Reason: Contamination (Some are in a secured area.)

7 Bldgs., Kalaeloa
Kapolei HI 96707
Landholding Agency: Army
Property Number: 21200640108–21200640112
Status: Unutilized
Reason: Extensive deterioration

6 Facilities
Tanapag USARC
Tanapag HI
Landholding Agency: Army
Property Number: 21200740008, 21200830047, 21200920035
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 00039, 1650, Fort Shafter
Honolulu HI 96858
Landholding Agency: Army
Property Number: 21200940039
Status: Unutilized
Reason: Extensive deterioration

Idaho

Bldg. 00110, Wilder
Canyon ID 83676
Landholding Agency: Army
Property Number: 21200740134
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 00011, Edgemeade
Elmore ID 83647
Landholding Agency: Army
Property Number: 21200930009
Status: Unutilized
Reason: Extensive deterioration

Illinois

4 Bldgs.
Rock Island Arsenal
Rock Island Co: Rock Island IL 61299–5000
Landholding Agency: Army
Property Number: 219620428, 21200140043–21200140044, 21200920037
Status: Unutilized
Reason: Some are in a secured area. Some are extensively deteriorated. Some are within 2000 ft. of flammable or explosive material

15 Bldgs.
Charles Melvin Price Support Center
Granite City Co: Madison IL 62040
Landholding Agency: Army
Property Number: 219820027, 21199930042–21199930053
Status: Unutilized
Reason: Secured Area, Floodway, Extensive deterioration

Indiana

139 Bldgs., Newport Army Ammunition Plant
Newport Co: Vermillion, IN 47966–
Landholding Agency: Army
Property Number: 219011584, 219011586–219011587, 219011589–219011590, 219011592–219011627, 219011629–219011636, 219011638–219011641, 219210149, 219430336, 219430338, 219530079–219530096, 219740021–219740026, 219820031–219820032, 21199920063, 21200330015–21200330016, 21200440019, 21200610013–21200610014, 21200710025, 21200820037
Status: Unutilized
Reason: Secured Area (Some are extensively deteriorated.)

2 Bldgs., Atterbury Reserve Forces Training Area
Edinburgh Co: Johnson, IN 46124–1096
Landholding Agency: Army
Property Number: 219230030–219230031
Status: Unutilized
Reason: Extensive deterioration

Iowa

201 Bldgs., Iowa Army Ammunition Plant
Middletown Co: Des Moines, IA 52638–
Landholding Agency: Army
Property Number: 219012605–219012607, 219012609, 219012611, 219012613, 219012620, 219012622, 219012624, 219013706–219013738, 219120172–219120174, 219440112–219440158, 219520002, 219520070, 219740027, 21200220022, 21200230019–21200230023, 21200330012–21200330014, 21200340017, 21200420083, 21200430018, 21200440018, 21200510004–21200510006, 21200520009, 21200540038–21200540039, 21200620012, 21200710020–21200710024, 21200740126–21200740133, 21200810008
Status: Unutilized
Reason: (Many are in a Secured Area) (Most are within 2000 ft. of flammable or explosive material.)

27 Bldgs., Iowa Army Ammunition Plant
Middletown Co: Des Moines, IA 52638
Landholding Agency: Army
Property Number: 219230005–219230029, 219310017, 219340091
Status: Unutilized
Reason: Extensive deterioration

Bldgs. TD010, TD020
Camp Dodge
Johnson, IA 50131
Landholding Agency: Army
Property Number: 21200920036
Status: Excess
Reason: Extensive deterioration

Kansas

37 Bldgs.
Kansas Army Ammunition Plant
Production Area
Parsons Co: Labette, KS 67357–
Landholding Agency: Army
Property Number: 219011909–219011945
Status: Unutilized

Reason: Secured Area (Most are within 2000 ft. of flammable or explosive material.)

121 Bldgs.
Kansas Army Ammunition Plant
Parsons Co: Labette, KS 67357
Landholding Agency: Army
Property Number: 219620518–219620638
Status: Unutilized
Reason: Secured Area

12 Bldgs.
Fort Riley
Ft. Riley Co: Riley, KS 66442
Landholding Agency: Army
Property Number: 21200310007, 21200540040, 21200740135, 21200920038–21200920039, 21200940041
Status: Unutilized
Reason: Extensive deterioration

3 Bldgs.
Fort Leavenworth
Leavenworth, KS 66027
Landholding Agency: Army
Property Number: 21200820068, 21200840018
Status: Unutilized
Reason: Extensive deterioration

Kentucky

Bldg. 126, Lexington-Blue Grass Army Depot
Lexington Co: Fayette, KY 40511–
Landholding Agency: Army
Property Number: 219011661
Status: Unutilized
Reason: Secured Area, Sewage treatment facility

Bldg. 12
Lexington Blue Grass Army Depot
Lexington Co: Fayette, KY 40511–
Landholding Agency: Army
Property Number: 219011663
Status: Unutilized
Reason: Industrial waste treatment plant

69 Bldgs., Fort Knox
Ft. Knox Co: Hardin, KY 40121–
Landholding Agency: Army
Property Number: 21200130028–21200130029, 21200440025–21200440026, 21200510007–21200510009, 21200640023, 21200740014, 21200820070, 21200840019–21200840021, 21200930011, 21200940042
Status: Unutilized
Reason: Extensive deterioration

130 Bldgs., Fort Campbell
Ft. Campbell Co: Christian, KY 42223
Landholding Agency: Army
Property Number: 21200110038–21200110043, 21200140053, 21200220029, 21200330018, 21200520012–21200520015, 21200530007, 21200610015, 21200640024–21200640032, 21200720014–21200720025, 21200740139, 21200810010, 21200820069, 21200830013, 21200920040–21200920043, 21201010007
Status: Unutilized
Reason: Extensive deterioration

8 Bldgs., Blue Grass Army Depot
Richmond Co: Madison, KY 40475
Landholding Agency: Army
Property Number: 21200520011, 21200740136–21200740138
21200830014
Status: Unutilized
Reason: Secured Area

Louisiana

528 Bldgs.
Louisiana Army Ammunition Plant
Doylin Co: Webster, LA 71023
Landholding Agency: Army
Property Number: 219011714–219011716, 219011735–219011737, 219012112, 219013863–219013869, 219110131, 219240138–219240147, 219420332, 219610049–219610263, 219620002–219620200, 219620749–219620801, 219820047–219820078
Status: Unutilized
Reason: Secured Area, (Most are within 2000 ft. of flammable or explosive material), (Some are extensively deteriorated.)

215 Bldgs., Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–7100
Landholding Agency: Army
Property Number: 21199920070, 21200130030–21200130043, 21200530008–21200530017, 21200610016–21200610019, 21200620014, 21200640036–21200640048, 21200820002–21200820012, 21200830015–21200830016
Status: Unutilized—Extensive deterioration (Some are in Floodway.)

Maryland

225 Bldgs., Aberdeen Proving Ground
Aberdeen City Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219012610, 219012638–219012640, 219012658, 219610489–219610490, 219730077, 219810076–219810112, 219820090, 219820096, 21200120059, 21200120060, 21200410017–21200410032, 21200420098–21200420100, 21200440027, 21200520021, 21200740015, 21200740141–21200740144, 21200810011–21200810018, 21200820134–21200820142, 21200840025–21200840033, 21200920016, 21200920044–21200920045, 21200940028–21200940030
Status: Unutilized
Reason: Most are in a secured area. (Some are within 2000 ft. of flammable or explosive material). (Some are in a floodway) (Some are extensively deteriorated)

63 Bldgs. Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755
Landholding Agency: Army
Property Number: 219810065, 21200140059–21200140060, 21200410014, 21200510018, 21200520020, 21200620015, 21200640049–21200640050, 21200710031, 21200740016
Status: Unutilized
Reason: Extensive deterioration

Bldg. 00211, Curtis Bay Ordnance Depot
Baltimore Co: MD 21226
Landholding Agency: Army
Property Number: 21200320024
Status: Unutilized
Reason: Extensive deterioration

13 Bldgs. Fort Detrick
Frederick Co: MD 21702
Landholding Agency: Army
Property Number: 21200540041, 21200640113, 21200720026, 21200740140, 21200810019, 21200840023–21200840024, 21200940043
Status: Unutilized
Reason: Secured Area

Bldg. 0001B, Federal Support Center
Olney Co: Montgomery MD 20882
Landholding Agency: Army
Property Number: 21200530018
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material

Bldg. SPITO, Adelphi Lab Center
Prince George MD 20783
Landholding Agency: Army
Property Number: 21201010008
Status: Unutilized
Reason: Extensive deterioration

Massachusetts

Bldg. 3713, USAG Devens
Devens MA 01434
Landholding Agency: Army
Property Number: 21200840022
Status: Excess
Reason: Secured Area

Michigan

Bldgs. 5755–5756
Newport Weekend Training Site
Carleton Co: Monroe MI 48166
Landholding Agency: Army
Property Number: 219310060–219310061
Status: Unutilized
Reason: Secured Area, Extensive deterioration

54 Bldgs.
Fort Custer Training Center
2501 26th Street
Augusta Co: Kalamazoo MI 49102–9205
Landholding Agency: Army
Property Number: 21200220058–21200220062, 21200410036–21200410042, 21200540048–21200540051
Status: Unutilized
Reason: Extensive deterioration

39 Bldgs.
US Army Garrison-Selfridge
Macomb Co: MI 48045
Landholding Agency: Army
Property Number: 21200420093, 21200510020–21200510023
Status: Unutilized
Reason: Secured Area

4 Bldgs., Poxin USAR Center
Southfield Co: Oakland MI 48034
Landholding Agency: Army
Property Number: 21200330026–21200330027, 21200420095
Status: Unutilized
Reason: Extensive deterioration

20 Bldgs.
Grayling Army Airfield
Grayling Co: Crawford MI 49739
Landholding Agency: Army
Property Number: 21200410034–21200410035, 21200540042–21200540047
Status: Excess
Reason: Extensive deterioration

Bldg. 001, Crabble USARC
Landholding Agency: Army
Property Number: 21200420094
Status: Unutilized
Reason: Extensive deterioration

Bldg. 00714
Selfridge Air Natl Guard Base
Macomb Co: MI 48045
Landholding Agency: Army
Property Number: 21200440032

Status: Unutilized
Reason: Extensive deterioration

10 Bldgs.
Detroit Arsenal
T0209, T0216, T0246, T0247
Warren Co: Macomb MI 88397–5000
Landholding Agency: Army
Property Number: 21200520022, 21201010009
Status: Unutilized
Reason: Secured Area

Minnesota

160 Bldgs.
Twin Cities Army Ammunition Plant
New Brighton Co: Ramsey MN 55112
Landholding Agency: Army
Property Number: 219120166, 219210014–219210015, 219220227–219220235, 219240328, 219310056, 219320152–219320156, 219330096–219330106, 219340015, 219410159–219410189, 219420198–219420283, 219430060–219430064, 21200130053–21200130054
Status: Unutilized
Reason: Secured Area (Most are within 2000 ft. of flammable or explosive material.) (Some are extensively deteriorated.)

Missouri

131 Bldgs., Lake City Army Ammo. Plant
Independence Co: Jackson MO 64050
Landholding Agency: Army
Property Number: 219013666–219013669, 219530134, 219530136, 21199910023–21199910035, 21199920082, 21200030049, 21200820001, 21201010011–21201010015
Status: Unutilized
Reason: Secured Area (Some are within 2000 ft. of flammable or explosive material)

9 Bldgs.
St. Louis Army Ammunition Plant
4800 Goodfellow Blvd.
St. Louis Co: St. Louis MO 63120–1798
Landholding Agency: Army
Property Number: 219120067–219120068, 219610469–219610475
Status: Unutilized
Reason: Secured Area (Some are extensively deteriorated.)

120 Bldgs., Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219430075, 21199910020–21199910021, 21200320025, 21200330028–21200330031, 21200430029, 21200530019, 21200640051–21200640052, 21200740145–21200740148, 21200830017, 21200840035–21200840037, 21200920048, 21200930012, 21200940044–21200940048, 21201010010
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material (Some are extensively deteriorated.)

Bldg. P4122, U.S. Army Reserve Center
St. Louis Co: St. Charles MO 63120–1794
Landholding Agency: Army
Property Number: 21200240055
Status: Unutilized
Reason: Extensive deterioration

Bldgs. P4074, P4072, P4073
St. Louis Ordnance Plant
St. Louis Co: St. Charles MO 63120–1794
Landholding Agency: Army
Property Number: 21200310019
Status: Unutilized
Reason: Extensive deterioration

Bldg. 528, Weldon Springs LTA
Saint Charles MO 63304
Landholding Agency: Army
Property Number: 21200840034
Status: Unutilized
Reasons: Extensive deterioration

Montana

5 Bldgs., Fort Harrison
Ft. Harrison Co: Lewis/Clark MT 59636
Landholding Agency: Army
Property Number: 21200420104, 21200740018
Status: Excess
Reasons: Secured Area Extensive deterioration

Nevada

Bldg. 292
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415
Landholding Agency: Army
Property Number: 219013614
Status: Unutilized
Reason: Secured Area

41 Bldgs.
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415
Landholding Agency: Army
Property Number: 219012013, 219013615–219013643, 21200930019
Status: Underutilized
Reason: Secured Area (Some within airport runway clear zone; many within 2000 ft. of flammable or explosive material)

Group 101, 34 Bldgs.
Hawthorne Army Ammunition Plant
Co: Mineral NV 89415–0015
Landholding Agency: Army
Property Number: 219830132
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

New Jersey

309 Bldgs., Picatinny Arsenal
Dover Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219010444–219010474, 219010639–219010664, 219010680–219010715, 219012428, 219012430, 219012433–219012465, 219012469, 219012475, 219012765, 00219014306, 219014311, 219014317, 219140617, 219230123, 219420006, 219530147, 219540005, 219540007, 219740113–219740127, 21199940094–21199940099, 21200130057–21200130063, 21200220063, 21200230072–21200230075, 21200330047–21200330063, 21200410043–21200410044, 21200520024–21200520039, 21200530022–21200530028, 21200620017–21200620022, 21200630001–21200630019, 21200720028, 21200720102–21200720104, 21200810020, 21200820040–21200820047, 21200840038–21200840039, 21200920017, 21200930013, 21200940031, 21201010017–21201010018
Status: Excess
Reason: Secured Area (Most are within 2000 ft. of flammable or explosive material.)(Some are extensively deteriorated and in a floodway.)

6 Bldgs., Ft. Monmouth
Ft. Monmouth Co: NJ 07703
Landholding Agency: Army
Property Number: 21200430030, 21200510025–21200510027
Status: Unutilized
Reason: Extensive deterioration

New Mexico

190 Bldgs., White Sands Missile Range
Dona Ana Co: NM 88002
Landholding Agency: Army
Property Number: 21200410045–21200410049, 21200440034–21200440045, 21200620023, 21200810024–21200810029, 21200820048, 21200930014
Status: Excess
Reason: Secured Area

31 Bldgs., Fort Wingate Army Depot
Gallup NM 87301
Landholding Agency: Army
Property Number: 21200920055–21200920058
Status: Unutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

New York

Bldg. 12, Watervliet Arsenal
Watervliet NY
Landholding Agency: Army
Property Number: 219730099
Status: Unutilized
Reason: Extensive deterioration (Secured Area)

13 Bldgs., Youngstown Training Site
Youngstown Co: Niagara NY 14131
Landholding Agency: Army
Property Number: 21200220064–21200220069
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 1716, 3014, 3018 U.S. Military Academy
West Point Co: NY 10996
Landholding Agency: Army
Property Number: 21200330064, 21200410050, 21200520040
Status: Unutilized
Reason: Extensive deterioration

382 Bldgs., Fort Drum
Ft. Drum Co: Jefferson NY 13602
Landholding Agency: Army
Property Number: 21200410051, 21200420112–21200420118, 21200530021, 21200540057, 21200720106, 21200830048–21200830060, 21200840040–21200840043, 21200920018–21200920019, 21200930015–21200930018, 21200940001–21200940002, 21201010026–21201010032
Status: Unutilized
Reason: Extensive deterioration, Secured Area

Bldg. 108, Fredrick J ILL, Jr. USARC
Bullville Co: Orange, NY 10915–0277
Landholding Agency: Army
Property Number: 21200510028
Status: Unutilized
Reason: Secured Area

3 Bldgs., Kerry P. Hein USARC NY058
Shoreham Co: Suffolk, NY 11778–9999

Landholding Agency: Army
Property Number: 21200510054
Status: Excess
Reason: Secured Area

7 Bldgs., U.S. Army Garrison
Orange, NY 10996
Landholding Agency: Army
Property Number: 21200810030, 21200820049, 21200840043
Status: Underutilized
Reason: Secured Area

North Carolina

523 Bldgs., Fort Bragg
Ft. Bragg Co: Cumberland, NC 28307
Landholding Agency: Army
Property Number: 219640074, 219710102–219710110, 219710224, 219810167, 21200410056, 21200430042, 21200440050–21200440051, 21200530029–21200530047, 21200540060, 21200610020, 21200620024–21200620039, 21200630029–21200630053, 21200640055–21200640060, 21200640114, 21200720029–21200720035, 21200740020–21200740023, 21200740154–21200740159, 21200820053–21200820057, 21200830018–21200830023, 21200840044–21200840045, 21200920049–21200920052, 21200940033, 21201010033–21201010034
Status: Unutilized
Reason: Extensive deterioration

3 Bldgs., Military Ocean Terminal
Southport Co: Brunswick, NC 28461–5000
Landholding Agency: Army
Property Number: 219810158–219810160, 21200330032
Status: Unutilized
Reason: Secured Area

5 Bldgs., Simmons Army Airfield
Cumberland, NC 28310
Landholding Agency: Army
Property Number: 21200920053
Status: Unutilized
Reasons: Extensive deterioration Secured Area

North Dakota

5 Bldgs., Stanley R. Mickelsen
Nekoma Co: Cavalier, ND 58355
Landholding Agency: Army
Property Number: 21199940103–21199940107
Status: Unutilized
Reason: Extensive deterioration

Ohio

186 Bldgs.
Ravenna Army Ammunition Plant
Ravenna Co: Portage, OH 44266–9297
Landholding Agency: Army
Property Number: 21199840069–21199840104, 21200240064, 21200420131–21200420132, 21200530051–21200530052
Status: Unutilized
Reason: Secured Area

7 Bldgs., Lima Army Tank Plant
Lima, OH 45804–1898
Landholding Agency: Army
Property Number: 219730104–219730110
Status: Unutilized
Reason: Secured Area

3 Bldgs., Defense Supply Center
Columbus Co: Franklin, OH 43216
Landholding Agency: Army
Property Number: 21200640061, 21200820072, 21200920059
Status: Unutilized
Reasons: Secured Area

Oklahoma

30 Bldgs., Fort Sill
Lawton Co: Comanche, OK 73503-
Landholding Agency: Army
Property Number: 219510023, 21200330065, 21200430043, 21200530053–21200530060, 21200840047, 21201010035
Status: Unutilized
Reason: Extensive deterioration

Bldgs. MA050, MA070, Regional Training Institute
Oklahoma City Co: OK 73111
Landholding Agency: Army
Property Number: 21200440052
Status: Unutilized
Reason: Extensive deterioration

Bldgs. GRM03, GRM24, GRM26, GRM34
Camp Gruber Training Site
Braggs Co: OK 74423
Landholding Agency: Army
Property Number: 21200510029–21200510032
Status: Unutilized
Reason: Extensive deterioration

43 Bldgs., McAlester Army Ammo Plant
McAlester Co: Pittsburg, OK 74501
Landholding Agency: Army
Property Number: 21200740024, 21200930020, 21200940049
Status: Excess
Reason: Secured Area

Oregon

11 Bldgs.
Tooele Army Depot
Umatilla Depot Activity
Hermiston Co: Morrow/Umatilla, OR 97838-
Landholding Agency: Army
Property Number: 219012174–219012176, 219012178–219012179, 219012190–219012191, 219012197–219012198, 219012217, 219012229
Status: Underutilized
Reason: Secured Area

34 Bldgs.
Tooele Army Depot
Umatilla Depot Activity
Hermiston Co: Morrow/Umatilla, OR 97838-
Landholding Agency: Army
Property Number: 219012177, 219012185–219012186, 219012189, 219012195–219012196, 219012199–219012205, 219012207–219012208, 219012225, 219012279, 219014304–219014305, 219014782, 219030362–219030363, 219120032, 21199840108–21199840110, 21199920084–21199920090
Status: Unutilized
Reason: Secured Area

Pennsylvania

23 Bldgs., Fort Indiantown Gap
Annville Co: Lebanon, PA 17003–5011
Landholding Agency: Army
Property Number: 219810183–219810190
Status: Unutilized
Reason: Extensive deterioration

9 Bldgs., Defense Distribution Depot
New Cumberland Co: York, PA 17070–5001
Landholding Agency: Army
Property Number: 21200830026, 21200920064
Status: Unutilized
Reason: Extensive deterioration, Secured Area

14 Bldgs., Tobyhanna Army Depot
Tobyhanna Co: Monroe, PA 18466
Landholding Agency: Army
Property Number: 21200330068, 21200820074, 21200830025, 21200920065
Status: Unutilized
Reason: Extensive deterioration

9 Bldgs., Letterkenny Army Deport
Chambersburg Co: Franklin, PA 17201
Landholding Agency: Army
Property Number: 21200920063, 21200940034
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area
Extensive deterioration

7 Bldgs., Carlisle Barracks
Cumberland Co: PA 17013
Landholding Agency: Army
Property Number: 21200640115, 21200720107, 21200740026, 21200830001
Status: Excess
Reason: Extensive deterioration

Bldg. 00017, Scranton Army Ammo Plant
Scranton, PA 18505
Landholding Agency: Army
Property Number: 21200840048
Status: Unutilized
Reasons: Secured Area

Puerto Rico

49 Bldgs., Fort Buchanan
Guaynabo Co: PR 00934
Landholding Agency: Army
Property Number: 21200530061–21200530063, 21200610023, 21200620041, 21200830027, 21200840049, 21200920066
Status: Unutilized
Reason: Secured Area (Some are extensively deteriorated)

Bldg. 00002, Army Reserve Center
Pago Pago AQ 96799
Landholding Agency: Army
Property Number: 21200810001
Status: Unutilized
Reason: Floodway Secured Area

South Carolina

43 Bldgs., Fort Jackson
Ft. Jackson Co: Richland, SC 29207
Landholding Agency: Army
Property Number: 219440237, 219440239, 219620312, 219620317, 219620348, 219620351, 219640138–219640139, 21199640148–21199640149, 219720095, 219720097, 219730130, 219730132, 219730145–219730157, 219740138, 219820102–219820111, 219830139–219830157, 21200520050, 21200810031, 21200920067
Status: Unutilized
Reason: Extensive deterioration

South Dakota

Bldgs. 00038, 00039
Lewis & Clark USARC
Bismarck, SD 58504
Landholding Agency: Army
Property Number: 21200710033

Status: Unutilized
Reasons: Secured Area

Tennessee

89 Bldgs., Holston Army Ammunition Plant
Kingsport Co: Hawkins, TN 61299–6000
Landholding Agency: Army
Property Number: 219012304–219012309, 219012311–219012312, 219012314, 219012316–219012317, 219012328, 219012330, 219012332, 219012334, 219012337, 219013790, 219140613, 219440212–219440216, 219510025–219510027, 21200230035, 21200310040, 21200320054–21200320073, 21200340056, 21200510042, 21200530064–21200530065, 21200640069–21200640072, 21200710035, 21200740160
Status: Unutilized
Reason: Secured Area (Some are within 2000 ft. of flammable or explosive material)

59 Bldgs., Milan Army Ammunition Plant
Milan Co: Gibson TN 38358
Landholding Agency: Army
Property Number: 219240447–219240449, 21200520051–21200520052, 21200640064–21200640068, 21200740027–21200740029, 21200840051, 21200920068, 21200940035
Status: Unutilized
Reason: Secured Area (Some are extensively deteriorated)

Bldg. Z–183A, Milan Army Ammunition Plant
Milan Co: Gibson, TN 38358
Landholding Agency: Army
Property Number: 219240783
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material

143 Bldgs., Fort Campbell
Ft. Campbell Co: Montgomery TN 42223
Landholding Agency: Army
Property Number: 21200220023, 21200240065, 21200330094–21200330100, 21200430052–2100430054, 21200440057–21200440058, 21200510043, 21200520053–21200520062, 21200540063-21200540069, 21200610024–21200610031, 21200620042–21200620044, 21200620064, 21200710034, 21200840050, 21200920069
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 00001, 00003, 00030
John Sevier Range
Knoxville TN 37918
Landholding Agency: Army
Property Number: 21200930021
Status: Excess
Reasons: Extensive deterioration

Texas

20 Bldgs., Lone Star Army Ammunition Plant
Highway 82 West
Texarkana Co: Bowie TX 75505–9100
Landholding Agency: Army
Property Number: 219012524, 219012529, 219012533, 219012536, 219012539–219012540, 219012542, 219012544–219012545, 219030337–219030345
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

154 Bldgs., Longhorn Army Ammunition Plant
Karnack Co: Harrison TX 75661
Landholding Agency: Army
Property Number: 219620827, 21200340062–21200340073
Status: Unutilized
Reason: Secured Area (Most are within 2000 ft. of flammable or explosive material)

13 Bldgs., Red River Army Depot
Texarkana Co: Bowie TX 75507–5000
Landholding Agency: Army
Property Number: 219420315–219420327
Status: Unutilized
Reason: Secured Area

220 Bldgs., Fort Bliss
El Paso Co: El Paso TX 79916
Landholding Agency: Army
Property Number: 219730160–219730186, 219830161–219830197, 21200310044, 21200320079, 21200340059, 21200540070–21200540073, 21200640073–21200640075, 21200710036, 21200740030, 21200740161, 21200810032, 21200820013, 21200830030–21200830039, 21200840052, 21200920021–21200920023, 21200920071, 21200930022–21200930025, 21200940036
Status: Unutilized
Reason: Extensive deterioration

14 Bldgs., Fort Hood
Ft. Hood Co: Bell TX 76544
Landholding Agency: Army
Property Number: 21200420146, 21200720108–21200720111, 21200810033, 21200920020, 21201010036
Status: Unutilized
Reason: Extensive deterioration

3 Bldgs., Fort Sam Houston
Camp Bullis Co: Bexar TX
Landholding Agency: Army
Property Number: 21200520063, 21200930026
Status: Excess
Reason: Extensive deterioration

Bldg. D5040, Grand Prairie Reserve Complex
Tarrant Co: TX 75051
Landholding Agency: Army
Property Number: 21200620045
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 00002, Denton
Lewisville TX 76102
Landholding Agency: Army
Property Number: 21200810034
Status: Unutilized
Reason: Extensive deterioration

10 Bldgs., Fort Worth
Tarrant TX 76108
Landholding Agency: Army
Property Number: 21200830028–21200830029
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Utah

48 Bldgs., Tooele Army Depot
Tooele Co: Tooele UT 84074–5008
Landholding Agency: Army
Property Number: 21200620046, 21200640076, 21200710037–21200710041, 21200740162–21200740165, 21200830002, 21200840053
Status: Unutilized
Reason: Secured Area

Bldg. 9307
Dugway Proving Ground
Dugway Co: Toole UT 84022
Landholding Agency: Army
Property Number: 219013997
Status: Underutilized
Reason: Secured Area

15 Bldgs.
Deseret Chemical Depot
Tooele UT 84074
Landholding Agency: Army
Property Number: 219820120–219820121, 21200610032–21200610034, 21200620047, 21200720036–21200720037, 21200820075
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldgs. 00259, 00206
Ogden Maintenance Center
Weber Co: UT 84404
Landholding Agency: Army
Property Number: 21200530066
Status: Excess
Reason: Secured Area

Virginia

384 Bldgs.
Radford Army Ammunition Plant
Radford Co: Montgomery VA 24141
Landholding Agency: Army
Property Number: 219010833, 219010836, 219010842, 219010844, 219010847–219010890, 219010892–219010912, 219011521–219011577, 219011581–219011583, 219011585, 219011588, 219011591, 219013559–219013570, 219110142–219110143, 219120071, 219140618–219140633, 219220210–219220218, 219230100–219230103, 219240324, 219440219–219440225, 219510032–219510033, 219520037, 219520052, 219530194, 219610607–219610608, 219830223–219830267, 21200020079, 21200020081, 21200230038, 21200240071–21200240072, 21200510045–21200510046, 21200740031–21200740032, 21200740169–21200740171, 21200920075, 21200930028–21200930029, 21200940038, 21201010038
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area (Some are extensively deteriorated)

13 Bldgs., Radford Army Ammunition Plant
Radford Co: Montgomery VA 24141
Landholding Agency: Army
PropertyNumber: 219010834–219010835, 219010837–219010838,219010840–219010841, 219010843, 219010845–219010846, 219010891, 219011578–219011580
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area, Latrine, detached structure

101 Bldgs.
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801
Landholding Agency: Army
Property Number: 219240107, 219620866–219620876, 219740156, 219830208–219830210, 21199940130, 21200430059–21200430060, 21200620048, 21200630064, 21200640077–21200640080, 21200710042, 21200740033–21200740035, 21200740166,

21200810039–21200810040, 21200820017–21200820021, 21200830042, 21200840055
Status: Unutilized
Reason: Extensive deterioration

56 Bldgs.
Red Water Field Office
Radford Army Ammunition Plant
Radford VA 24141
Landholding Agency: Army
Property Number: 219430341–219430396
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

137 Bldgs., Fort A.P. Hill
Bowling Green Co: Caroline VA 22427
Landholding Agency: Army
Property Number: 21200310058, 21200310060, 21200410069–21200410076, 21200430057, 21200510051, 21200740167, 21200810038, 21200820029–21200820032, 21200830041, 21200840054, 21200920072, 21200930027, 21200940037
Status: Unutilized
Reason: Secured Area, Extensive deterioration

71 Bldgs., Fort Belvoir
Ft. Belvoir Co: Fairfax VA 22060–5116
Landholding Agency: Army
Property Number: 21200130076–21200130077, 21200710043–21200710049, 21200720043–21200720051, 21200810042–21200810043, 21200840056, 21201010037
Status: Unutilized
Reason: Extensive deterioration

103 Bldgs., Fort Eustis
Ft. Eustis Co. VA 23604
Landholding Agency: Army
Property Number: 21200210025–21200210026, 21200740037, 21200740168, 21200810035, 21200820022–21200820027, 21200830043, 21200920074, 21201010044
Status: Unutilized
Reason: Extensive deterioration

58 Bldgs., Fort Pickett
Blackstone Co: Nottoway VA 23824
Landholding Agency: Army
Property Number: 21200220087–21200220092, 21200320080–21200320085, 21200620049–21200620052, 21200820015
Status: Unutilized
Reason: Extensive deterioration

9 Bldgs., Fort Story
Ft. Story Co: Princess Ann VA 23459
Landholding Agency: Army
Property Number: 21200310046, 21200810037, 21200830040, 21200920077
Status: Unutilized
Reason: Extensive deterioration

16 Bldgs., Defense Supply Center
Richmond VA 23297
Landholding Agency: Army
Property Number: 21200720038–21200720040, 21200720112, 21200740036, 21200840057, 21200920073
Status: Unutilized
Reason: Secured Area

8 Bldgs. Fort Myer
Ft. Myer VA 22211
Landholding Agency: Army
Property Number: 21200810036, 21200820014, 21200830044, 21201010039
Status: Excess
Reason: Secured Area

Washington

717 Bldgs., Fort Lewis
Ft. Lewis Co: Pierce WA 98433–5000
Landholding Agency: Army
Property Number: 219610006, 219610009–219610010, 219610045–219610046, 219620512–219620517, 219640193, 219720142–219720151, 219810205–219810242, 219820132, 21199910064–21199910078, 21199920125–21199920174, 21199930080–21199930104, 21199940134, 21200120068, 21200140072–21200140073, 21200210075, 21200220097, 21200330104–21200330106, 21200430061, 21200620053–21200620059, 21200630067–21200630069, 21200640087–21200640090, 21200740172, 21200820076, 21200840059, 21200920078, 21201010040–21201010042
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. HBC07, Fort Lewis
Huckleberry Creek Mountain Training Site
Co: Pierce WA
Landholding Agency: Army
Property Number: 219740166
Status: Unutilized
Reason: Extensive deterioration

Bldg. 415, Fort Worden
Port Angeles Co: Clallam WA 98362
Landholding Agency: Army
Property Number: 21199910062
Status: Excess
Reason: Extensive deterioration

Bldg. U515A, Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920124
Status: Excess
Reason: Gas chamber

Bldgs. 02401, 02402
Vancouver Barracks Cemetery
Vancouver Co: WA 98661
Landholding Agency: Army
Property Number: 21200310048
Status: Unutilized
Reason: Extensive deterioration

4 Bldgs. Renton USARC
Renton Co: WA 980058
Landholding Agency: Army
Property Number: 21200310049
Status: Unutilized
Reason: Extensive deterioration

Wisconsin

153 Bldgs., Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913
Landholding Agency: Army
Property Number: 219011104, 219011106, 219011108–219011113, 219011115–219011117, 219011119–219011120, 219011122–219011139, 219011141–219011142, 219011144, 219011148–219011234, 219011236, 212011238, 219011240, 219011242, 219011244, 219011247, 219011249, 219011251, 219011256, 219011259, 219011263, 219011265, 219011268, 219011270, 219011275, 219011277, 219011280, 219011282, 219011284, 219011286, 219011290, 219011293, 219011295, 219011297, 219011300, 219011302, 219011304–219011311, 219011317, 219011319–219011321, 219011323
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

4 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI
Landholding Agency: Army
Property Number: 219013871–219013873, 219013875
Status: Underutilized
Reason: Secured Area

906 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI
Landholding Agency: Army
Property Number: 219013876–219013878, 219210097–219210099, 219220295–219220311, 219510065, 219510067, 219510069–219510077, 219740184–219740271, 21200020083–21200020155, 21200240074–21200240080
Status: Unutilized
Reason: (Most are in a secured area) (Most are within 2000 ft. of flammable or explosive material (Some are extensively deteriorated)

3 Bldgs. Fort McCoy
Monroe WI 54656
Landholding Agency: Army
Property Number: 21200930030
Status: Unutilized
Reason: Extensive deterioration

Land (by State)

Indiana

Newport Army Ammunition Plant
East of 14th St. & North of S. Blvd.
Newport Co: Vermillion IN 47966
Landholding Agency: Army
Property Number: 219012360
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

Maryland

Approx. 1 acre
Fort Meade
Anne Arundel MD 20755
Landholding Agency: Army
Property Number: 21200740017
Status: Unutilized
Reasons: Other—no public access

RNWYA, Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820143
Status: Unutilized
Reason: Within airport runway clear zone

Landa/Lande
Aberdeen Proving Ground
Harford MD 21005
Landholding Agency: Army
Property Number: 21200920046–21200920047
Status: Unutilized
Reasons: Secured Area

Minnesota

Portion of R.R. Spur
Twin Cities Army Ammunition Plant
New Brighton Co: Ramsey MN 55112
Landholding Agency: Army
Property Number: 219620472
Status: Unutilized

Reason: Landlocked

New Jersey

Armament Research Development & Eng. Center
Route 15 North
Picatinny Arsenal Co: Morris NJ 07806
Landholding Agency: Army
Property Number: 219013788
Status: Unutilized
Reason: Secured Area

Spur Line/Right of Way
Armament Rsch., Dev., & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219530143
Status: Unutilized
Reason: Floodway
2.0 Acres, Berkshire Trail
Armament Rsch., Dev., & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199910036
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

Tennessee

Sites #1, #2, #3
Fort Campbell
Christian TN 42223
Landholding Agency: Army
Property Number: 21200920070
Status: Unutilized
Reason: Secured Area

Texas

Land—Approx. 50 acres
Lone Star Army Ammunition Plant
Texarkana Co: Bowie TX 75505–9100
Landholding Agency: Army
Property Number: 219420308
Status: Unutilized
Reason: Secured Area

Virginia

Site #1, Fort Lee
Prince George VA 23801
Landholding Agency: Army
Property Number: 21200920076
Status: Unutilized
Reason: Secured Area

[FR Doc. 2010–5745 Filed 3–18–10; 8:45 am]

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Federal Register

Friday,
March 19, 2010

Part III

Department of Labor

29 CFR Part 9

Nondisplacement of Qualified Workers Under Service Contracts; Proposed Rule

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 9

RIN 1215–AB69; RIN 1235–AA02

Nondisplacement of Qualified Workers Under Service Contracts

AGENCY: Wage and Hour Division, Labor.

ACTION: Notice of proposed rulemaking, request for comments.

SUMMARY: This document proposes regulations to implement Executive Order 13495, Nondisplacement of Qualified Workers Under Service Contracts, signed by President Obama on January 30, 2009. The Executive Order establishes a general policy of the Federal Government that service contracts and solicitations for such contracts shall include a clause that requires the contractor, and its subcontractors, under a contract that succeeds a contract for performance of the same or similar services at the same location, to offer those employees employed under the predecessor contract whose employment will be terminated as a result of the award of the successor contract, a right of first refusal of employment under the contract in positions for which they are qualified. The Executive Order also directs the Department of Labor (DOL), in consultation with the Federal Acquisition Regulatory Council (FARC), to issue regulations, within 180 days of the date of the Order to the extent permitted by law, to implement the requirements of this Order. The Regulatory Information Number (RIN) identified for this rulemaking will change with publication of the Spring Regulatory Agenda due to an organizational restructuring. The old RIN was assigned to the Employment Standards Administration, which no longer exists; a new RIN has been assigned to the Wage and Hour Division.

DATES: Comments must be submitted on or before May 18, 2010.

ADDRESSES: You may submit comments, identified by RIN 1235–AA02, by either one of the following methods:

Electronic comments: through the federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

Mail: Regulatory Analysis Branch, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, NW., Washington, DC 20210.

Instructions: Please submit one copy of your comments by only one method. All submissions received must include the agency name and RIN identified above for this rulemaking. Comments received will become a matter of public record and will be posted to *http://www.regulations.gov,* including any personal information provided. Because we continue to experience delays in receiving mail in the Washington, DC, area, commenters are strongly encouraged to transmit their comments electronically via the federal eRulemaking Portal at *http://www.regulations.gov* or to submit them by mail early. For additional information on submitting comments and the rulemaking process, see the "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

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

FOR FURTHER INFORMATION CONTACT: Michel Smyth, Chief, Regulatory Analysis Branch, Wage and Hour Division, U.S. Department of Labor, Room S–3506, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693–0406 (this is not a toll-free number). Copies of this notice may be obtained in alternative formats (Large Print, Braille, Audio Tape or Disc), upon request, by calling (202) 693–0023 (not a toll-free number). TTY/TDD callers may dial toll-free (877) 889–5627 to obtain information or request materials in alternative formats.

SUPPLEMENTARY INFORMATION:

I. Electronic Access and Filing Comments

Public Participation: This notice is available through the **Federal Register** and the *http://www.regulations.gov* Web site. You may also access this notice via the Wage and Hour Division home page at *http://www.dol.gov/whd/regulations/EO13495_2010_NPRM.htm.* To comment electronically on federal rulemakings, go to the federal eRulemaking Portal at *http://www.regulations.gov,* which will allow you to find, review, and submit comments on federal documents that are open for comment and published in the **Federal Register**. Please identify all comments submitted in electronic form by the RIN docket number (1235–AA02). Because of delays in receiving mail in the Washington, DC, area, commenters should transmit their comments electronically via the federal eRulemaking Portal at *http://www.regulations.gov,* or submit them by mail early to ensure timely receipt prior to the close of the comment period. Submit one copy of your comments by only one method.

Request for Comments: The DOL requests comments on all issues related to this notice of proposed rulemaking (NPRM).

II. Executive Order 13495 Requirements and Background

On January 30, 2009, President Barack Obama signed Executive Order 13495, Nondisplacement of Qualified Workers Under Service Contracts (Executive Order 13495). 74 FR 6103. This Order establishes that, when a service contract expires and a follow-on contract is awarded for the same or similar services at the same location, the Federal Government's procurement interests in economy and efficiency are better served when a successor contractor hires the predecessor's employees. A carryover work force reduces disruption to the delivery of services during the period of transition between contractors and provides the Federal Government the benefits of an experienced and trained work force that is familiar with the Federal Government's personnel, facilities, and requirements. As explained in the Order, the successor contractor or its subcontractors often hires the majority of the predecessor's employees when a service contract ends and the work is taken over from one contractor to another. On some occasions, however, a successor contractor or its subcontractors hires a new work force, thus displacing the predecessor's employees.

Section 1 of Executive Order 13495 sets forth a general policy of the Federal Government that service contracts and solicitations for such contracts shall include a clause that requires the contractor and its subcontractors, under a contract that succeeds a contract for performance of the same or similar services at the same location, to offer those employees (other than managerial and supervisory employees) employed under the predecessor contract whose employment will be terminated as a result of the award of the successor contract, a right of first refusal of employment under the contract in positions for which they are qualified. Section 1 also provides that there shall be no employment openings under the contract until such right of first refusal has been provided. Section 1 further stipulates that nothing in Executive Order 13495 is to be construed to permit a contractor or subcontractor to fail to comply with any provision of any other Executive Order or law of the United States.

Section 2 of Executive Order 13495 defines *service contract* or *contract* to mean any contract or subcontract for services entered into by the Federal Government or its contractors that is covered by the McNamara-O'Hara Service Contract Act of 1965 (SCA), as amended, 41 U.S.C. 351 *et seq.,* and its implementing regulations. Section 2 also defines *employee* to mean a service employee as defined in the SCA. 74 FR 6103. *See* 41 U.S.C. 357(b).

Section 3 of the Order exempts from its terms: (a) Contracts or subcontracts under the simplified acquisition threshold as defined in 41 U.S.C. 403 (*i.e.,* currently contracts less than $100,000); (b) contracts or subcontracts awarded pursuant to the Javits-Wagner-O'Day Act, 41 U.S.C. 46–48c; (c) guard, elevator operator, messenger, or custodial services provided to the Federal Government under contracts or subcontracts with sheltered workshops employing the severely handicapped as described in section 505 of the Treasury, Postal Services and General Government Appropriations Act, 1995, Public Law 103–329; (d) agreements for vending facilities entered into pursuant to the preference regulations issued under the Randolph-Sheppard Act, 20 U.S.C. 107; and (e) employees who were hired to work under a Federal service contract and one or more nonfederal service contracts as part of a single job, provided that the employees were not deployed in a manner that was designed to avoid the purposes of the Order. 74 FR 6103–04.

Section 4 of Executive Order 13495 authorizes the head of a contracting department or agency to exempt its department or agency from the requirements of any or all of the provisions of the Executive Order with respect to a particular contract, subcontract, or purchase order or any class of contracts, subcontracts, or purchase orders, if the department or agency head finds that the application of any of the requirements of the Order would not serve the purposes of the Order or would impair the ability of the Federal Government to procure services on an economical and efficient basis. 74 FR 6104.

Section 5 of the Order provides the wording for a required contract clause regarding the nondisplacement of qualified workers that is to be included in solicitations for and service contracts that succeed contracts for performance of the same or similar work at the same location. 74 FR 6104–05. Specifically, the new contract clause provides that the contractor and its subcontractors shall, except as otherwise provided by the clause, in good faith offer those employees (other than managerial and supervisory employees) employed under the predecessor contract whose employment will be terminated as a result of award of the contract or the expiration of the contract under which the employees were hired, a right of first refusal of employment under the contract in positions for which they are qualified. The contractor and its subcontractors determine the number of employees necessary for efficient performance of the contract and may elect to employ fewer employees than the predecessor contractor employed in performance of the work. Except as provided by the contract clause there is to be no employment opening under the contract, and the contractor and any subcontractors shall not offer employment under the contract, to any person prior to having complied fully with the obligation to offer employment to employees on the predecessor contract. The contractor and its subcontractors must make an express offer of employment to each employee and must state the time within which the employee must accept such offer, which must be at least 10 days. The clause also provides that, notwithstanding the obligation to offer employment to employees on the predecessor contract, the contractor and any subcontractors (1) May employ under the contract any employee who has worked for the contractor or subcontractor for at least 3 months immediately preceding the commencement of the contract and who would otherwise face lay-off or discharge, (2) are not required to offer a right of first refusal to any employee(s) of the predecessor contractor who are not service employees within the meaning of the SCA, 41 U.S.C. 357(b), and (3) are not required to offer a right of first refusal to any employee(s) of the predecessor contractor whom the contractor or any of its subcontractors reasonably believes, based on the particular employee's past performance, has failed to perform suitably on the job. The contract clause also provides that, in accordance with Federal Acquisition Regulation (FAR) 52.222–41(n), not less than 10 days before completion of the contract, the contractor must furnish the Contracting Officer a certified list of the names of all service employees working under the contract and its subcontracts during the last month of contract performance. The list must also contain anniversary dates of employment of each service employee under the contract and its predecessor contracts either with the current or predecessor contractors or their subcontractors. The Contracting Officer must provide the list to the successor contractor, and the list must be provided on request to employees or their representatives. If it is determined, pursuant to regulations issued by the Secretary of Labor, that the contractor or its subcontractors are not in compliance with the requirements of this clause or any regulation or order of the Secretary, appropriate sanctions may be imposed and remedies invoked against the contractor or its subcontractors, as provided in the Executive Order, the regulations, and relevant orders of the Secretary, or as otherwise provided by law. Finally, the clause provides that in every subcontract entered into in order to perform services under the contract, the contractor will include provisions that ensure that each subcontractor will honor the requirements of the clause in the prime contract with respect to the employees of a predecessor subcontractor or subcontractors working under this contract, as well as employees of a predecessor contractor and its subcontractors. The subcontract must also include provisions to ensure that the subcontractor will provide the contractor with the information about the employees of the subcontractor needed by the contractor to comply with the prime contract's requirement, in accordance with FAR 52.222–41(n). The contractor must also take action with respect to any such subcontract as may be directed by the Secretary of Labor as a means of enforcing these provisions, including the imposition of sanctions for noncompliance: Provided, however, that if the contractor, as a result of such direction, becomes involved in litigation with a subcontractor, or is threatened with such involvement, the contractor may request that the United States enter into the litigation to protect the interests of the United States. 74 FR 6104–05.

Section 6 of the Order assigns responsibility for investigating and obtaining compliance with the Order to the DOL. In such proceedings, this section also authorizes the DOL to issue final orders prescribing appropriate sanctions and remedies, including, but not limited to, orders requiring employment and payment of wages lost. The DOL also may provide that where a contractor or subcontractor has failed to comply with any order of the Secretary of Labor or has committed willful violations of Executive Order 13495 or its implementing regulations, the contractor or subcontractor, its responsible officers, and any firm in which the contractor or subcontractor has a substantial interest will be ineligible to be awarded any contract of

the United States for a period of up to three years. Neither an order for debarment of any contractor or subcontractor from further Government contracts under this section nor the inclusion of a contractor or subcontractor on a published list of noncomplying contractors is to be carried out without affording the contractor or subcontractor an opportunity for a hearing. Section 6 also specifies that Executive Order 13495 creates no rights under the Contract Disputes Act, and disputes regarding the requirement of the contract clause prescribed by section 5, to the extent permitted by law, will be disposed of only as provided by DOL in regulations issued under the Order. To the extent practicable, such regulations shall favor the resolution of disputes by efficient and informal alternative dispute resolution methods. Finally, section 6 provides that, to the extent permitted by law and in consultation with the FARC, the DOL will issue regulations to implement the requirements of the Executive Order. In addition, to the extent permitted by law, the FARC is to issue regulations in the Federal Acquisition Regulation to provide for inclusion of the contract clause in Federal solicitations and contracts subject to the current Order. *See* 74 FR 6105.

Section 7 of Executive Order 13495 revokes Executive Order 13204 of February 17, 2001 (Bush Order), rescinding Executive Order 12933 of October 20, 1994, Nondisplacement of Qualified Workers Under Certain Contracts (Clinton Order). *Id. See also* 59 FR 53559 (Oct. 24, 1994), 66 FR 11228 (Feb. 22, 2001).

Section 8 of the Order provides that if any provision of the Order or its application is held to be invalid, the remainder of the Order and the application shall not be affected.

Section 9 of the Order specifies that nothing in Executive Order 13495 is to be construed to impair or otherwise Affect: Authority granted by law to an executive department, agency, or the head thereof; or functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals. In addition, the Order is to be implemented consistent with applicable law and subject to the availability of appropriations, and the Order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person. Section 9 clarifies, however, that the Order is not intended to preclude judicial review of final decisions by the DOL in accordance with the Administrative Procedure Act, 5 U.S.C. 701 *et seq.* 74 FR 6105–06.

As indicated, Section 7 of Executive Order 13495 revoked the 2001 Bush Order rescinding the 1994 Clinton Order, Nondisplacement of Qualified Workers Under Certain Contracts. More specifically, the rescinded Clinton and Bush Orders pertained to the obligations of successor contractors to offer employment to employees of predecessor contractors on Federal contracts to maintain public buildings. *See* 59 FR 53559 (Oct. 24, 1994), 66 FR 11228 (Feb. 22, 2001).

On May 22, 1997, the DOL promulgated regulations, 29 CFR part 9 (62 FR 28185) to implement the Clinton Order and, per the Bush Order, rescinded them in a Notice appearing in the **Federal Register** on March 23, 2001 (66 FR 16126). There are some notable differences between the current Order, Executive Order 13495, and the Clinton Order, Executive Order 12933. For example, Executive Order 13495 covers all contracts covered by the SCA above the simplified acquisition threshold (currently $100,000); the Clinton Order was limited to building services contracts in excess of the simplified acquisition threshold for maintenance of public buildings. In addition, exemptions listed for U.S. Postal Service, NASA, military, and Veterans Administration installations (among others) in the Clinton Order have been eliminated. A new provision authorizes the head of a contracting department or agency to exempt any of its contracts from the current Order if the agency finds the requirements would not serve the purposes of the Order or would impair the Federal Government's ability to procure services economically or efficiently. In addition, the current Order expressly provides that it applies to subcontracts awarded in amounts equal to or above the simplified acquisition threshold, while coverage under the Clinton Order was determined at the prime contract level.

III. Discussion of Proposed Rule

The DOL proposes to implement the current Order with regulations based on similar requirements to those issued under the Clinton Order. While the current Order is broader in scope as to the types of service contracts covered, both the current and Clinton Orders established a Federal policy for successor contractors to offer employment in most cases to the employees on the predecessor contract when the new contract award would otherwise displace those workers. The DOL proposes to change the format of the regulation from questions and answers to the more common format of a descriptive section title. In addition, the DOL proposes a number of minor modifications to the enforcement and administrative procedures contained in this rule to clarify responsibilities of various Federal officials as compared to the prior rule. The following section-by-section discussion of this proposed rule presents the contents of each section and highlights significant differences between this proposal and the prior version of part 9 issued under the Clinton Order.

Proposed subpart A of part 9 relates to general matters, including the purpose and scope of the rule, its definitions, coverage under the current Order, and the exclusions it provides. Proposed § 9.1(a) explains that the purpose of the proposed rule is to implement E.O. 13495 and reiterates statements from the E.O. that the Federal Government's procurement interests in economy and efficiency are served when the successor contractor hires the predecessor's employees and why this is the case.

Proposed § 9.1(b) explains the general Federal Government requirement for successor service contracts and their solicitations to include a clause that requires the contractor and its subcontractors to offer employment under the contract to those employees (other than managerial and supervisory employees) employed under the predecessor contract whose employment will be terminated as a result of the award of the successor contract in positions for which the employees are qualified. This section also clarifies that nothing in Executive Order 13495 or part 9 is to be construed to permit a contractor or subcontractor to fail to comply with any provision of any other Executive Order, regulation, or law of the United States.

Proposed § 9.1(c) outlines the scope of this proposal and provides that neither Executive Order 13495 nor part 9 creates any rights under the Contract Disputes Act or any private right of action. The DOL does not interpret the E.O. as limiting existing rights under the Contract Disputes Act. The paragraph also restates the current Order's provision that disputes regarding the requirement of the prescribed contract clause, to the extent permitted by law, shall be disposed of only as provided by the Secretary of Labor in regulations issued under Executive Order 13495. This paragraph also restates the provision for DOL regulations to favor

the resolution of disputes by efficient and informal alternative dispute resolution methods to the extent practicable. Finally, the paragraph applies the provision in § 9(c) of Executive Order 13495 that neither the current Order nor this proposed rule would preclude judicial review of final decisions by the Secretary in accordance with the Administrative Procedure Act, 5 U.S.C. 701 *et seq.*

Proposed § 9.2 defines terms for purposes of this rule. Most defined terms follow common applications and are based on either the current Order, the prior version of part 9, or other regulations. The definition of *day,* taken from the meaning given to the term in the FAR, is a calendar day, unless otherwise specified. 48 CFR 2.101; *see also* —.201.

The NPRM would adopt the FAR definition of *service employee* to define *employee* or *service employee and refer to the SCA, in order to preclude any ambiguity, because the Executive Order* defers to the statutory definition of *service employee* in the SCA at 41 U.S.C. 357(b). The DOL also proposes to adopt the definition of *service contract* or *contract* provided in section 2(a) of Executive Order 13495. 74 FR 6103. In addition, the DOL proposes substantially to adopt the definitions for the terms *Administrator, Contracting Officer, Federal Government, Secretary,* and *United States* from the prior version of part 9, as the current Order does not define those terms. *See* 62 FR 28192 (May 22, 1997). The DOL proposes to define *employment opening* to mean any vacancy in a position on the contract, including any vacancy caused by replacing an employee or service employee from the predecessor contract with a different employee.

The DOL also proposes to add a definition of *managerial and supervisory employee.* The general policy stated in section 1 of the current Order and in the contract clause parenthetically excludes managerial and supervisory employees from its requirements; however, the current Order does not define the term. *See* 74 FR 6103. The DOL notes that the job offer requirements of the Clinton Order also did not apply to management and supervisory workers, and it did not define the term either. *See* 59 FR 53559 (Oct. 24, 1994). The SCA definition of *employee* already excludes any person employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in 29 CFR part 541. 41 U.S.C. 357(b). The prior version of part 9, while not including *managerial and supervisory employee* in the definitions section, implemented the exception by excluding persons engaged in the performance of services under the contract who are employed in a bona fide executive, administrative, or professional capacity—as those terms are defined in 29 CFR part 541—from the job offer requirements. 62 FR 28188 (May 22, 1997). The definition in proposed § 9.2(9) adopts this exclusionary concept in a new freestanding definition of *managerial and supervisory employee* that excludes from the requirements of this part managerial and supervisory employees, as discussed further in this NPRM. While the DOL does not believe the managerial and supervisory exception to the nondisplacement provisions was intended to apply to any person who performs managerial or supervisory tasks either infrequently or as an incident to their primary duties and responsibilities, the DOL welcomes specific comments on whether another definition should be adopted and requests supporters of an alternative definition to provide specific recommendations for the definition.

The DOL proposes to define *month* under the Executive Order as a period of 30 consecutive days, regardless of the day of the calendar month on which it begins. This definition was not included in the prior version of part 9; however, the DOL believes defining the term will clarify how to address partial months and will balance calendar months of different lengths. In order to eliminate confusion caused by similarly named components of various Departments and larger agencies (*e.g.,* Office of Administrative Law Judges), proposed § 9.2 defines certain agencies. The NPRM would define *same or similar service* to mean a service that is either identical to or has characteristics that are alike in substance and essentials to another service. *Solicitation* would be defined to mean any request to submit offers or quotations to the Government.

Proposed §§ 9.3 and 9.4 address the coverage and exclusionary provisions of the current Order. *See* 74 FR 6103–04. Specifically, proposed § 9.3 applies coverage under part 9 to all service contracts and their solicitations, except those excluded by § 9.4. Section 9.4 would implement the exclusions contained in sections 3 and 4 of Executive Order 13495. *Id.*

Proposed § 9.4(a) addresses the exclusion for contracts or subcontracts under the simplified acquisition threshold, as defined in 41 U.S.C. 403(11). 74 FR 6103. The simplified acquisition threshold currently is $100,000. 41 U.S.C. 403(11). The proposed regulations do not state that amount in the regulatory text, in contrast to the prior version of part 9, in the event that a future statutory amendment changes the amount. Any such change would automatically apply to contracts subject to part 9. Proposed § 9.4(a)(2) explains how the exclusion applies to subcontracts, including when a successor contractor discontinues the services of a subcontractor.

Proposed appendix A establishes an employee nondisplacement contract clause to implement section 5 of Executive Order 13495. 74 FR 6105. Paragraph (e) of the nondisplacement contract clause requires the contractor to include, in every subcontract entered into in order to perform services under the prime contract, provisions to ensure each subcontractor honors the requirements of paragraphs (a) through (b) of the employee nondisplacement clause with respect to the employees of a predecessor subcontractor or subcontractors working under the successor contract as well as of a predecessor contractor and its subcontractors. *Id.* The subcontract must also include provisions ensuring the subcontractor will provide the contractor with the information about the employees of the subcontractor needed by the contractor to comply with paragraph (c) of the employee nondisplacement clause. The DOL interprets the exclusion for contracts and subcontracts under the simplified acquisition threshold as applying to subcontracts of less than $100,000, even when the prime contract is for a greater amount, because of the definition of a service contract in section 2(a) of the SCA and the express terms of the exclusion in section 3(a) of Executive Order 13495. However, while the proposed § 9.4(a)(1) exclusion would apply to subcontracts in such cases, the covered prime contractor or higher tier subcontractor would still have to comply with the requirements of this part. Were a covered contractor that is subject to the nondisplacement requirements to discontinue the services of a subcontractor at any time during the contract and perform those services itself at the same location, the contractor would have to offer employment to the subcontractor's employees who would otherwise be displaced and would otherwise be qualified in accordance with this part but for the size of the subcontract. The DOL notes the Clinton Order excluded prime contracts under the simplified acquisition threshold and did not mention subcontracts. 59 FR 53560.

Proposed § 9.4(b) implements the exclusions applicable to certain contracts or subcontracts awarded for services produced or provided by

persons who are blind or have severe disabilities. 74 FR 6103–4. Specifically, this paragraph excludes contracts or subcontracts awarded pursuant to the Javits-Wagner-O'Day Act, 41 U.S.C. 46–48c, from the requirements of part 9. Proposed § 9.4(b)(2) provides that the requirements of part 9 do not apply to guard, elevator operator, messenger, or custodial services provided to the Federal Government under contracts or subcontracts with "sheltered workshops" employing the "severely handicapped" as described in section 505 of the Treasury, Postal Services and General Government Appropriations Act, 1995, Public Law 103–329. Proposed § 9.4(b)(3) specifies that the requirements of part 9 do not apply to agreements for vending facilities entered into pursuant to the preference regulations issued under the Randolph-Sheppard Act, 20 U.S.C. 107.

Proposed § 9.4(b)(4) clarifies that the exclusions provided by § 9.4(b)(1) through (b)(3) apply when either the predecessor or successor contract has been awarded for services produced or provided by the blind or severely disabled, as described. To require Federal service contractors who obtain their work under the specified set-aside programs to offer employment to predecessor contract employees would defeat the purpose of these programs that allow people to participate in the workforce who otherwise would not be able to do so. Proposed § 9.4(c) implements the exclusion in section 3(e) of Executive Order 13495 relating to employment where Federal service work constitutes only part of the employee's job. 74 FR 6104.

Proposed § 9.4(d) implements the section 4 exclusion in Executive Order 13495, which provides that, if the head of a contracting department or agency finds that the application of any of the requirements of Executive Order 13495 would not serve the purposes of the Executive Order or would impair the ability of the Federal Government to procure services on an economical and efficient basis, the head of such department or agency may exempt its department or agency from the requirements of any or all of the provisions of Executive Order 13495 with respect to a particular contract, subcontract, or purchase order or any class of contracts, subcontracts, or purchase orders. *Id.* The DOL proposes to limit the time in which an agency may decide to exempt contracts to no later than the solicitation date. This limitation is needed to ensure the contract clause is included in the solicitation, if applicable, as required by the Executive Order. In addition, when an agency exercises its exemption authority, the DOL proposes to require the contracting agency to notify affected workers in writing, either in an individual notice given to each worker or through a posting at the location where the work is performed, of the finding and decision no later than the award date. The notification would need to include facts supporting the decision. This notification to the workers is consistent with and supports the President's commitment to openness and transparency in government. *See* January 21, 2009, Memorandum for the Heads of Executive Departments and Agencies. 74 FR 4685.

As with other exemptions applicable to labor standards, the DOL interprets the exemption authority of the agencies to be narrow. The Executive Order states that the Federal Government's procurement interests in economy and efficiency are served when the successor contractor hires the predecessor's employees. It is predicated on the determination that a carryover work force reduces disruption to the delivery of services during the period of transition between contractors and provides the Federal Government the benefits of an experienced and trained work force that is familiar with the Federal Government's personnel, facilities, and requirements. Given the Executive Order's underlying assumptions, the Executive Order creates a presumption that nondisplacement is in the interest of the Federal Government for each contract, class of contracts, subcontract, or purchase order. However, the presumption can be overcome based on a finding that nondisplacement would not serve the purposes of Executive Order 13495 or would impair the ability of the Federal Government to procure services on an economical and efficient basis. DOL believes that the basis for such a finding must be reasoned and transparent; therefore, the NPRM would require a written analysis to support the decision to claim the exemption. For example, where the decision to claim the exemption is based on a finding that the nondisplacement requirements would impair the ability of the Federal Government to procure the services on an economical and efficient basis, the DOL believes an agency would need to support a decision to claim the exemption with a written analysis that explains how application of the Executive Order's requirements would impair the ability of the agency to procure services on an economical and efficient basis.

In addition, the reasons provided for the exemption in the agency's analysis must be consistent with the Executive Order. The DOL proposes that such a written analysis would, *inter alia,* compare the anticipated outcomes of hiring predecessor contract employees against those of hiring a new workforce. At the same time, the DOL specifically seeks comments on what, if any, specific guidance the regulation should provide regarding the consideration of cost and other factors in exercising the agency's exemption authority, including guidance regarding what information should be included in the agency's analysis supporting a decision to exercise exemption authority. What costs are most appropriately considered in determining whether application of the Executive Order's requirements would or would not serve the purposes of the Executive Order or impair the ability of the Federal Government to procure services on an economical and efficient basis? How much weight should be given to such costs? Should the regulation restrict a contracting agency's ability to exercise the exemption based solely on a demonstration that the cost of the predecessor contractor's workers is greater than hiring new employees? If so, how should the restriction be applied (*e.g.,* the exemption cannot be exercised based solely on a showing of marginal cost savings; or the exemption cannot be exercised based solely on a showing of cost savings in any amount unless such determination is coupled with an additional determination that the non-cost benefits of hiring new employees outweigh the benefits of retaining the predecessor's workers)? Should the guidance place any restrictions on how an agency projects cost savings? The EO leaves it to the contractor to determine the number of employees needed to perform the work and the SCA establishes the minimum wage rates to be paid workers. Therefore, should a contracting agency be prohibited from making projections based on how it believes a successor contractor may reconfigure the contract or wages to be paid? What non-cost factors are most appropriately considered in determining whether application of the Executive Order's requirements would or would not serve the purposes of the Executive Order or impair the ability of the Federal Government to procure services on an economical and efficient basis? How much weight should be given to such non-cost factors? What factual information and analysis should be required to be included in an agency's written finding underlying its exemption decision, and in what level

of detail? The DOL also specifically invites comments regarding the worker notification requirement, including what recourse might exist if an agency fails timely to provide the written notification to the workers or what specific requirements should be imposed.

Proposed § 9.4(e) implements the parenthetical exclusion for managerial and supervisory employees included in section 1 of Executive Order 13495, stating that the Order does not apply to employees who are managerial or supervisory employees of Federal service contractors or subcontractors. 74 FR 6103. While not included in the exclusions listed in section 3 of Executive Order 13495, the DOL believes including this proposed paragraph provides important compliance assistance to contractors and employees. The DOL notes this proposal is not different in substance from how the same parenthetical exception was implemented under the Clinton Order. 59 FR 53559; 62 FR 28188, (formerly 29 CFR 9.8(b)(1)).

Proposed subpart B of part 9 establishes the requirements that contracting agencies and contractors will undertake to comply with the nondisplacement provisions.

Proposed § 9.11 addresses contracting agency requirements, and proposed § 9.12 explains contractor requirements and prerogatives under the nondisplacement requirements.

Proposed § 9.11 specifies contracting agency responsibilities to incorporate the nondisplacement clause in applicable contracts, to inform service contract employees of when a contract has been awarded to a successor, to provide the list of employees on the predecessor contract to the successor, and to forward complaints and other pertinent information to the Wage and Hour Division when there are allegations of contractor non-compliance with this part.

Section 5 of Executive Order 13495 specifies a contract clause that must be included in solicitations and contracts for services that succeed contracts for the performance of the same or similar work at the same location. 74 FR 6104–05. Proposed § 9.11(a) provides the regulatory requirement to incorporate the contract clause specified in appendix A in covered service contracts, and solicitations for such contracts, that succeed contracts for performance of the same or similar services at the same location. Contract clause paragraphs (a) through (e) of proposed appendix A repeat the clause in paragraphs (a) through (e) of the Executive Order verbatim, with three exceptions.

The first proposed modification would spell out the number three, instead of using the numeral 3 (as was done in the Executive Order). The second proposed modification would insert the number of the Order, 13495, to replace the blank line that appears in paragraph (d) of the contract clause contained in the Order, as its number was not known at the time the President signed the Order.

The final proposed modification is an alteration to accommodate the numbering scheme of contracts. Specifically, the internal contract clause paragraph (e) cross-reference to paragraph 5(c) is replaced simply with a (c). This modification will allow contracting agencies to implement the substantive requirements of the Order through the required contract language while adjusting to the numbering structure of the Federal Acquisition Regulation.

Proposed appendix A also sets forth additional provisions that are necessary to implement the Order. The additional paragraphs would appear in paragraphs (f) through (i) of the contract clause contained in part 9. With the exception of a paragraph addressing recordkeeping, similar contract clause paragraphs appeared in the earlier version of part 9. *See* 62 FR 28188 (May 22, 1997).

Specifically, proposed clause paragraph (f) provides notice that under certain circumstances the Contracting Officer will withhold or cause to be withheld from the prime contractor funds otherwise due under the subject contract or any other Government contract with the same prime contractor. The withholding amount would equal sums an authorized official of the DOL requests, upon a determination by the Administrator, the Administrative Law Judge (ALJ), or the Administrative Review Board that the prime contractor failed to comply with the terms of the employee nondisplacement clause and that wages lost as a result of the violations are due or that other monetary relief is appropriate.

Proposed contract clause paragraph (g) requires the contractor to maintain certain records to demonstrate compliance with the substantive requirements of part 9. This proposed paragraph was not included in the prior part 9; however, including it in the contract will better enable contractors to understand their obligations and provide an easy reference. The proposed paragraph specifies that the contractor is required to maintain the particular records (regardless of format, *e.g.,* paper or electronic) for three years. The specified records include copies of any written offers of employment or a contemporaneous written record of any oral offers of employment, including the date, location, and attendance roster of any employee meeting(s) at which the offers were extended, a summary of each meeting, a copy of any written notice that may have been distributed, and the names of the employees from the predecessor contract to whom an offer was made; a copy of any record that forms the basis for any exclusion or exemption claimed under part 9; a copy of the employee list received from the contracting agency, and an entry on the pay records for an employee of the amount of any retroactive payment of wages or compensation under the supervision of the Administrator of the Wage and Hour Division, the period covered by such payment, and the date of payment, and a copy of any receipt form provided by or authorized by the Wage and Hour Division. The proposed clause also states that the contractor is to deliver a copy of the receipt to the employee and, as evidence of payment by the contractor, file the original receipt signed by the employee with the Administrator or an authorized representative within 10 days after payment is made.

Proposed contract clause paragraph (h) requires the contractor, as a condition of the contract award, to cooperate in any investigation by the contracting agency or the DOL into possible violations of the provisions of the nondisplacement clause and to make records requested by such official(s) available for inspection, copying, or transcription upon request. Proposed contract clause paragraph (i) provides that disputes concerning the requirements of the nondisplacement clause will not be subject to the general disputes clause of the contract. Instead, such disputes are to be resolved in accordance with the procedures in part 9.

Proposed § 9.11(b) specifies a notice that contracting agencies must provide when a contract will be awarded to a successor. A similar requirement existed in the prior version of part 9 (*see* 62 FR 28189, 28192), but it did not require agencies to provide both English language and translated notices where a significant portion of the predecessor's workforce is not fluent in English. Proposed § 9.11(b) requires the Contracting Officer to provide written notice to service employees of the incumbent contractor of their possible right to an offer of employment, by either posting a notice in a conspicuous place at the worksite or delivering it to

the employees individually. The text of the notice is set forth in the appendix B to part 9. The DOL intends to translate the notice into several common foreign languages and make the English and translated versions available in a poster format to contracting agencies via the Internet, in order to allow easy access. Another form with the same information may be used. Multiple foreign language notices will be required where significant portions of the workforce speak different foreign languages and there is no common language. If, for example, a significant portion of a workforce speaks Korean and another significant portion of the same workforce speaks Spanish, then the contracting agency would need to provide the information in English, Korean, and Spanish. Giving information only in English and Korean typically would not provide the notice in a language with which the Spanish speakers are more familiar than English. While electronic communications were not part of the earlier part 9, the DOL recognizes that reliance on electronic communication will increase in the future and e-mail often may provide an inexpensive and reliable way to communicate information quickly. The DOL seeks comments as to whether allowing contracting agencies an electronic notification option, in lieu of physical posting or providing a paper copy to the worker, will provide the agencies greater flexibility and efficiency, especially when contract work is performed at a location that is remote from procurement staff, without sacrificing the quality of the information provided to workers. For example, should the rule allow notices by e-mail from the contracting agency to service employees who routinely receive information from the agency by e-mail to meet the notification requirement, provided the notice otherwise meets the requirements of proposed § 9.11? If an e-mail option were allowed, would additional guidance for such communications need to be considered, and if so, what should that guidance be? Of course, minimally, any particular determination of the adequacy of a notification, regardless of the method used, must be fact dependent and made on a case-by-case basis.

Proposed § 9.11(c) requires the Contracting Officer to provide the predecessor contractor's list of employees referenced in proposed § 9.12(e) to the successor contractor and, on request, to employees or their representatives.

Proposed § 9.11(d) addresses Contracting Officers' responsibilities regarding complaints of alleged violations of part 9. As under the prior version of part 9, contracting agencies would initially receive complaints of alleged violations of the nondisplacement requirements and, in a compliance assistance mode, provide information to the complainant and contractor about their rights and responsibilities under the employee nondisplacement provision of the contract. Contracting agencies would not be obligated to forward to the Wage and Hour Division any complaint that is withdrawn because of this compliance assistance; thus, a Contracting Officer need not forward to the Wage and Hour Division a complaint that an employee withdraws because the employee was previously not aware of the application of a particular exclusion. In all other cases, the contracting agency will forward certain information that the DOL must have in order to determine compliance. The DOL believes this proposal strikes a balance that allows compliance concerns to be resolved as expeditiously as possible without undue burdens on all parties. The proposal requires the Contracting Officer, within 30 days of receipt of a complaint, to forward to the headquarters of the Wage and Hour Division any complaint alleging any violation of this part; available statements by the employee or the contractor regarding the alleged violation, evidence that a seniority list was issued by the predecessor and provided to the successor; a copy of the seniority list; evidence that the nondisplacement contract clause was included in contract or that the contract was exempted by the agency; information concerning known settlement negotiations between the parties (if applicable); and other pertinent information the Contracting Officer chooses to disclose. The proposal also would require the Contracting Officer to provide copies to the contractor and the complainant. To assist the agency in providing information to the Wage and Hour Division or to protect the interests of the agency, the proposal would allow the contracting agency to conduct an initial review of any nondisplacement complaint. As part of the contracting agency's initial review, the Contracting Officer may obtain statements of the positions of the parties and inspect the records of the predecessor and successor contractors (and make copies or transcriptions thereof), question the predecessor and successor contractors and any employees of these contractors, and require the production of any documentary or other evidence deemed necessary to determine whether a violation of this part has occurred. The Contracting Officer may provide information about the contract clause to the complainant(s) and successor contractor, and would not be required to forward any complaint or related information when a complaint is withdrawn because of compliance assistance provided by the contracting agency. Contracting agencies would be obligated to refer questions of interpretations regarding part 9 to the nearest local office of the Wage and Hour Division. The DOL particularly seeks comments on whether the 30-day period for Contracting Officers to forward information to the Wage and Hour Division is necessary and appropriate, given the responsibilities envisioned if this proposed rule were adopted.

Proposed § 9.12 implements contractors' requirements and prerogatives under the nondisplacement requirements. The proposed section consists of the general obligation to offer employment, the method of the job offer, exceptions, reduced staffing, obligations near the end of the contract, recordkeeping, and obligations to cooperate with reviews and investigations.

Proposed § 9.12(a)(1) implements the requirement that there be no employment openings prior to the contractor offering employment to the employees on the predecessor contract. 74 FR 6103. Specifically, the proposal provides that, except as provided under the exclusions listed in proposed § 9.4 or paragraphs (c) and (d) of proposed § 9.12, a successor contractor or subcontractor could not fill any employment openings under the contract prior to making good faith offers of employment, in positions for which the employees are qualified, to those employees employed under the predecessor contract whose employment will be terminated as a result of award of the contract or the expiration of the contract under which the employees were hired. The contractor and its subcontractors would be required to make an express offer of employment to each employee and state the time within which the employee must accept such offer, but in no case would the period within which the employee must accept the offer of employment be less than 10 days. Proposed § 9.12(a)(2) would clarify that the successor contractor's obligation to offer a right of first refusal exists even if the successor contractor was not provided a list of the predecessor contractor's employees or the list did not contain the names of all persons employed during the final month of

contract performance. Proposed § 9.12(a)(3) discusses determining eligibility for the job offer and provides guidance that did not appear in the earlier part 9. While a person's entitlement to a job offer under this proposal usually would be based on whether his or her name is included on the certified list of all service employees working under the predecessor's contract or subcontracts during the last month of contract performance, a contractor would also be required to accept other credible evidence of an employee's entitlement to a job offer. The successor contractor would be allowed to verify the information as a condition of accepting it. For example, even if a person's name does not appear on the list of employees on the predecessor contract, an employee's assertion of an assignment to work on a contract during the predecessor's last month of performance coupled with contracting agency staff verification could constitute credible evidence of an employee's entitlement to a job offer. Similarly, an employee could demonstrate eligibility by producing a paycheck stub that identifies the work location and dates worked for the predecessor. The successor could verify the claim with the contracting agency, the predecessor, or another person who worked at the facility. The guidance will provide more clarity to contractors and employees as to the level of proof needed to determine entitlement to a job offer.

Proposed § 9.12(b) discusses the method of the job offer, with § 9.12(b)(1) requiring that—except as otherwise provided in part 9—a contractor must make a bona fide express offer of employment to each employee on the predecessor contract before offering employment on the contract to any other person. The obligation to offer employment would cease upon the employee's first refusal of a bona fide offer to employment on the contract. Proposed § 9.12(b)(2) discusses the time limit in which the employee has to accept the offer, which the contractor determines, but in no case can be less than 10 days. Proposed § 9.12(b)(3) provides the process for making the job offer. As proposed, the successor contractor is required to make an oral or written employment offer to each employee, and, in order to ensure that the offer is effectively communicated, to take reasonable efforts to make the offer in a language that each worker understands. The proposed rule contains an example of how the contractor could satisfy this provision by having a co-worker or other person who can fluently translate for employees who are not fluent in English, if the contractor holds a meeting for a group of employees on the predecessor contract. Proposed § 9.12(b)(4) clarifies that the employment offer may be to a different job position on the contract. More specifically, an offer of employment on the successor's contract would generally be presumed to be a bona fide offer of employment, even if not for a position similar to the one the employee previously held but one for which the employee were qualified. If a question arises concerning an employee's qualifications, that question will be decided based upon the employee's education and employment history with particular emphasis on the employee's experience on the predecessor contract. A contractor would have to base its decision regarding an employee's qualifications on credible information provided by a knowledgeable source such as the predecessor contractor, the local supervisor, the employee, or the contracting agency. For example, an oral or written outline of job duties or skills used in prior employment, school transcripts, or copies of certificates and diplomas all would be credible information. Proposed § 9.12(b)(5) allows for an offer of employment to a position providing different terms and conditions of employment than those the employee held with the predecessor contractor, where the reasons for the offer are not related to a desire that the employee refuse the offer or that other employees be hired. Proposed § 9.12(b)(6) provides that, where an employee is terminated under circumstances suggesting the offer of employment may not have been bona fide, the facts and circumstances of the offer and the termination will be closely examined to ensure the offer was bona fide.

Proposed § 9.12(c) addresses the exceptions to the general obligation to offer employment under Executive Order 13495, which are included in the contract clause established in section 5 of the Order and are distinct from the exclusions discussed in proposed § 9.4. The exclusions specify both certain classes of contracts and certain employees excluded from the provisions of Executive Order 13495. The exemptions from the successor contractor's obligation to offer employment on the contract to employees on the predecessor contract prior to making the offer to anyone else do not relieve the contractor of other requirements of this part (*e.g.,* the obligation near the end of the contract to provide a list of employees who worked on the contract during the last month). The exceptions are to be construed narrowly and the contractor will bear the burden of proof regarding the appropriateness of claiming any exception.

Under proposed § 9.12(c)(1), a contractor or subcontractor would not be required to offer employment to any employee of the predecessor who will be retained by the predecessor contractor. The contractor is required to presume that all employees hired to work under a predecessor's Federal service contract would be terminated as a result of the award of the successor contract, absent an ability to demonstrate a reasonable belief to the contrary based upon credible information provided by a knowledgeable source such as the predecessor contractor, the employee, or the contracting agency.

Under proposed § 9.12(c)(2), a contractor or subcontractor would be allowed to employ under the contract any employee who has worked for the contractor or subcontractor for at least three months immediately preceding the commencement, *i.e.,* the first date of performance, of the contract and who would otherwise face lay-off or discharge. As would be the case with any exception to the nondisplacement requirements, a contractor bears the burden of showing how the exception applies. For example, a contractor would have to demonstrate through a preponderance of the evidence that an employee who it has employed for at least three months would face discharge were a position on the contract not offered because the employee's work on another contract has expired and there are no other openings for which the employee is qualified within the commuting area. A successor could not claim this exception to reemploy an employee who was already terminated or laid off, because such a person has already faced a discharge and such person has not been employed for the three months preceding the commencement of the successor contract. Of course, a person would still be considered to be employed during a period of leave, such as vacation or sick leave, or a similar short-term absence.

Under proposed § 9.12(c)(3), the contractor or subcontractor would not be required to offer employment to any employee of the predecessor who is not a service employee. Typically, this exemption would apply to a person who is a managerial or supervisory employee on the predecessor contract. The successor contractor would be required to presume that all persons appearing

on the list required by § 9.12(e) as employees hired to work under a predecessor's Federal service contract or who have demonstrated they should have been included on the list were service employees, absent an ability to demonstrate a reasonable belief to the contrary, based upon credible information provided by a knowledgeable source such as the predecessor contractor, the employee, or the contracting agency. Information regarding the general business practices of the predecessor contractor or the industry would not be sufficient for purposes of the exemption.

Under proposed § 9.12(c)(4), a contractor or subcontractor would not be required to offer employment to any employee of the predecessor contractor whom the contractor or any of its subcontractors reasonably believes, based on the particular employee's past performance, has failed to perform suitably on the job. Again, the contractor would be required to presume that all employees working under the predecessor contract in the last month of performance performed suitable work on the contract, absent an ability to demonstrate a reasonable belief to the contrary based upon credible information provided by a knowledgeable source such as the predecessor contractor, the local supervisor, the employee, or the contracting agency. A contractor could demonstrate its reasonable belief that the employee in fact failed to perform suitably on the predecessor contract through evidence of disciplinary action taken for poor performance or evidence directly from the contracting agency that the particular employee did not perform suitably. Similarly, a successor contractor can use performance appraisal information in determining whether an employee failed to perform suitably on the job; however, the DOL notes that this NPRM would not require a predecessor contractor to provide performance information. Information regarding the general performance of the predecessor contractor would not be sufficient for purposes of this exemption. The DOL seeks comments as to whether there should be any requirement that the information supporting the contractor's or subcontractor's reasonable belief be in writing and relatively contemporaneous with the past performance.

Under proposed § 9.12(c)(5), a contractor or subcontractor is not required to offer employment to any employee hired to work under a predecessor's Federal service contract and one or more nonfederal service contracts as part of a single job, provided that the employee was not deployed in a manner that was designed to avoid the purposes of this part. The successor contractor is required to presume that all employees hired to work under a predecessor's Federal service contract did not work on one or more nonfederal service contracts as part of a single job, unless the successor could demonstrate a reasonable belief to the contrary based upon credible information provided by a knowledgeable source such as the predecessor contractor, the local supervisor, the employee, or the contracting agency. Information regarding the general business practices of the predecessor contractor or the industry would not be sufficient for purposes of this exemption. For example, claims from several employees who state a janitorial contractor reassigned its janitorial workers who previously worked exclusively in a Federal building to both Federal and private clients as part of a single job may indicate that the predecessor deployed workers to avoid the purposes of the nondisplacement provisions, which include Federal interests in economy and efficiency that are served when the successor hires the predecessor's employees. Conversely, were the employees on the predecessor contract traditionally deployed to Federal and other buildings as part of their job, the successor would not be required to offer employment to the workers. Knowledge that contractors generally deploy workers to both Federal and other clients would not be sufficient for the successor to claim the exception, because such general practices may not have been observed on the particular predecessor contract.

Proposed § 9.12(d) addresses the provision in paragraph (a) of Executive Order 13495's contract clause that allows the successor contractor to reduce staffing. 74 FR 6104. Proposed § 9.12(d)(1) allows for the contractor or subcontractor to determine the number of employees necessary for efficient performance of the contract and, for bona fide staffing or work assignment reasons, to elect to employ fewer employees than the predecessor contractor employed in performance of the work. Thus, the successor contractor would not be required to offer employment on the contract to all employees on the predecessor contract, but must offer employment only to the number of eligible employees the successor believes necessary to meet its anticipated staffing pattern. Where a successor contractor does not offer employment to all the predecessor contract employees, the obligation to offer employment would continue for three months after the successor contractor's first date of performance on the contract. In some cases a successor contractor may reconfigure the staffing pattern to increase the number of persons employed in some positions while decreasing the number of employees in others, and in such cases § 9.12(d)(3) would require the contractor to examine the qualifications of each employee so as to minimize displacement. Of course, as already provided in § 9.1(b), this exception is not to be construed to permit a contractor or subcontractor to fail to comply with any provision of any Executive Order, regulation, or law of the United States; therefore, a contractor could not use this exemption to justify unlawful discrimination against any worker. While the Wage and Hour Division would not make compliance determinations regarding Federal contractors' compliance with nondiscrimination requirements administered by other regulatory agencies, a finding by the DOL's Office of Federal Contract Compliance Programs, another agency, or by a court that a contractor has unlawfully discriminated against a worker would be considered in determining whether the discriminatory action has also violated the nondisplacement requirements. The DOL invites comments on whether the rule should provide additional guidance in this regard and what any additional guidance should be. The contractor's obligation would end when all of the predecessor contract employees have received a bona fide job offer or the 90-day obligation period expires. The proposed regulation provides several examples to demonstrate the principle.

Proposed § 9.12(e) specifies an incumbent contractor's obligations near the end of the contract, not less than 10 days before completion of the contract, to furnish the Contracting Officer a certified list of the names of all service employees working under the contract and its subcontracts during the last month of contract performance, including their anniversary dates of employment with either the current or predecessor contractors or their subcontractors. The contractor may use the list submitted to satisfy the requirements of the SCA contract clause specified at 29 CFR 4.6(l)(2) to meet this provision. The earlier version of part 9 included a similar provision that did not specifically state that the single list could be used to satisfy the requirements of both parts 4 and 9;

however, the DOL believes specifying this option in the regulations may help clarify that there is no duplication of effort in order to comply with this requirement of Executive Order 13495. The earlier version of part 9 also required that the list of employees be furnished 60 days before completion of the contract. The current proposal reflects the time frame used in the current Order and is identical to when the list must be provided under 29 CFR 4.6(l)(2).

Proposed § 9.12(f) addresses recordkeeping requirements. Proposed § 9.12(f)(1) clarifies that this part prescribes no particular order or form of records for contractors, and the recordkeeping requirements apply to all records regardless of their format (*e.g.,* paper or electronic). A contractor is allowed to use records developed for any purpose to satisfy the requirements of part 9, provided the records otherwise meet the requirements and purposes of this part. Proposed § 9.12(f)(2) specifies the records contractors must maintain, including copies of any written offers of employment or a contemporaneous written record of any oral offers of employment, including the date, location, and attendance roster of any employee meeting(s) at which the offers were extended, a summary of each meeting, a copy of any written notice that may have been distributed, the names of the employees from the predecessor contract to whom an offer was made, any written record that forms the basis for any exclusion or exemption claimed under this part, the employee list provided to the contracting agency, and the employee list received from the contracting agency.

In addition, every contractor who makes retroactive payment of wages or compensation under the supervision of the Wage and Hour Division pursuant to proposed § 9.24(b) will be required to record and preserve for three years in the pay records the amount, the period covered, and the date of payment to each employee, and to report each such payment on a receipt form authorized by the Wage and Hour Division. Contracting agency and Wage and Hour Division staff will use these records in determining a contractor's compliance and the propriety of any further sanctions.

Proposed § 9.12(g) outlines the contractor's obligations to cooperate during any investigation to determine compliance with part 9 and to not discriminate against any person because such person has cooperated in an investigation or proceeding under part 9 or has attempted to exercise any rights afforded under part 9. As proposed, this obligation to cooperate with investigations is not limited to investigations of the contractor's own actions, but also includes investigations related to other contractors (*e.g.,* predecessor and subsequent contractors) and subcontractors.

Proposed Subpart C pertains to enforcement activities under this part and provides for disputes to be resolved only as provided in regulations by the Secretary of Labor. Executive Order 13495 directs that the regulations, to the extent practicable, favor the resolution of disputes by efficient and informal alternative dispute resolution methods. This proposed subpart addresses the process for filing complaints, informal resolution attempts by the Wage and Hour Division, investigations, and remedies and penalties for violations.

Proposed § 9.21 establishes the procedure for filing complaints and adopts the complaint process used in the earlier version of part 9, with the exception of now establishing time frames in which complaints are to be filed. Proposed § 9.21(a) outlines the procedure for filing a complaint with the Contracting Officer of the appropriate Federal agency within 120 days of the alleged violation. As provided under the prior rule, the DOL believes that filing complaints first with the contracting agency creates the best avenue for displaced workers to begin the process of obtaining expeditious review of their rights. The proposal includes a time limit for filing a complaint, in order to assure that concerns are addressed promptly and the Federal Government's procurement interests in economy and efficiency are preserved. Proposed § 9.21(b) outlines the procedure for filing a complaint with the Wage and Hour Division if the complainant has not been able timely to file the complaint with the Contracting Officer or has not received, within 30 days of filing the complaint with the Contracting Officer, a copy of the report forwarded to the Wage and Hour Division under proposed § 9.11(d)(1). The complainant would be allowed to file the complaint directly with the Wage and Hour Division within 180 days of the alleged violation.

Proposed § 9.22 establishes the informal complaint resolution process for complaints referred to the Wage and Hour Division. After obtaining the necessary information from the Contracting Officer regarding the alleged violations, the Wage and Hour Division could contact the successor contractor about the complaint and attempt to conciliate and reach an acceptable resolution that is consistent with all applicable requirements.

Proposed § 9.23 outlines the authority for the Wage and Hour Division to investigate complaints under part 9. Proposed § 9.23(a) addresses initial investigations and provides that the Administrator may initiate an investigation either as the result of the unsuccessful conciliation of a complaint or at any time on his or her own initiative. As part of the investigation, the Administrator would be able to inspect the records of the predecessor and successor contractors (and make copies or transcriptions thereof), question the predecessor and successor contractors and any employees of these contractors, and require the production of any documentary or other evidence deemed necessary to determine whether a violation of this part (including conduct warranting imposition of ineligibility sanctions pursuant to § 9.24(d)) has occurred. Proposed § 9.23(b) addresses subsequent investigations and allows the Administrator to conduct a new investigation or issue a new determination if the Administrator concludes circumstances warrant the additional action, such as where the proceedings before an ALJ reveal that there may have been violations with respect to other employees of the contractor, where imposition of ineligibility sanctions is appropriate, or where the contractor has failed to comply with an order of the Secretary.

Proposed § 9.24 discusses remedies and sanctions for violations. The Secretary will have the authority to issue orders prescribing appropriate remedies, including, but not limited to, requiring the contractor to offer employment to employees from the predecessor contract and payment of wages lost. Proposed § 9.24(b) provides that, in addition to satisfying any costs imposed by an administrative order under proposed §§ 9.34(j) or 9.35(d), a contractor that violates part 9 would be required to take appropriate action to abate the violation, which could include hiring the affected employee(s) in a position on the contract for which the employee is qualified, together with compensation (including lost wages), terms, conditions, and privileges of that employment.

Proposed § 9.24(c) addresses the withholding of contract funds for non-compliance. After an investigation and a determination that lost wages or other monetary relief is due, the Administrator could direct that accrued payments due on either the contract or any other contract between the contractor and the Government be

withheld as necessary to pay the moneys due. Upon final order of the Secretary, the Administrator may direct that withheld funds be transferred to DOL for disbursement.

Proposed § 9.24(c)(2) provides for the suspension of the payment of funds if the Contracting Officer or the Secretary finds that the predecessor contractor has failed to provide the required list of employees working under the contract as required by § 9.12(e). As reflected in the earlier version of part 9, these proposed withholding provisions would mirror the withholding standards of other labor standards laws such as the Davis-Bacon Act and SCA.

Proposed § 9.24(d) provides for debarment from Federal contract work for up to three years for noncompliance with any order of the Secretary or for willful or aggravated violations of the regulations in this part.

Proposed subpart D addresses informal and formal proceedings to determine compliance with the requirements of part 9 and resolution of disputes. The proposal substantially reinstates provisions from the prior part 9, but proposes minor changes to accommodate the format of the proposed rule and to clarify various authorities of the Administrator, Office of Administrative Law Judges, and Administrative Review Board, and the effects of various notices and filings.

Proposed § 9.31 provides that when an investigation is completed and a resolution is not reached that is consistent with the requirements of this part and acceptable to both the complainant(s) and the successor contractor, the Administrator will issue a written determination of whether a violation occurred. A written determination will contain a statement of the investigation findings that will address the appropriate relief and the issue of ineligibility sanctions where appropriate, with notice of the determination sent by certified mail to the parties. The notice of determination becomes the final order of the Secretary and is not appealable in any administrative or judicial proceeding unless a request for a hearing is filed within 20 days or, where relevant facts are not in dispute, a petition for review is filed within 20 days with the Administrative Review Board.

Proposed § 9.32(b) provides procedures for requesting appeals. The proposed time limits are the same as under the earlier version of part 9, and the proposed language provides due process rights for those seeking appeals without needlessly delaying decisions from taking effect.

Executive Order 13495 provides for its implementing regulations to favor alternative dispute resolution methods to the extent practicable, and proposed § 9.33 generally encourages parties to resolve disputes in accordance with the conciliation procedures set forth at § 9.22 or, where such efforts have failed, to utilize settlement judges to mediate settlement negotiations pursuant to 29 CFR 18.9 when those provisions apply. At any time after commencement of a proceeding, the parties jointly could move to defer the hearing for a reasonable time to permit negotiation of a settlement or an agreement disposing of the proceeding. Proposed § 9.33(b) establishes the procedure for appointing a settlement judge to mediate cases scheduled with the Office of Administrative Law Judges.

Proposed § 9.34(a) provides for the Office of Administrative Law Judges to hear and decide in its discretion appeals concerning questions of law and fact from determinations of the Administrator. The ALJ would act fully and finally as the authorized representative of the Secretary, subject to any appeal filed to the Administrative Review Board, and subject to certain limits. Specifically, the regulations exclude from the ALJ's authority any jurisdiction to pass on the validity of any provision of part 9. In addition, as the proceedings are not required by an underlying statute to be determined on the record after an opportunity for an agency hearing, the Equal Access to Justice Act (EAJA), as amended (5 U.S.C. 504) does not apply to them; therefore, an ALJ would have no authority to award attorney fees and/or other litigation expenses pursuant to the provisions of the EAJA for any proceeding under this part.

Absent a stay to attempt settlement, the ALJ will notify the parties and any representatives within 15 calendar days following receipt of the request for hearing of the day, time, and place for hearing, which is to be held not more than 60 days from the date of receipt of the hearing request under proposed § 9.34(b).

Under proposed § 9.34(d), the Administrator may participate as a party or as amicus curiae at any time in the proceedings, including the right to petition for review of a decision of an ALJ in a case in which the Administrator has not previously participated. The Administrator would participate as a party in any proceeding in which the Administrator has determined that this part 9 has been violated. Under proposed § 9.34(e), a Federal agency that is interested in a proceeding may participate as amicus curiae at any time in the proceedings.

Proposed § 9.34(g) applies, with certain exceptions, the rules of practice and procedure for administrative hearings before the Office of Administrative Law Judges at 29 CFR part 18, subpart A to administrative proceedings under this part 9. The exceptions declare inapplicable the Rules of Evidence at 29 CFR part 18, subpart B, and provide that part 9 would be controlling to the extent it provides any rules of special application that may be inconsistent with the rules in part 18, subpart A. Proposed § 9.34(h) requires ALJ decisions (containing appropriate findings, conclusions, and an order) to be issued within 60 days after completion of the proceeding. Upon the issuance of a decision that a violation has occurred, the ALJ may order appropriate relief, which may include that the successor contractor hire the affected employee(s) in a position on the contract for which the employee is qualified, together with compensation (including lost wages), terms, conditions, and privileges of that employment. If the Administrator has sought ineligibility sanctions, the order would also be required to address whether debarment is appropriate. The ALJ may assess against the contractor an amount equal to the employees' costs and expenses (not including attorney fees). This amount would be awarded in addition to any unpaid wages or other relief due. Proposed § 9.35 provides the procedures for appealing an ALJ decision to the Administrative Review Board.

Finally, appendix A to part 9 contains the text of the contract clause required by § 9.11(a), and appendix B contains the text for the notice that contracting agencies would be required to provide to service employees on covered contracts that have been awarded to a successor. If the final rule adopts this or a similar notice provision, the DOL intends to make the text of appendix B available in a poster format that will be available to contracting agencies on the Internet. In addition to or as an alternative to posting, this proposal would allow the text to be provided to affected employees electronically.

IV. Paperwork Reduction Act

As part of its continuing effort to reduce paperwork and respondent burden, the Department conducts a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of

1995 (PRA), 44 U.S.C. 3506(c)(2)(A). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The PRA typically requires an agency to provide notice and seek public comments on any proposed collection of information contained in a proposed rule. *See* 44 U.S.C. 3506(c)(2)(B); 5 CFR 1320.8. Persons are not required to respond to the information collection requirements as contained in this proposal unless and until they are approved by the OMB under the PRA at the final rule stage. The Department has submitted the identified information collections contained in the proposed rule to the OMB for review under the PRA. *See* 44 U.S.C. 3507(d); 5 CFR 1320.11.

Purpose and Use: As previously explained, Executive Order 13495 applies to contracts or subcontracts at or above the simplified acquisition threshold of $100,000 and requires service contracts and their solicitations to include an additional labor standards clause that requires the successor contractor, and its subcontractors, under a contract for performance of the same services at the same location, to provide a right of first refusal of employment to those employees (other than managerial and supervisory employees) employed under the predecessor contract during the final month of contract performance whose employment will be terminated as a result of the award of the successor contract. The Order also requires the successor contractor and subcontractor to make an express offer of employment to each predecessor employee, with some exceptions, stating the timeframe within which each employee must accept such offer. For purposes of the remaining PRA discussion, the term contractor covers both contractors and subcontractors, excepted as noted. The DOL has strived to make the information disclosures intuitive.

Proposed § 9.12 describes the contractor's requirements and prerogatives under the proposed rule, which include third party disclosures and recordkeeping requirements that are subject to the PRA. Proposed § 9.12(a) and (b) requires the contractor to make a bona-fide express offer of employment to each employee individually, either in writing or orally. Proposed § 9.12(f) also requires the successor service contractor to maintain for specific periods of time copies of records (regardless of format, *e.g.,* paper or electronic) of its compliance, including (1) any written offers of employment or a contemporaneous written record of any oral offers of employment, including the date, location, and attendance roster of any employee meeting(s) at which the offers were extended; a summary of each meeting; a copy of any written notice that may have been distributed, and the names of the employees from the predecessor contract to whom an offer was made; (2) any record that forms the basis for any exclusion or exemption claimed under this part; and (3) the employee list provided to or received from the contracting agency that meet contractor obligations near the end of a contract.

The DOL notes that the proposed rule does not require contractors to create any record regarding any basis for claiming an exclusion or exemption from the nondisplacement provisions of Federal service contracts; however, the contractor would need to retain any such record if created. In addition, while the proposed rule also requires a predecessor contractor near the end of a contract to provide a certified list of the names of all service employees working under that contract (and its subcontracts) during the last month of contract performance to the contracting agency, that requirement may be met by using the seniority list submitted to satisfy the requirements of the contract clause specified in the current SCA regulations at 29 CFR 4.6(l)(2). Therefore, this requirement imposes no additional burden for PRA purposes.

Proposed § 9.21 outlines the procedures for filing complaints under this part. This NPRM imposes no specific reporting burden on what information complainants must provide; however, prudent persons asserting certain employment rights normally would provide their own contact information, contact information for their employer, and a basis for why they are filing the complaint.

Information Technology: There is no particular order or form of records prescribed by the proposed regulations. A contractor may meet the requirements of this proposed rule using paper or electronic means.

Public Burden Estimates: The proposed rule contains information collection requirements for contractors and complainants. The Department bases the following burden estimates for this information collection on agency experience in administering the SCA, the prior version of part 9, and consultations with contracting agencies, except as otherwise noted.

According to the Federal Procurement Data System's (FPDS) 2006 Federal Procurement Report, slightly less than 75,000 (74,611) Federal government contract actions were subject to the SCA during that reporting period. A contract action is any oral or written action that results in the purchase, rent, or lease of supplies or equipment, services, or construction using appropriated dollars over the micro-purchase threshold, or modifications to these actions regardless of dollar value. Many contract actions are modifications to or extensions of existing Federal contracts or otherwise relate to actions where there is no successor contractor. The DOL, therefore, assumes that about 15,000 per year (slightly more than 20 percent of all SCA covered contract actions in 2006) would be successor contracts subject to the nondisplacement provisions that carry a burden under the PRA. Subcontracts are not reported in the FPDS, and the DOL has not found a reliable source on which to estimate the number of subcontracts per SCA prime contract. Based on consultations with Federal procurement officials, the DOL assumes that for PRA purposes a typical SCA contract has one prime contractor and three subcontractors; therefore, the Department estimates the information collection requirements of part 9 would apply to approximately 60,000 contracts. 15,000 covered contract actions × 4 contractors. A review of FPDS data suggests that, while about 110,000 contractors performed work on Federal service contracts in FY 2006, only 44,039 contractors performed work on service contracts in excess of $25,000. *See* David Berteau, *et al., Structure and Dynamics of the U.S. Federal Professional Services Industrial Base 1995–2007,* Center for Strategic and International Studies, February 2009, at 26, *http://www.csis.org/media/csis/pubs/090212_fps_report_2009.pdf (CSIS Report).* Of course, some lesser number of contractors would perform work on contracts subject to the nondisplacement requirements; the DOL estimates each year about 40,000 contractors and subcontractors will be subject to this information collection.

Based on the Wage and Hour Division's enforcement experience under the SCA, the DOL estimates that each service contract covered by this information collection would involve an average of approximately 15 employees. Moreover, the DOL expects successor contractors typically would make oral offers of employment at all-employee meetings where the successor contractor need only make notations on a copy of the employee roster of the offer of employment. Otherwise, the successor contractor would likely make offers of employment individually by mail or

electronic means. Beyond making the offer of employment, the successor contractor would also be responsible for maintaining copies of any written offers of employment, or contemporaneous written records of any oral offers of employment, and copies of any records that formed the basis for any exclusion or exemption claimed under the proposed rule. As job offers will typically be made in a bulk fashion, the DOL estimates it would take a successor contractor an average of approximately one and one-half minutes per employee to make an offer, whether oral, written, or electronic, and another ½ minute to file the associated paperwork for each employee, including any paperwork forming the basis for any exclusion or exemption from the obligation to offer employment to a particular employee. Therefore, the DOL estimates an annual disclosure and recordkeeping burden of 30 minutes per contract for a total annual burden of 30,000 hours. 60,000 contracts × 15 third-party disclosures × 2 minutes.

The information collection requirement for contractors specified in proposed § 9.12(e)—the seniority list—is cleared under the SCA regulations, 29 CFR 4.6(l)(2), OMB control number 1215–0150, and that burden is not duplicated in these estimates.

Estimates prepared for the nondisplacement rules promulgated pursuant to the Clinton Order suggested it applied to only 88 contract actions per year; however, the burdens calculated at that time did not include subcontracts. Using the same criteria as used to calculate burdens under this proposal, the DOL estimates the total number of covered contracts and subcontracts for the earlier rule to be approximately 350; suggesting the current rule would apply to about 170 times more successor contracts. As previously noted the Wage and Hour Division received approximately one complaint per year under the old rule. Extrapolating to the current estimate of contracts subject to the current rule, the DOL estimates it will receive 170 nondisplacement complaints per year, half of which may include supplemental information filed directly with the Wage and Hour Division for a total number of complainant responses of 255. The DOL estimates that each complaint filing will take about 20 minutes; therefore, the DOL estimates the total burden for filing complaints to be about 85 hours. 255 responses × 20 minutes.

The total burden estimates under the PRA (including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information) are as follows: 40,170 respondents; 900,255 responses; and 30,085 burden hours.

Public Comments: The DOL specifically seeks public comments regarding the burdens imposed by information collections contained in this proposed rule. In particular, the Department seeks comments that: evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; enhance the quality, utility and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses. Commenters may send their views about these information collections to the Department in the same way as all other comments (*e.g.,* through the regulations.gov Web site). While much of the information provided to the OMB in support of the information collection request appears in this preamble, interested parties may obtain a copy of the full supporting statement by sending a written request to the mail address shown in the **ADDRESSES** section at the beginning of this preamble or by visiting the *http://www.reginfo.gov/public/do/PRAMain* Web site. In addition to having an opportunity to file comments with the Department, comments about the paperwork implications of the proposed regulations may be addressed to the OMB. Comments to the OMB should be directed to: Office of Information and Regulatory Affairs, Attention OMB Desk Officer for the Wage and Hour Division (WHD), Office of Management and Budget, Room 10235, Washington, DC 20503, *Telephone:* 202–395–7316/*Fax:* 202–395–6974 (these are not toll-free numbers).

These paperwork burden estimates are summarized as follows:

Type of Review: Reinstatement with change of a previously approved collection.

Agency: Wage and Hour Division, Department of Labor.

Title: Nondisplacement of Qualified Workers Under Service Contracts.

OMB Control Number: 1215–0190.

Affected Public: Business or other for-profit and Individuals or Households.

Estimated Number of Respondents: 40,170.

Estimated Number of Responses: 900,255.

Frequency of Response: On occasion.

Estimated Annual Burden Hours: 30,085.

Estimated Annual Burden Costs (Operation and Maintenance): $0.

V. Executive Order 12866, Regulatory Flexibility

This NPRM is considered to be a significant regulatory action within the meaning of Executive Order 12866, and was submitted to OMB for review before publication, because the proposed rule may raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866. The first sentence of Executive Order 13495 recognizes that successor contractors often hire most of the employees who worked on predecessor contract, if the contract work will continue at the same location. The DOL believes the NPRM will not have a significant economic impact, because the proposal would simply require contractors to follow a practice currently used in most cases as a good business practice. The DOL expects that, as further explained in this section, there will be virtually no change in the way most contractors currently conduct business, with the exception that they will need to ensure the appropriate contract language appears in subcontracts. The DOL also expects that a majority of remaining contractors will comply with the new requirements by simply replacing aspects of their existing staffing practices with similar practices that do not entail an additional burden but do assure compliance with the NPRM. In addition, the DOL expects that in certain instances a contracting agency will exercise its exemption authority to exclude contracts from these requirements if it is clear that application of the nondisplacement requirements would impair the ability of the agency to procure services on an economical and efficient basis.

In estimating the costs on contractors, the DOL has also considered how current practices compare with expected actions contractors typically will take under the nondisplacement provisions. For example, those successor contractors that currently hire new employees for a contract must recruit workers and evaluate their qualifications for positions on the contract. In order to match employees with suitable jobs under this NPRM,

successor contractors will evaluate the predecessor contract employees and available positions; thus, successor contractors are likely to spend an equal amount of time determining job-suitability under the NPRM as under current practices. The costs for documenting these employment decisions will also be similar under both the NPRM and status quo.

For purposes of this analysis, the DOL also believes the time contactors will save by not recruiting an entirely new workforce from the outset will be offset by the additional time a successor contractor will spend in recruiting a new employee when there is a vacant position because the contractor cannot find suitable work for an employee who worked on the predecessor contract or in considering how to minimize displacement when the successor contractor reconfigures how it will deploy employees performing on the successor contract. *See* § 9.12(d)(3). This NPRM will also not affect wages contractors will pay workers, because of the existing SCA requirement for the wage determination that establishes the minimum rate for each occupation to be incorporated into the contract; thus, existing regulatory requirements already set wage rates, including when the predecessor's collectively bargained rate is incorporated into the contract, successors must pay. *See* 41 U.S.C. 353(c); 29 CFR 4.6(b)(1). This NPRM does not require successor contractors to pay wages higher than the rate required by the SCA, even when the predecessor paid a higher rate. The successor contractor also may offer employment under different terms and conditions, if the reasons for doing so are not related to a desire that the employee refuse the offer or that other employees be hired for the offer. *See* § 9.12(b)(5).

The predecessor contractor must provide a list of persons employed on the contract no less than 10 days before the end of the contractor's performance. The clause makes clear that this is the same list as the seniority list provided under the Service Contract Act clauses. § 9.12(e). As this list already exists and is used by contractors in hiring decisions under the status quo, the DOL baseline to calculate additional costs accounts for the current business practice among contractors to receive the employee list and make hiring decisions from there.

The proposal does include a contract clause provision requiring contractors to incorporate the nondisplacement contract clause into each covered subcontract. This provision comes directly from Executive Order 13495, and the DOL estimates that it will take a combined total of 30 minutes for contractors to incorporate the contract clause into each covered subcontract and the subcontractor to review it. Thus, assuming covered contractors spend an additional two hours (accounting for any additional time spent in making job offers, inserting and reviewing the contract clause in subcontracts, and maintaining records) per contract to comply with this proposed rule and increasing the October 2009 average hourly earnings for professional and business workers by 40 percent to account for fringe benefits (a total of $31.32 per hour), this rule is estimated to impose annual costs of $3,758,400 on contractors. 60,000 contracts × 2 hours × $31.32. *See The Employment Situation—December 2009,* at 28, Table B–3, Bureau of Labor Statistics, (*http://www.bls.gov/news.release/archives/empsit_01082010.pdf*).

While most contractors will obtain their information primarily from the contract clause, and Wage and Hour Division offices throughout the country are available to provide compliance assistance at no charge to employers; however, in the course of researching compliance options within the context of specific business needs, some contractors will incur additional legal, accounting, and/or other costs associated with complying with the nondisplacement requirements. For purposes of this analysis, the DOL estimates 15 percent of covered contractors each will incur additional costs averaging $5,000 because of the NPRM requirements, for a total of $30,000,000. 40,000 contractors × 15% × $5,000. The DOL believes ten percent of these 6,000 contractors will face complex issues that will require each spending an average of $10,000 additional dollars, totaling $6,000,000. 6,000 contractors × 10% × $10,000. The DOL estimates total costs contractors will incur to comply with this NPRM to be $39,758,400. The DOL expects some of these costs will be transferred to the Federal Government in the form of higher bids; however, the agency is not aware of a reasonable way to allocate those costs.

Executive Order 13495 and this proposal would improve Government efficiency and economy in those cases where the practice of offering a right of first refusal of employment would not otherwise have been followed, because the requirements decrease or eliminate the loss of productivity that may occur when experienced employees are terminated. As previously indicated, the DOL estimates 20 percent of all SCA covered contract actions in 2006 would be subject to this NPRM. Applying this same percentage to the total FPDS reported value of SCA contract actions during 2006, just under $115,000,000,000 ($114,935,252,182), the DOL estimates the total value of contracts subject to the nondisplacement provisions to be $23,000,000,000. $115,000,000,000 × 0.2. As also previously stated, nothing will change in a majority of these successor contracts; thus the Federal Government will not realize an increase in economy or efficiency from a reduced disruption in the delivery of services during the transition period between contractors or from the benefits of already experienced and trained service contract employees who are familiar with the Federal Government's personnel, facilities, and requirements. Assuming, however, an improvement in economy and efficiency that is equal to 1 percent on forty percent of the value of SCA covered contracts (*i.e.,* four tenths of a percent of all SCA contracts) the DOL estimates the nondisplacement provisions that are the subject of this NPRM will result in a gross savings of $92,000,000. $23,000,000,000 × 0.4 × 0.01.

Some of these savings will be absorbed by the expenses contracting agencies will incur to inform employees of their possible right to a job offer and costs to administer the requirements. The DOL has used the 2010 Rest of United States salary table to estimate salary expenses. *http://www.opm.gov/oca/10tables/html/RUS_h.asp.* The DOL believes contracting agencies will spend 30 minutes on each insertion of the applicable contract clauses in a successor prime contract, for a total of 7500 hours. 15,000 × 0.5 hours. The DOL assumes this work will be performed by a GS–11, step 4 Federal employee, earning $30.26 per hour, for a cost of $226,950. 7500 hours × $30.26. While it will be clear that in most cases there is no reason for a contracting agency to exempt a contract from the nondisplacement requirements, the DOL estimates contracting agencies will spend an average of 2 hours on each covered contract and subcontract to make the determination and that a GS–13, step 4 Federal employee earning $43.13 per hour will perform the work, for a cost of $5,175,600. 60,000 contracts and subcontracts × 2 hours × $43.13. Once this analysis is done, the contracting agency must inform the contract employees of either their possible right to a job offer or of the decision to exempt the contract. The DOL believes this notification will take about 30 minutes per contract and that the work will be performed by a GS–9,

Step 4 Federal employee earning $25.01, for a cost of $750,300. 60,000 contracts and subcontracts × 0.5 hours × $25.01. This includes the time needed to prepare the notice and post it at the worksite or prepare a written notice that is provided in a bulk manner to the employees. The estimated general administrative costs equal $6,152,850.

The NPRM also requires Contracting Officers to accept complaints from predecessor employees or their authorized representatives and to forward the complaints, along with other supporting documentation, to the Wage and hour Division within 30 days of the original filing. § 9.11(d). The Federal costs associated with this requirement include the time it takes to gather the documents related to the complaint and to photocopy them for both the complainant and the contractor and the reproduction and mailing cost to forward the copies. Federal costs will also include the cost for the Wage and Hour Division to review the complaint to determine what further action might be appropriate. The DOL estimates the Wage and Hour Division will receive 170 nondisplacement complaints per year.

GS–13, step 4 to review complaint at the Wage and Hour Division and determine whether to schedule compliance action.

170 complaints × 10 minutes review time = 28 hours (rounded)
28 hours × $43.13 = $1208 (rounded)

GS–11, step 4 to compile and review the complaint and supplemental documents for forwarding:

170 complaints × 20 minutes = 57 hours (rounded)
57 hours × $30.26 = $1725 (rounded)

GS–3, step 4 to photocopy & assemble complaint documents:

170 complaints × 10 minutes = 28 hours (rounded)
28 hours × $13.14 = $368 (rounded)

Printing costs

170 complaints × 4 pages × 3 copies × $0.05 per page = $102

Postage:

170 complaints × 3 mailings (DOL, contractor, and complainant) × $0.47 ($0.44 each + $0.03 per envelope) = $240 (rounded)

GS 12, step 4 to investigate complaints:

170 complaints × 20 hours = 3400 hours
3400 hours × $36.27 = $123,318
Printing 60,000 notices × $0.05 per notice = $3000
Enforcement Subtotal $129,961
Total Gross Annual Federal Cost estimate = $6,282,811

After offsetting the costs of administering the nondisplacement requirements from the savings, the DOL estimates economies and efficiencies arising from this NPRM would result in Federal cost savings equaling $85,717,189. $92,000,000 gross savings − $6,282,811 gross costs. Some of these savings, however, may actually transfer to contractors who are bidding on the contract, especially in light of the additional costs they are likely to incur. After offsetting the overall savings attributed to the Federal government from the overall additional costs attributed to contractors, the nondisplacement provisions covered by this NPRM will result in a net change to the economy of $45,958,789 in overall cost savings. $85,717,189 overall Federal savings − $39,758,400 contractor costs. The DOL wishes to emphasize that while this analysis is presented in terms of contractor and Federal Government costs and savings, because costs and savings will factor into final bid proposals, some of the overall savings are likely to transfer to contractors. In any event, this NPRM will result in an effect on the economy that is less than the $100,000,000 threshold for a rule to be considered economically significant.

In addition, this NPRM would not be expected (1) To adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) to create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially to alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipient.

VI. Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980, as amended (RFA) requires agencies to prepare regulatory flexibility analyses and make them available for public comment, when proposing regulations that will have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 603. If the rule is not expected to have a significant economic impact on a substantial number of small entities, the RFA allows an agency to certify such, in lieu of preparing an analysis. *See* 5 U.S.C. 605. For the reasons explained in this section, the DOL believes this NPRM is not likely to have a significant economic impact on a substantial number of small entities, and therefore an initial regulatory flexibility analysis is not required by the RFA. However, in the interest or transparency and to provide an opportunity for public comment, DOL has prepared the following analysis to assess the impact of this regulation on small entities (as defined by the applicable SBA size standards). The DOL specifically requests comments on the following burden estimates, including the number of small entities affected by the nondisplacement requirements, and whether alternatives exist that will reduce burden on small entities while still meeting the requirements of Executive Order 13495. The Chief Counsel for Advocacy of the Small Business Administration was notified of a draft of this rule upon submission of the rule to the Office of Management and Budget under E.O. 12866, as amended, "Regulatory Planning and Review." 58 FR 51735, 67 FR 9385, 72 FR 2763.

Why agency is considering action: The DOL has published this NPRM to implement the enforcement provisions of Executive Order 13495, "Nondisplacement of Qualified Workers Under Service Contracts." The Executive Order assigns enforcement responsibility for the nondisplacement requirements to the DOL.

Objectives of and Legal Basis for Rule: This rule will provide guidance on how to comply with the nondisplacement requirements of Executive Order 13495 and how the DOL intends to administer and enforce them. Section 6(a) of the Executive Order assigns the responsibility of investigating and obtaining compliance with the nondisplacement requirements to the DOL. 74 FR 6105. Section 6(b) directs the Secretary of Labor, in consultation with the FARC, to issue regulations to implement the requirements of the Order. *Id.*

Description and number of small entities covered by the NPRM: This NPRM would apply to small entities that perform work for the Federal Government on contracts or subcontracts subject to the SCA of $100,000 or more. The DOL has found no precise data with which to measure the precise number of small entities that would be covered by this NPRM; however, certain available data allow for estimates. As already discussed in the Paperwork Reduction Act portion of this preamble, according to the Federal Procurement Data System's (FPDS) 2006 Federal Procurement Report, slightly less than 75,000 (74,611) Federal Government contract actions were subject to the SCA during that reporting period. A contract action is any oral or written action that results in the

purchase, rent, or lease of supplies or equipment, services, or construction using appropriated dollars over the micro-purchase threshold, or modifications to these actions regardless of dollar value. Many contract actions are modifications to or extensions of existing Federal contracts or otherwise relate to actions where there is no successor contractor. The DOL, therefore, assumes that about 15,000 per year (slightly more than 20 percent of all SCA covered contract actions in 2006) would be successor contracts subject to the nondisplacement provisions. Subcontracts are not reported in the FPDS, and the DOL has not found a reliable source on which to estimate the number of subcontracts per SCA prime contract. Based on consultations with Federal procurement officials, the DOL assumes that for PRA purposes a typical SCA contract has one prime contractor and three subcontractors; therefore, the Department estimates the requirements of part 9 would apply to approximately 60,000 contracts; 15,000 covered contract actions × 4 contractors. A review of FPDS data suggests that, while about 110,000 contractors performed work on Federal service contracts in FY 2006, only 44,039 contractors performed work on service contracts in excess of $25,000. *See* David Berteau, *et al., Structure and Dynamics of the U.S. Federal Professional Services Industrial Base 1995–2007,* Center for Strategic and International Studies, February 2009, at 26, *http://www.csis.org/media/csis/pubs/090212_fps_report_2009.pdf* (*CSIS Report*). Of course, some lesser number of contractors would perform work on contracts subject to the nondisplacement requirements; the DOL estimates each year about 40,000 contractors and subcontractors will be subject to this information collection. FPDS data also suggest that slightly less than 55 percent of all contract actions relate to small entities. Applying this percentage to the 40,000 estimated covered contractors and subcontractors (generically referred to as contractors in this analysis, unless otherwise noted), suggests this rule will apply to 22,000 small entities. The CSIS Report found that 31,700 small businesses in FY 2006 undertook contracts worth at least $25,000 (72 percent of all contractors undertaking Federal professional service contracts of at least $25,000). CSIS Report at 26. Again, this rule would apply only to a portion of these contractors; however, using this latter percentage suggests the rule might apply to 28,800 small businesses. This is an upper bound estimate, because (in addition to not applying to contracts or subcontracts of less than $100,000) the NPRM would not apply to small entities with certain contracts or subcontracts awarded for services produced or provided by persons who are blind or have severe disabilities or contracts exempted by the contracting agency. Applying the same percentage (72 percent) to the total estimated value of $23,000,000,000 for all service contracts subject to this rule, suggests the value of those contracts held by small entities would equal $16,560,000,000. The earlier analysis showing 40,000 contractors will work on 60,000 successor contracts and subcontracts (generically referred to as contracts in this analysis, unless otherwise noted) subject to this rule suggests a typical contractor will work on 1.5 successor contracts subject to the nondisplacement provisions. For purposes of this analysis, the DOL assumes each covered small contractor will also work on an average of 1.5 covered successor contracts each year, the same ratio as all contractors; thus, this NPRM is expected to apply to no more than 43,200 successor contracts awarded to small contractors.

Compliance requirements, including reporting and recordkeeping: This NPRM would impose a general requirement on the contractor and its subcontractors, under a contract that succeeds a contract for performance of the same or similar services at the same location, to offer those employees employed under the predecessor contract whose employment will be terminated as a result of the award of the successor contract, a right of first refusal of employment under the contract in positions for which they are qualified. Specifically, the proposal provides that, except as provided under specific exclusions listed in proposed § 9.4 or paragraphs (c) and (d) of proposed § 9.12, a successor contractor or subcontractor could not fill any employment openings under the contract prior to making good faith offers of employment, in positions for which the employees are qualified, to those employees employed under the predecessor contract whose employment will be terminated as a result of award of the contract or the expiration of the contract under which the employees were hired. The contractor and its subcontractors would be required to make an express offer of employment to each employee and state the time within which the employee must accept such offer, but in no case would the period within which the employee must accept the offer of employment be less than 10 days. The employment offer may be to a different job position on the contract for which the employee is qualified.

The NPRM also addresses the exceptions to the general obligation to offer employment under Executive Order 13495. The exclusions specify both certain classes of contracts and certain employees excluded from the provisions of Executive Order 13495. The exemptions from the successor contractor's obligation to offer employment on the contract to employees on the predecessor contract prior to making the offer to anyone else do not relieve the contractor of other requirements of this part (*e.g.,* the obligation near the end of the contract to provide a list of employees who worked on the contract during the last month). Specifically, a contractor or subcontractor (1) Would not be required to offer employment to any employee of the predecessor who will be retained by the predecessor contractor; (2) would be allowed to employ under the contract any employee who has worked for the contractor or subcontractor for at least three months immediately preceding the commencement, *i.e.,* the first date of performance, of the contract and who would otherwise face lay-off or discharge; (3) would not be required to offer employment to any employee of the predecessor who is not a service employee; (4) would not be required to offer employment to any employee of the predecessor contractor for whom the contractor or any of its subcontractors reasonably believes, based on the particular employee's past performance, has failed to perform suitably on the job; (5) would not be required to offer employment to any employee hired to work under a predecessor's Federal service contract and one or more nonfederal service contracts as part of a single job, provided that the employee was not deployed in a manner that was designed to avoid the purposes of this part; (6) would be required to determine the number of employees necessary for efficient performance of the contract and, for bona fide staffing or work assignment reasons, to elect to employ fewer employees than the predecessor contractor employed in performance of the work.

The NPRM would also require the contractor, not less than 10 days before completion of the contract, to furnish the Contracting Officer a certified list of the names of all service employees working under the contract and its subcontracts during the last month of contract performance, including their anniversary dates of employment with either the current or predecessor contractors or their subcontractors. The

contractor may use the list submitted to satisfy the requirements of the SCA contract clause specified at 29 CFR 4.6(l)(2) to meet this provision.

The NPRM prescribes no particular order or form of records for contractors, and the recordkeeping requirements apply to all records regardless of their format (*e.g.,* paper or electronic). A contractor would be allowed to use records developed for any purpose to satisfy the requirements of part 9, provided the records otherwise meet the requirements and purposes of this part. Contractors must maintain copies of any written offers of employment or a contemporaneous written record of any oral offers of employment, including the date, location, and attendance roster of any employee meeting(s) at which the offers were extended, a summary of each meeting, a copy of any written notice that may have been distributed, the names of the employees from the predecessor contract to whom an offer was made, any written record that forms the basis for any exclusion or exemption claimed under this part, the employee list provided to the contracting agency, and the employee list received from the contracting agency.

In addition, every contractor who makes retroactive payment of wages or compensation under the supervision of the Wage and Hour Division pursuant to proposed § 9.24(b) will be required to record and preserve for three years in the pay records the amount, the period covered, and the date of payment to each employee, and to report each such payment on a receipt form authorized by the Wage and Hour Division.

Contractors would be obligated to cooperate during any investigation to determine compliance with the nondisplacement requirements as a condition of the contract award and to not discriminate against any person because such person has cooperated in an investigation or proceeding under part 9 or has attempted to exercise any rights afforded under part 9. As proposed, this obligation to cooperate with investigations is not limited to investigations of the contractor's own actions, but also includes investigations related to other contractors (*e.g.,* predecessor and subsequent contractors) and subcontractors.

All small entities subject to the nondisplacement requirements would be required to comply with all the provisions of the NPRM, and the work can be performed by a combination of management officials (*e.g.,* staff authorized to make job offers) and clerical staff (*e.g.,* staff to maintain the list of persons offered employment and file records). The compliance requirements are more fully described above in other portions of this preamble.

Executive Order 13495 mandates a practice that successor contractors already typically follow. As with other contractors, the DOL expects there will be virtually no change in the way most small contractors currently conduct business, with the exception that they will need to ensure the appropriate contract language appears in subcontracts. The DOL expects that a majority of small contractors making changes to their business operations will comply with the new requirements by simply replacing aspects of their existing staffing practices with similar practices that do not entail an additional burden but do assure compliance with the NPRM.

In estimating the costs on small contractors, the DOL has also considered how current practices compare with expected actions contractors typically will take under the nondisplacement provisions. For example, those successor contractors that currently hire new employees for a contract must recruit workers and evaluate their qualifications for positions on the contract. In order to match employees with suitable jobs under this NPRM, successor contractors will evaluate the predecessor contract employees and available positions; thus, successor contractors are likely to spend an equal amount of time determining job-suitability under the NPRM as under current practices. The costs for documenting these employment decisions will also be similar under both the NPRM and status quo.

For purposes of this analysis, the DOL also believes the time small contractors will save by not recruiting an entirely new workforce from the outset will be offset by the additional time a successor contractor will spend in recruiting a new employee when there is a vacant position because the contractor cannot find suitable work for an employee who worked on the predecessor contract or in considering how to minimize displacement when the successor contractor reconfigures how it will deploy employees performing on the successor contract. *See* § 9.12(d)(3). As previously mentioned, this NPRM will also not affect wages contractors will pay workers, because of the existing SCA requirement for the wage determination that establishes the minimum rate for each occupation to be incorporated into the contract; thus, existing regulatory requirements already set wage rates, including when the predecessor's collectively bargained rate is incorporated into the contract, successors must pay. *See* 41 U.S.C. 353(c); 29 CFR 4.6(b)(1). This NPRM does not require successor contractors to pay wages higher than the rate required by the SCA. The successor contractor also may offer employment under different terms and conditions, if the reasons for doing so are not related to a desire that the employee refuse the offer or that other employees be hired for the offer. *See* § 9.12(b)(5).

The predecessor contractor must provide a list of persons employed on the contract no less than 10 days before the end of the contractor's performance. The clause makes clear that this is the same list as the seniority list provided under the Service Contract Act clauses. § 9.12(e). As this list already exists and is used by contractors in hiring decisions under the status quo, the DOL baseline to calculate additional costs for small entities accounts for the current business practice among contractors to receive the employee list and make hiring decisions from there.

The proposal does include a contract clause provision requiring contractors to incorporate the nondisplacement contract clause into each covered subcontract. This provision comes directly from Executive Order 13495, and the DOL estimates that it will take a combined total of 30 minutes for contractors to incorporate the contract clause into each covered subcontract and the subcontractor to review it. As will be further explained later in this analysis, 85 percent of all small contractors are expected to incur no additional costs under this NPRM. Assuming covered contractors spend an additional two hours (accounting for any additional time spent in making job offers, inserting and reviewing the contract clause in subcontracts, and maintaining records) per contract to comply with this proposed rule and increasing the October 2009 average hourly earnings for professional and business workers by 40 percent to account for fringe benefits (a total of $31.32 per hour), this rule is estimated to impose annual costs of less than $100 on most small contractors. 1.5 contracts per contractor × 2 hours × $31.32. *See The Employment Situation—December 2009,* at 28, Table B–3, Bureau of Labor Statistics, (*http://www.bls.gov/news.release/archives/empsit_01082010.pdf*). Aggregate compliance costs for these general requirements are expected to be $2,706,048. 28,800 contractors × 1.5 contracts × 2 hours × $31.32.

As with other contractors, most small contractors will obtain information about the nondisplacement requirements primarily from the contract clause, and Wage and Hour

Division offices throughout the country are available to provide compliance assistance at no charge to employers. While the DOL believes this rule has been drafted in a way that the vast majority of contractors should be able to comply with the nondisplacement requirements without the need of professional assistance from an attorney or accountant, the DOL recognizes some contractors will seek such assistance in the course of researching compliance options within the context of specific business needs. In recognition of this latter fact, for purposes of this analysis, the DOL estimates 15 percent of covered contractors each will incur additional costs averaging $5000 because of the NPRM requirements, for a total of $21,600,000 spent by 4320 small contractors. 28,800 contractors × 15% × $5000. The DOL believes ten percent of these 4320 contractors will face complex issues that will require each spending an average of $10,000 additional dollars, totaling $4,320,000 spent by 432 small contractors. 4320 contractors × 10% × $10,000. The DOL estimates total compliance costs that the 28,800 small contractors subject to this NPRM will incur will be $28,626,048, with more than 90 percent of costs being borne by 4320 of these contractors. $26,325,907/$28,626,048. Using the assumptions already discussed, this NPRM would impose additional costs equaling less than 3 percent of the combined estimated $248,400,000 value of contracts awarded to the 432 small contractors who will bear the greatest costs to comply with the nondisplacement requirements. $16,560,000,000 value of contracts subject to NPRM awarded to small contracts × 1.5 percent (percentage of contractors facing greatest costs 432/28,800) = $248,400,000. $6,520,591 total estimated compliance costs/$248,400,000 estimated compliance costs = 2.6 percent. As with other contractors, the DOL expects some compliance costs will be transferred to the Federal Government in the form of higher bids; however, the agency is not aware of a reasonable way to allocate those costs.

The DOL specifically requests comments on these burden estimates, including the number of small entities affected by the nondisplacement requirements, and on how the final rule can reduce burden on small entities while still meeting the requirements of Executive Order 13495.

Relevant Federal rules duplicating, overlapping or conflicting with the rule: Section 6(b) of the Executive Order requires the FARC to issue regulations to provide for inclusion of the applicable contract clause in Federal solicitations and contracts subject to the nondisplacement requirements; thus, the contract clause and some requirements applicable to contracting agencies will appear in both this part and in the FARC regulations. As noted above, the certified list of all service employees working under the contract and its subcontracts during the last month of contract performance is the same list a contractor covered by the SCA is already required to submit pursuant to 29 CFR 4.6(l). *See also,* section 5, contract clause paragraph (c) of Executive Order 13495. 74 FR 6104. The DOL is not aware of any relevant Federal rules that conflict with this NPRM.

Differing Compliance and Reporting Requirements for Small Entities: This NPRM provides for no differing compliance requirements and reporting requirements for small entities. The DOL has strived to have this proposal implement the nondisplacement requirements of Executive Order 13495 with the least possible burden for small entities. The NPRM provides a number of efficient and informal alternative dispute mechanisms to resolve concerns about contractor compliance, including allowing for complaints initially to be filed with the contracting agency and having the contracting agency provide compliance assistance to the contractor about the nondisplacement requirements and allowing for the Wage and Hour Division to attempt an informal conciliation of complaints instead of engaging in extensive investigations. These tools will provide contractors with an opportunity to resolve inadvertent errors rapidly and before significant liabilities develop.

Clarification, consolidation, and simplification of compliance and reporting requirements for small entities: This NPRM was drafted to clearly state the compliance and reporting requirements for all contractors subject to the nondisplacement provisions. The only reporting requirement is the certified list of the names of all service employees working under the contract and its subcontracts during the last month of contract performance, including their anniversary dates of employment with either the current or predecessor contractors or their subcontractors. The contractor may use the list submitted to satisfy the requirements of the SCA contract clause specified at 29 CFR 4.6(l)(2) to meet this provision.

Use of Performance Rather Than Design Standards: This NPRM was written to provide clear guidelines to ensure compliance with the nondisplacement requirements. Many of the features incorporate standards geared to performance. For example, the NPRM would provide for the successor contractor to determine the number of employees needed to perform the work and allow the successor contractor to decide which predecessor contract employees would receive an offer of employment on the contract, provided the offers resulted in the least displacement possible.

Exemption from Coverage of the Rule for Small Entities: Executive Order 13495 establishes its own coverage and exemption requirements; therefore, the DOL has no authority to exempt additional small businesses from the nondisplacement requirements beyond the express language of Executive Order 13495.

VII. Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532, this NPRM does not include any Federal mandate that may result in excess of $100 million in expenditures by state, local, and tribal governments in the aggregate or by the private sector.

VIII. Executive Order 13132 (Federalism)

The DOL has (1) reviewed this rule in accordance with Executive Order 13132 regarding federalism and (2) determined that it does not have federalism implications. The NPRM would 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.

IX. Executive Order 13175, Indian Tribal Governments

This NPRM would not have tribal implications under Executive Order 13175 that would require a tribal summary impact statement. The NPRM would not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes or on the distribution of power and responsibilities between the Federal government and Indian tribes.

X. Effects on Families

The undersigned hereby certifies that the NPRM would not adversely affect the well-being of families, as discussed under section 654 of the Treasury and General Government Appropriations Act, 1999.

XI. Executive Order 13045, Protection of Children

This NPRM would have no environmental health risk or safety risk that may disproportionately affect children.

XII. Environmental Impact Assessment

A review of this NPRM in accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.;* the regulations of the Council on Environmental Quality, 40 CFR 1500 *et seq.;* and the Departmental NEPA procedures, 29 CFR part 11, indicates the NPRM would not have a significant impact on the quality of the human environment. There is, thus, no corresponding environmental assessment or an environmental impact statement.

XIII. Executive Order 13211, Energy Supply

This NPRM is not subject to Executive Order 13211. It will not have a significant adverse effect on the supply, distribution, or use of energy.

XIV. Executive Order 12630, Constitutionally Protected Property Rights

This NPRM is not subject to Executive Order 12630, because it does not involve implementation of a policy that has takings implications or that could impose limitations on private property use.

XV. Executive Order 12988, Civil Justice Reform Analysis

This NPRM was drafted and reviewed in accordance with Executive Order 12988 and will not unduly burden the Federal court system. The NPRM was: (1) Reviewed to eliminate drafting errors and ambiguities; (2) written to minimize litigation; and (3) written to provide a clear legal standard for affected conduct and to promote burden reduction.

XVI. Dates of Applicability

This is a proposed rule, and any regulations to administer the nondisplacement requirements would only become effective upon issuance of a final rule. E.O. 13495 provides that its nondisplacement provisions will apply to solicitations issued on or after the effective date of the contract clause regulations to be implemented by the FARC.

List of Subjects in 29 CFR Part 9

Employment, Federal buildings and facilities, Government contracts, Law enforcement, Labor.

Nancy J. Leppink,

Deputy Administrator, Wage and Hour Division.

For the reasons set out in the preamble, the DOL proposes to amend Title 29 of the Code of Federal Regulations by adding part 9 as set forth below:

PART 9—NONDISPLACEMENT OF QUALIFIED WORKERS UNDER SERVICE CONTRACTS

Subpart A—General

Sec.
9.1 Purpose and scope.
9.2 Definitions.
9.3 Coverage.
9.4 Exclusions.

Subpart B—Requirements

9.11 Contracting agency requirements.
9.12 Contractor requirements and prerogatives.

Subpart C—Enforcement

9.21 Complaints.
9.22 Wage and Hour Division conciliation.
9.23 Wage and Hour Division investigation.
9.24 Remedies and sanctions for violations of this part.

Subpart D—Administrator's Determination, Mediation, and Administrative Proceedings

9.31 Administrator's determination.
9.32 Requesting appeals.
9.33 Mediation.
9.34 Administrative Law Judge hearings.
9.35 Administrative Review Board hearings.
Appendix A to Part 9—Contract Clause
Appendix B to Part 9—Notice to Service Contract Employees

Authority: 5 U.S.C. 301; section 6, E.O. 13495, 74 FR 6103; Secretary's Order 9–2009, 74 FR 58836.

Subpart A—General

§ 9.1 Purpose and scope.

(a) *Purpose.* This part contains the Department of Labor's rules relating to the administration of Executive Order 13495, "Nondisplacement of Qualified Workers Under Service Contracts," and implements the enforcement provisions of the Executive Order. The Executive Order assigns enforcement responsibility for the nondisplacement requirements to the DOL. The Executive Order states that the Federal Government's procurement interests in economy and efficiency are served when the successor contractor hires the predecessor's employees. A carryover work force minimizes disruption in the delivery of services during a period of transition between contractors and provides the Federal Government the benefit of an experienced and trained work force that is familiar with the Federal Government's personnel, facilities, and requirements. Executive Order 13495, therefore, generally requires that successor service contractors performing on Federal contracts offer a right of first refusal to suitable employment (*i.e.,* a job for which the employee is qualified) under the contract to those employees under the predecessor contract whose employment will be terminated as a result of the award of the successor contract.

(b) *Policy.* Executive Order 13495 establishes a Federal Government policy for service contracts and their solicitations to include a clause that requires the contractor and its subcontractors under a contract that succeeds a contract for performance of the same or similar services at the same location to offer a right of first refusal of employment to those employees (other than managerial and supervisory employees) employed under the predecessor contract whose employment will be terminated as a result of the award of the successor contract in positions for which the employees are qualified. Nothing in Executive Order 13495 or this part shall be construed to permit a contractor or subcontractor to fail to comply with any provision of any other Executive Order, regulation, or law of the United States.

(c) *Scope.* Neither Executive Order 13495 nor this part creates any rights under the Contract Disputes Act or any private right of action. The Executive Order provides that disputes regarding the requirement of the contract clause prescribed by section 5 of the Order, to the extent permitted by law, shall be disposed of only as provided by the Secretary of Labor in regulations issued under the Order. It also provides for this part to favor the resolution of disputes by efficient and informal alternative dispute resolution methods to the extent practicable. The Order does not preclude judicial review of final decisions by the Secretary in accordance with the Administrative Procedure Act.

§ 9.2 Definitions.

For purposes of this part:

(1) *Administrator* means the Administrator of the Wage and Hour Division and includes any official of the Wage and Hour Division authorized to perform any of the functions of the Administrator under this part.

(2) *Administrative Review Board* means the Administrative Review Board, U.S. Department of Labor.

(3) *Contractor* means a prime contractor and all of its first or lower tier subcontractors on a Federal service contract.

(4) *Contracting Officer* means the individual, a duly appointed successor, or authorized representative who is designated and authorized to enter into procurement contracts on behalf of the Federal contracting agency.

(5) *Day* means, unless otherwise specified, a calendar day.

(6) *Employee* or *service employee* means any person engaged in the performance of a service contract other than any person employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in 29 CFR part 541. The term *employee* or *service employee* includes all such persons, as defined in the McNamara-O'Hara Service Contract Act of 1965, as amended, regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

(7) *Employment opening* means any vacancy in a position on the contract, including any vacancy caused by replacing an employee from the predecessor contract with a different employee.

(8) *Federal Government* means an agency or instrumentality of the United States that enters into a procurement contract pursuant to authority derived from the Constitution and the laws of the United States.

(9) *Managerial employee* and *supervisory employee* mean a person engaged in the performance of services under the contract who is employed in a bona fide executive, administrative, or professional capacity, as those terms are defined and delimited in 29 CFR part 541.

(10) *Month* means a period of 30 consecutive days, regardless of the day of the calendar month on which it begins.

(11) *Office of Administrative Law Judges* means the Office of Administrative Law Judges, U.S. Department of Labor.

(12) *Secretary* means the U.S. Secretary of Labor or an authorized representative of the Secretary.

(13) *Same or similar service* means a service that is either identical to or has characteristics that are alike in substance and essentials to a service performed at the same location on a contract that is being replaced by the Federal Government or a contractor on a Federal service contract.

(14) *Service contract* or *contract* means any contract or subcontract for services entered into by the Federal Government or its contractors that is covered by the McNamara-O'Hara Service Contract Act of 1965, as amended, and its implementing regulations.

(15) *Solicitation* means any request to submit offers or quotations to the Government.

(16) *United States* means the United States and all executive departments, independent establishments, administrative agencies, and instrumentalities of the United States, including corporations of which, all or substantially all, of the stock is owned by the United States, by the foregoing departments, establishments, agencies, instrumentalities, and including non-appropriated fund instrumentalities.

(17) *Wage and Hour Division* means the Wage and Hour Division, U.S. Department of Labor.

§ 9.3 Coverage.

This part applies to all service contracts and their solicitations, except those excluded by § 9.4 of this part, that succeed contracts for the same or similar service at the same location.

§ 9.4 Exclusions.

(a) *Small contracts.*

(1) *General.* The requirements of this part do not apply to contracts or subcontracts under the simplified acquisition threshold set by the Office of Federal Procurement Policy Act, as amended.

(2) *Application to subcontracts.* While the § 9.4(a)(1) exclusion applies to subcontracts that are less than the simplified acquisition threshold, the prime contractor must comply with the requirements of this part, if the prime contract is at least the threshold amount. When a contractor that is subject to the nondisplacement requirements of this part discontinues the services of a subcontractor at any time during the contract and performs those services itself at the same location, the contractor shall offer employment on the contract to the subcontractor's employees who would otherwise be displaced and would otherwise be qualified in accordance with this part but for the size of the subcontract.

(b) *Certain contracts or subcontracts awarded for services produced or provided by persons who are blind or have severe disabilities.*

(1) The requirements of this part do not apply to contracts or subcontracts pursuant to the Javits-Wagner-O'Day Act.

(2) The requirements of this part do not apply to contracts or subcontracts for guard, elevator operator, messenger, or custodial services provided to the Federal Government under contracts or subcontracts with sheltered workshops employing the *severely handicapped* as described in sec. 505 of the Treasury, Postal Services and General Government Appropriations Act, 1995.

(3) The requirements of this part do not apply to agreements for vending facilities entered into pursuant to the preference regulations issued under the Randolph-Sheppard Act.

(4) The exclusions provided by paragraphs (b)(1) through (3) of this section apply when either the predecessor or successor contract has been awarded for services produced or provided by the severely disabled, as described in paragraphs (b)(1) through (b)(3) of this section.

(c) *Federal service work constituting only part of employee's job.* This part does not apply to employees who were hired to work under a Federal service contract and one or more nonfederal service contracts as part of a single job, provided that the employees were not deployed in a manner that was designed to avoid the purposes of Executive Order 13495.

(d) *Contracts exempted by Federal agency.* This part does not apply to any contract, subcontract, or purchase order or any class of contracts, subcontracts, or purchase orders if the head of a contracting department or agency finds that the application of any of the requirements of this part would not serve the purposes of Executive Order 13495 or would impair the ability of the Federal Government to procure services on an economical and efficient basis.

(1) The agency determination shall be made no later than the solicitation date. As an alternative to waiving all provisions of this part, the head of a contracting department or agency may waive one or more individual provisions no later than the contract solicitation date.

(2) When an agency exercises its exemption authority, the contracting agency will notify affected workers in writing of the finding and decision no later than the award date. The notification shall include facts supporting the conclusion that the application of any of the requirements of this part would not serve the purposes of Executive Order 13495 or would impair the ability of the Federal Government to procure services on an economical and efficient basis. Where a contracting agency exempts a class of contracts, subcontracts, or purchase orders, the agency will provide the notice to incumbent workers for each individual award.

(3) The agency shall use the notification method specified in

§ 9.11(b) of this part to inform workers of the decision.

(4) In exercising the authority to exempt contracts under this section, based on a finding that any of the nondisplacement provisions would not serve the purposes of Executive Order 13495, the agency shall prepare a written analysis supporting the determination that application of the nondisplacement provisions would not serve the purposes of the Executive Order or would impair the ability of the Federal Government to procure services on an economical and efficient basis.

(e) *Managerial and supervisory employees.* This part does not apply to employees who are managerial or supervisory employees of Federal service contractors or subcontractors. *See* § 9.2(9) of this part, definition of *managerial employee* and *supervisory employee.*

Subpart B—Requirements

§ 9.11 Contracting agency requirements.

(a) Contract Clause. The contract clause set forth in appendix A of this part shall be included in covered service contracts, and solicitations for such contracts, that succeed contracts for performance of the same or similar services at the same location:

(b) *Notice.* Where a contract will be awarded to a successor for the same or similar services to be performed at the same location, the Contracting Officer (or designee) will provide written notice to service employees of the predecessor contractor of their possible right to an offer of employment. Such notice shall be either posted in a conspicuous place at the worksite or delivered to the employees individually. Where the predecessor contractor's workforce is comprised of a significant portion of workers who are not fluent in English, the notice shall be provided in both English and a language with which the employees are more familiar. Multiple foreign language notices are required where significant portions of the workforce speak different foreign languages and there is no common language. Contracting Officers may provide the notice set forth in appendix B to this part in either a physical posting at the job site or another format (*e.g.,* individual paper notices or e-mail notification to the affected employees).

(c) *Disclosures.* The Contracting Officer shall provide the incumbent contractor's list of employees referenced in § 9.12(e) of this part to the successor contractor and, on request, to employees or their representatives.

(d) *Actions on complaints.*

(1) *Reporting.*

(i) *Report contents:* Except as provided by paragraph (d)(3) of this section, the Contracting Officer shall forward to the Branch of Government Contracts Enforcement, Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210 any:

(A) Complaint of contractor noncompliance with this part;

(B) Available statements by the employee or the contractor regarding the alleged violation;

(C) Evidence that a seniority list was issued by the predecessor and provided to the successor;

(D) A copy of the seniority list;

(E) Evidence that the nondisplacement contract clause was included in the contract or that the contract was exempted by the contracting agency;

(F) Information concerning known settlement negotiations between the parties, if applicable;

(G) Any other relevant facts known to the contracting officer.

(ii) *Additional distribution.* The Contracting Officer shall provide copies of the report to the contractor, including the prime contractor when the complaint alleges violations by a subcontractor, and the complainant. *See* § 9.21(a) of this part regarding filing complaints with the contracting agency.

(iii) *Reporting time frame.* All information shall be forwarded by the Contracting Officer to the Wage and Hour Division within 30 days of receipt of the complaint. *See also* § 9.21 of this part, Complaints.

(2) *Initial review.* The contracting agency may conduct an initial review of any complaint the agency receives under this part. As part of the contracting agency's initial review, the Contracting Officer may obtain statements of the positions of the parties and may inspect the records of the predecessor and successor contractors (and make copies or transcriptions thereof), question the predecessor and successor contractors and any employees of these contractors, and require the production of any documentary or other evidence deemed necessary to determine whether a violation of this part has occurred.

(3) *Compliance assistance.* The Contracting Officer (or designee) shall provide information about the contract clause provisions of this part to the complainant(s) and successor contractor. Questions of interpretations of this part shall be referred to the nearest local office of the Wage and Hour Division. Contracting Officers need not refer to the Wage and Hour Division any complaint that is withdrawn because of compliance assistance provided by the contracting agency.

§ 9.12 Contractor requirements and prerogatives.

(a) *General.*

(1) *No employment openings prior to right of first refusal.* Except as provided under the exclusions listed in § 9.4 of this part or paragraphs (c) and (d) of this section, a successor contractor or subcontractor shall fill no employment openings under the contract prior to making good faith offers of employment (*i.e.,* a right of first refusal to employment on the contract), in positions for which the employees are qualified, to those employees employed under the predecessor contract whose employment will be terminated as a result of award of the contract or the expiration of the contract under which the employees were hired. The contractor and its subcontractors shall make an express offer of employment to a position for which the employee is qualified to each employee and shall state the time within which the employee must accept such offer, but in no case shall the period within which the employee must accept the offer of employment be less than 10 days.

(2) *No seniority list available.* The successor contractor's obligation to offer a right of first refusal exists even if the successor contractor has not been provided a list of the predecessor contractor's employees or the list does not contain the names of all persons employed during the final month of contract performance.

(3) *Determining eligibility.* While a person's entitlement to a job offer under this part usually will be based on whether he or she is named on the certified list of all service employees working under the predecessor's contract or subcontracts during the last month of contract performance, a contractor must also accept other credible evidence of an employee's entitlement to a job offer under this part. For example, even if a person's name does not appear on the list of employees on the predecessor contract, an employee's assertion of an assignment to work on a contract during the predecessor's last month of performance coupled with contracting agency staff verification could constitute credible evidence of an employee's entitlement to a job offer, as otherwise provided for in this part. Similarly, an employee could demonstrate eligibility by producing a paycheck stub identifying the work location and dates worked.

(b) *Method of job offer.*

(1) *Bona-fide offer.* Except as otherwise provided in this part, a

contractor must make a bona-fide express offer of employment to each employee on the predecessor contract before offering employment on the contract to any other person. The obligation to offer employment under this part shall cease upon the employee's first refusal of a bona fide offer to employment on the contract.

(2) *Establishing time limit for employee response.* The contractor shall state the time within which an employee must accept an employment offer, but in no case may the period in which the employee has to accept the offer be less than 10 days.

(3) *Process.* The successor contractor must, in writing or orally, offer employment to each employee. *See also* paragraph (f) of this section, Recordkeeping. In order to ensure that the offer is effectively communicated, the successor contractor should take reasonable efforts to make the offer in a language that each worker understands. For example, if the contractor holds a meeting for a group of employees on the predecessor contract in order to extend the employment offers, having a co-worker or other person who fluently translates for employees who are not fluent in English would satisfy this provision.

(4) *Different job position.* As a general matter, an offer of employment on the successor's contract will be presumed to be a bona fide offer of employment, even if it is not for a position similar to the one the employee previously held but one for which the employee is qualified. If a question arises concerning an employee's qualifications, that question shall be decided based upon the employee's education and employment history with particular emphasis on the employee's experience on the predecessor contract. A contractor must base its decision regarding an employee's qualifications on credible information provided by a knowledgeable source such as the predecessor contractor, the local supervisor, the employee, or the contracting agency.

(5) *Different employment terms and conditions.* An offer of employment to a position on the contract under different employment terms and conditions, including changes to pay or benefits, than the employee held with the predecessor contractor will be considered bona fide, if the reasons are not related to a desire that the employee refuse the offer or that other employees be hired for the offer.

(6) *Termination after contract commencement.* Where an employee is terminated under circumstances suggesting the offer of employment may not have been bona fide, the facts and circumstances of the offer and the termination will be closely examined during any compliance action to ensure the offer was bona fide.

(c) *Exceptions.* The successor contractor will bear the responsibility of demonstrating the appropriateness of claiming any of the following exceptions to the nondisplacement provisions subject to this part.

(1) *Nondisplaced employees.*

(i) A contractor or subcontractor is not required to offer employment to any employee of the predecessor contractor who will be retained by the predecessor contractor.

(ii) The contractor must presume that all employees hired to work under a predecessor's Federal service contract will be terminated as a result of the award of the successor contract, absent an ability to demonstrate a reasonable belief to the contrary that is based upon credible information provided by a knowledgeable source such as the predecessor contractor or the employee.

(2) *Successor's current employees.* A contractor or subcontractor may employ under the contract any employee who has worked for the contractor or subcontractor for at least 3 months immediately preceding the commencement of the contract and who would otherwise face lay-off or discharge.

(3) *Predecessor contractor's non-service employees.*

(i) A contractor or subcontractor is not required to offer employment to any employee of the predecessor who is not a service employee. *See* § 9.2(6), (9), respectively, of this part for definitions of *employee, managerial employee* and *supervisory employee.*

(ii) The contractor must presume that all employees hired to work under a predecessor's Federal service contract are service employees, absent an ability to demonstrate a reasonable belief to the contrary that is based upon credible information provided by a knowledgeable source such as the predecessor contractor, the employee, or the contracting agency. Information regarding the general business practices of the predecessor contractor or the industry is not sufficient to claim this exemption.

(4) Employee's *past unsuitable performance.*

(i) A contractor or subcontractor is not required to offer employment to any employee of the predecessor contractor for whom the contractor or any of its subcontractors reasonably believes, based on the particular employee's past performance, has failed to perform suitably on the job.

(ii)(A) The contractor must presume that all employees working under the predecessor contract in the last month of performance performed suitable work on the contract, absent an ability to demonstrate a reasonable belief to the contrary that is based upon credible information provided by a knowledgeable source such as the predecessor contractor and its subcontractors, the local supervisor, the employee, or the contracting agency.

(B) For example, a contractor may demonstrate its reasonable belief that the employee, in fact, failed to perform suitably on the predecessor contract through evidence of disciplinary action taken for poor performance or evidence directly from the contracting agency that the particular employee did not perform suitably. The performance determination must be made on an individual basis for each employee, and information regarding the general performance of the predecessor contractor is not sufficient to claim this exception.

(5) *Non-Federal work.*

(i) A contractor or subcontractor is not required to offer employment to any employee hired to work under a predecessor's Federal service contract and one or more nonfederal service contracts as part of a single job, provided that the employee was not deployed in a manner that was designed to avoid the purposes of this part.

(ii) The successor contractor must presume that no employees hired to work under a predecessor's Federal service contract worked on one or more nonfederal service contracts as part of a single job, unless the successor can demonstrate a reasonable belief to the contrary. The successor contractor must demonstrate that its belief is reasonable and is based upon credible information provided by a knowledgeable source such as the predecessor contractor, the local supervisor, the employee, or the contracting agency. Information regarding the general business practices of the predecessor contractor or the industry is not sufficient.

(iii) A contractor that makes a reasonable determination that a predecessor contractor's employee also performed work on one or more nonfederal service contracts as part of a single job must also make a reasonable determination that the employee was not deployed in such a way that was designed to avoid the purposes of this part. The successor contractor must demonstrate that its belief is reasonable and is based upon credible information that has been provided by a knowledgeable source such as the employee or the contracting agency. For

example, evidence from a contracting agency that an employee worked only occasionally on a Federal service contract combined with a statement from the employee indicating fulltime employment with the predecessor would, absent other facts, constitute the basis for a reasonable belief that there is no obligation to offer employment to the employee. On the other hand, information suggesting a change in how a predecessor contractor deployed employees near the end of the contract period could suggest an effort to evade the purposes of this part.

(d) *Reduced staffing.*

(1) *Contractor determines how many employees.*

(i) A contractor or subcontractor shall determine the number of employees necessary for efficient performance of the contract or subcontract and, for bona fide staffing or work assignment reasons, may elect to employ fewer employees than the predecessor contractor employed in connection with performance of the work. Thus, the successor contractor need not offer employment on the contract to all employees on the predecessor contract, but must offer employment only to the number of eligible employees the successor contractor believes necessary to meet its anticipated staffing pattern, except that:

(ii) Where, in accordance with this authority to employ fewer employees, a successor contractor does not offer employment to all the predecessor contract employees, the obligation to offer employment shall continue for 90 days after the successor contractor's first date of performance on the contract. The contractor's obligation under this part will end when all of the predecessor contract employees have received a bona fide job offer or the 90-day window of obligation has expired. The following three examples demonstrate the principle.

(A) A contractor with 18 employment openings and a list of 20 employees from the predecessor contract must continue to offer employment to individuals on the list until 18 of the employees accept the contractor's employment offer or until the remaining employees have rejected the offer. If an employee quits or is terminated from the successor contract within 90 days of the first date of contract performance, the contractor must first offer employment to any remaining eligible employees of the predecessor contract.

(B) A successor contractor originally offers 20 jobs to predecessor contract employees on a contract that had 30 positions under the predecessor contractor. The first 20 predecessor contract employees the successor contractor approaches accept the employment offer. Within a month of commencing work on the contract, the successor determines that it must hire seven additional employees to perform the contract requirements. The first three predecessor contract employees to whom the successor offers employment decline the offer; however, the next four predecessor contract employees accept the offers. In accordance with the provisions of this section, the successor contractor offers employment on the contract to the three remaining predecessor contract employees who all accept; however, two employees on the contract quit five weeks later. The successor contractor has no further obligation under this part to make a second employment offer to the persons who previously declined an offer of employment on the contract.

(C) A successor contractor reduces staff on a successor contract by two positions from the predecessor contract's staffing pattern. Each predecessor contract employee the successor approaches accepts the employment offer; therefore, employment offers are not made to two predecessor contract employees. The successor contractor terminates an employee five months later. The successor contractor has no obligation to offer employment to the two remaining employees from the predecessor contract, because more than 90 days have passed since the successor contractor's first date of performance on the contract.

(2) *Contractor determines which employees.* The contractor, subject to provisions of this part and other applicable restrictions (including non-discrimination laws and regulations), will determine to which employees it will offer employment. See § 9.1(b) regarding compliance with other requirements.

(3) *Changes to staffing pattern.* Where a contractor reduces the number of employees in any occupation on a contract with multiple occupations, resulting in some displacement, the contractor shall scrutinize each employee's qualifications in order to offer positions to the greatest number of predecessor contract employees possible. Example: A successor contract is awarded for a food preparation and services contract with Cook II, Cook I and dishwasher positions. The Cook II position requires a higher level of skill than the Cook I position. The successor contractor reconfigures the staffing pattern on the contract by increasing the number persons employed as a Cook II and Dishwashers but reducing the number of Cook I employees. The successor contractor must examine the qualifications of each Cook I, to see if a position as either a Cook II or dishwasher is possible. Conversely, were the contractor to increase the number of Cook I employees, decrease the number of Cook II employees, and keep the same number of Dishwashers the contractor would generally be able offer Cook I positions to some Cook II employees, because the Cook II performs a higher level occupation. The contractor would also need to consider whether offering Dishwasher positions to Cook I employees would result in less overall displacement. Finally, should some Dishwashers decline the employment offer, the Contractor would need to consider the qualifications of the Cooks at both levels and offer positions on the contract in a way that results in the least displacement.

(e) *Contractor obligations near end of contract performance.* The contractor shall, not less than 10 days before completion of the contractor's performance of services on a contract, furnish the Contracting Officer with a certified list of the names of all service employees working under the contract and its subcontracts during the last month of contract performance. The list shall also contain anniversary dates of employment of each service employee under the contract and its predecessor contracts with either the current or predecessor contractors or their subcontractors. The contractor may use the list submitted to satisfy the requirements of the contract clause specified at 29 CFR 4.6(l)(2) to meet this provision.

(f) *Recordkeeping.*

(1) *Form of records.* This part prescribes no particular order or form of records for contractors. A contractor may use records developed for any purpose to satisfy the requirements of this part, provided the records otherwise meet the requirements and purposes of this part and are fully accessible. The requirements of this part shall apply to all records regardless of their format (*e.g.,* paper or electronic).

(2) *Records to be retained.*

(i) The contractor shall maintain copies of any written offers of employment or a contemporaneous written record of any oral offers of employment, including the date, location, and attendance roster of any employee meeting(s) at which the offers were extended, a summary of each meeting, a copy of any written notice that may have been distributed, and the names of the employees from the predecessor contract to whom an offer was made.

(ii) The contractor shall maintain a copy of any record that forms the basis for any exclusion or exemption claimed under this part.

(iii) The contractor shall maintain a copy of the employee list received from the contracting agency. *See* paragraph (e) of this section, contractor obligations near end of contract.

(iv) Every contractor who makes retroactive payment of wages or compensation under the supervision of the Administrator of the Wage and Hour Division pursuant to § 9.24(b) of this part, shall:

(A) Record and preserve, as an entry on the pay records, the amount of such payment to each employee, the period covered by such payment, and the date of payment.

(B) Prepare a report of each such payment on a receipt form provided by or authorized by the Wage and Hour Division, and

(*1*) Preserve a copy as part of the records,

(*2*) Deliver a copy to the employee, and

(*3*) File the original, as evidence of payment by the contractor and receipt by the employee, with the Administrator or an authorized representative within 10 days after payment is made.

(3) *Records retention period.* The contractor shall retain records prescribed by section § 9.12(f)(2) of this part for not less than a period of three years from the date the records were created.

(4) *Disclosure.* The contractor must provide copies of such documentation upon request of any authorized representative of the contracting agency or Department of Labor.

(g) *Investigations.* The contractor shall cooperate in any review or investigation conducted pursuant to this part and shall not interfere with the investigation or intimidate, blacklist, discharge, or in any other manner discriminate against any person because such person has cooperated in an investigation or proceeding under this part or has attempted to exercise any rights afforded under this part. This obligation to cooperate with investigations is not limited to investigations of the contractor's own actions, but also includes investigations related to other contractors (*e.g.,* predecessor and subsequent contractors) and subcontractors.

Subpart C—Enforcement

§ 9.21 Complaints.

(a) *With contracting agency.* Any former employee(s) or authorized employee representative(s) of the predecessor contractor who believes the successor contractor has violated this part may file a complaint with the Contracting Officer of the appropriate Federal agency within 120 days of the alleged violation. *See also,* § 9.11(d) of this part, Contracting agency actions on complaints.

(b) *With Wage and Hour Division.* The complainant may file the complaint directly with the Branch of Government Contracts Enforcement, Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210, if the complainant has not been able to timely file the complaint with the Contracting Officer or has not received, within 30 days of filing the complaint with the Contracting Officer, a copy of the report forwarded to the Wage and Hour Division under § 9.11(d)(1) of this part. The complaint must be filed with the Wage and Hour Division within 180 days of the alleged violation.

§ 9.22 Wage and Hour Division conciliation.

After obtaining information regarding alleged violations, the Wage and Hour Division may contact the successor contractor about the complaint and attempt to conciliate and reach a resolution that is consistent with the requirements of this part and is acceptable to both the complainant(s) and the successor contractor.

§ 9.23 Wage and Hour Division investigation.

(a) *Initial investigation.* The Administrator may initiate an investigation under this part either as the result of the unsuccessful conciliation of a complaint or at any time on his or her own initiative. As part of the investigation, the Administrator may inspect the records of the predecessor and successor contractors (and make copies or transcriptions thereof), question the predecessor and successor contractors and any employees of these contractors, and require the production of any documentary or other evidence deemed necessary to determine whether a violation of this part (including conduct warranting imposition of ineligibility sanctions pursuant to § 9.24(d) of this part) has occurred.

(b) *Subsequent investigations.* The Administrator may conduct a new investigation or issue a new determination if the Administrator concludes circumstances warrant, such as where the proceedings before an Administrative Law Judge reveal that there may have been violations with respect to other employees of the contractor, where imposition of ineligibility sanctions is appropriate, or where the contractor has failed to comply with an order of the Secretary.

§ 9.24 Remedies and sanctions for violations of this part.

(a) *Authority.* Executive Order 13495 provides that the Secretary shall have the authority to issue orders prescribing appropriate remedies, including, but not limited to, requiring the contractor to offer employment, in positions for which the employees are qualified, to employees from the predecessor contract and payment of wages lost.

(b) *Unpaid wages or other relief due.* In addition to satisfying any costs imposed under §§ 9.34(j), 9.35(d) of this part, a contractor who violates any provision of this part shall take appropriate action to abate the violation, which may include hiring each affected employee in a position on the contract for which the employee is qualified, together with compensation (including lost wages), terms, conditions, and privileges of that employment.

(c) *Withholding of funds.*

(1) *Unpaid wages or other relief.* After an investigation and a determination by the Administrator that lost wages or other monetary relief is due, the Administrator may direct that so much of the accrued payments due on either the contract or any other contract between the contractor and the Government shall be withheld as are necessary to pay the moneys due. Upon the final order of the Secretary that such moneys are due, the Administrator may direct that such withheld funds be transferred to the Department of Labor for disbursement.

(2) *List of employees.* If the Contracting Officer or the Administrator, upon final order of the Secretary, finds that the predecessor contractor has failed to provide a list of the names of employees working under the contract in accordance with § 9.12(e) of this part, the Contracting Officer may in his or her discretion, or upon request by the Administrator, take such action as may be necessary to cause the suspension of the payment of contract funds until such time as the list is provided to the Contracting Officer.

(d) *Ineligibility listing.* Where the Secretary finds that a contractor has failed to comply with any order of the Secretary or has committed willful or aggravated violations of this part, the Secretary may order that the contractor and its responsible officers, and any firm in which the contractor has a substantial interest, shall be ineligible to be awarded any contract or subcontract of the United States for a period of up

to three years. Neither an order for debarment of any contractor or subcontractor from further Government contracts under this section nor the inclusion of a contractor or subcontractor on a published list of noncomplying contractors shall be carried out without affording the contractor or subcontractor an opportunity for a hearing.

Subpart D—Administrator's Determination, Mediation, and Administrative Proceedings

§ 9.31 Determination of the Administrator.

(a) *Written determination.* Upon completion of an investigation under § 9.23 of this part, and provided that a resolution is not reached that is consistent with the requirements of this part and acceptable to both the complainant(s) and the successor contractor, the Administrator will issue a written determination of whether a violation has occurred. The determination shall contain a statement of the investigation findings and conclusions. A determination that a violation occurred shall address appropriate relief and the issue of ineligibility sanctions where appropriate. The Administrator will notify any complainant(s); employee representative(s); contractor, including the prime contractor if a subcontractor is implicated; and contractor representative(s) by personal service or by registered or certified mail to the last known address, of the investigation findings. Where service by certified mail is not accepted by the party, the Administrator may exercise discretion to serve the determination by regular mail.

(b) *Notice to parties and effect.*

(1) *Relevant facts in dispute.* Except as provided in paragraph (b)(2) of this section, the determination of the Administrator shall advise the parties (ordinarily any complainant, the successor contractor, and any of their representatives) that the notice of determination shall become the final order of the Secretary and shall not be appealable in any administrative or judicial proceeding unless, postmarked within 20 days of the date of the determination of the Administrator, the Chief Administrative Law Judge receives a request for a hearing pursuant to § 9.32(b)(1) of this part. A detailed statement of the reasons why the Administrator's ruling is in error, including facts alleged to be in dispute, if any, shall be submitted with the request for a hearing. The Administrator's determination not to seek ineligibility sanctions shall not be appealable.

(2) *Relevant facts not in dispute.* If the Administrator concludes that no relevant facts are in dispute, the parties and their representatives, if any, will be so advised and will be further advised that the determination shall become the final order of the Secretary and shall not be appealable in any administrative or judicial proceeding unless, postmarked within 20 days of the date of the determination of the Administrator, a petition for review is filed with the Administrative Review Board pursuant to § 9.32(b)(2) of this part. The determination will further advise that if an aggrieved party disagrees with the factual findings or believes there are relevant facts in dispute, the aggrieved party may advise the Administrator of the disputed facts and request a hearing by letter, which must be received within 20 days of the date of the determination. The Administrator will either refer the request for a hearing to the Chief Administrative Law Judge, or notify the parties and their representatives, if any, of the determination of the Administrator that there is no relevant issue of fact and that a petition for review may be filed with the Administrative Review Board within 20 days of the date of the notice, in accordance with the procedures at § 9.32(b)(2) of this part.

§ 9.32 Requesting appeals.

(a) *General.* If any party desires review of the determination of the Administrator, including judicial review, a request for an Administrative Law Judge hearing or petition for review by the Administrative Review Board must first be filed in accordance with § 9.31(b) of this part.

(b) *Process.*

(1) *For Administrative Law Judge hearing.*

(i) *General.* Any aggrieved party may file a request for a hearing by an Administrative Law Judge within 20 days of the determination of the Administrator. The request for a hearing shall be accompanied by a copy of the determination of the Administrator and may be filed by U.S. mail, facsimile (FAX), telegram, hand delivery, next-day delivery, or a similar service. At the same time, a copy of any request for a hearing shall be sent to the complainant(s) or successor contractor, and their representatives, if any, as appropriate; the Administrator of the Wage and Hour Division; and the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, Washington, DC 20210.

(ii) *By the complainant.* The complainant or any other interested party may request a hearing where the Administrator determines, after investigation, that there is no basis for a finding that a contractor has committed violation(s), or where the complainant or other interested party believes that the Administrator has ordered inadequate monetary relief. In such a proceeding, the party requesting the hearing shall be the prosecuting party and the contractor shall be the respondent; the Administrator may intervene as a party or appear as amicus curiae at any time in the proceeding, at the Administrator's discretion.

(iii) *By the contractor.* The contractor or any other interested party may request a hearing where the Administrator determines, after investigation, that the contractor has committed violation(s). In such a proceeding, the Administrator shall be the prosecuting party and the contractor shall be the respondent.

(2) *For Administrative Review Board review.*

(i) *General.* Any aggrieved party desiring review of a determination of the Administrator in which there were no relevant facts in dispute, or an Administrative Law Judge's decision, shall file a written petition for review with the Administrative Review Board that must be postmarked within 20 days of the date of the determination or decision and shall be served on all parties and, where the case involves an appeal from an Administrative Law Judge's decision, the Chief Administrative Law Judge. See also § 9.32(b)(1) of this part.

(ii) *Contents and service.*

(A) A petition for review shall refer to the specific findings of fact, conclusions of law, or order at issue.

(B) Copies of the petition and all briefs shall be served on the Administrator, Wage and Hour Division, and on the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, Washington, DC 20210.

(c) *Effect of filing.* If a timely request for hearing or petition for review is filed, the determination of the Administrator or the decision of the Administrative Law Judge shall be inoperative unless and until the Administrative Review Board issues an order affirming the determination or decision, or the determination or decision otherwise becomes a final order of the Secretary. If a petition for review concerns only the imposition of ineligibility sanctions, however, the remainder of the decision shall be effective immediately. No judicial

review shall be available unless a timely petition for review to the Administrative Review Board is first filed.

§ 9.33 Mediation.

(a) *General.* The parties are encouraged to resolve disputes in accordance with the conciliation procedures set forth at § 9.22 of this part, or, where such efforts have failed, to utilize settlement judges to mediate settlement negotiations pursuant to 29 CFR 18.9 when those provisions apply. At any time after commencement of a proceeding, the parties jointly may move to defer the hearing for a reasonable time to permit negotiation of a settlement or an agreement containing findings and an order disposing of the whole or any part of the proceeding.

(b) *Appointing settlement judge for cases scheduled with the Office of Administrative Law Judges.* Upon a request by a party or the presiding Administrative Law Judge, the Chief Administrative Law Judge may appoint a settlement judge. The Chief Administrative Law Judge has sole discretion to decide whether to appoint a settlement judge, except that a settlement judge shall not be appointed when a party objects to referral of the matter to a settlement judge.

§ 9.34 Administrative Law Judge hearings.

(a) *Authority.*

(1) *General.* The Office of Administrative Law Judges has jurisdiction to hear and decide appeals pursuant to § 9.31(b)(1) of this part concerning questions of law and fact from determinations of the Administrator issued under § 9.31 of this part. In considering the matters within the scope of its jurisdiction, the Administrative Law Judge shall act as the authorized representative of the Secretary and shall act fully and, subject to an appeal filed under § 9.32(b)(2) of this part, finally on behalf of the Secretary concerning such matters.

(2) *Limit on scope of review.*

(i) The Administrative Law Judge shall not have jurisdiction to pass on the validity of any provision of this part.

(ii) The Equal Access to Justice Act, as amended, does not apply to hearings under this part. Accordingly, an Administrative Law Judge shall have no authority to award attorney fees and/or other litigation expenses pursuant to the provisions of the Equal Access to Justice Act for any proceeding under this part.

(b) *Scheduling.* If the case is not stayed to attempt settlement in accordance with § 9.33(a) of this part, the Administrative Law Judge to whom the case is assigned shall, within 15 calendar days following receipt of the request for hearing, notify the parties and any representatives, of the day, time, and place for hearing. The date of the hearing shall not be more than 60 days from the date of receipt of the request for hearing.

(c) *Dismissing challenges for failure to participate.* The Administrative Law Judge may, at the request of a party or on his/her own motion, dismiss a challenge to a determination of the Administrator upon the failure of the party requesting a hearing or his/her representative to attend a hearing without good cause; or upon the failure of said party to comply with a lawful order of the Administrative Law Judge.

(d) *Administrator's participation.* At the Administrator's discretion, the Administrator has the right to participate as a party or as amicus curiae at any time in the proceedings, including the right to petition for review of a decision of an Administrative Law Judge in a case in which the Administrator has not previously participated. The Administrator shall participate as a party in any proceeding in which the Administrator has found any violation of this part, except where the complainant or other interested party challenges only the amount of monetary relief. *See also* § 9.32(b)(2)(i)(C) of this part.

(e) *Agency participation.* A Federal agency that is interested in a proceeding may participate, at the agency's discretion, as amicus curiae at any time in the proceedings. At the request of such Federal agency, copies of all pleadings in a case shall be served on the Federal agency, whether or not the agency is participating in the proceeding.

(f) *Requesting documents.* Copies of the request for hearing and documents filed in all cases, whether or not the Administrator is participating in the proceeding, shall be sent to the Administrator, Wage and Hour Division, and to the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, Washington, DC 20210.

(g) *Rules of practice.*

(1) The rules of practice and procedure for administrative hearings before the Office of Administrative Law Judges at 29 CFR part 18, subpart A, shall be applicable to the proceedings provided by this section. This part is controlling to the extent it provides any rules of special application that may be inconsistent with the rules in 29 CFR part 18, subpart A. The Rules of Evidence at 29 CFR 18, subpart B, shall not apply. Rules or principles designed to assure production of the most probative evidence available shall be applied. The Administrative Law Judge may exclude evidence that is immaterial, irrelevant, or unduly repetitive.

(h) *Decisions.* The Administrative Law Judge shall issue a decision within 60 days after completion of the proceeding at which evidence was submitted. The decision shall contain appropriate findings, conclusions, and an order and be served upon all parties to the proceeding.

(i) *Orders.* Upon the conclusion of the hearing and the issuance of a decision that a violation has occurred, the Administrative Law Judge shall issue an order that the successor contractor take appropriate action to abate the violation, which may include hiring each affected employee in a position on the contract for which the employee is qualified, together with compensation (including lost wages), terms, conditions, and privileges of that employment. Where the Administrator has sought ineligibility sanctions, the order shall also address whether such sanctions are appropriate.

(j) *Costs.* If an order finding the successor contractor violated this part is issued, the Administrative Law Judge may assess against the contractor a sum equal to the aggregate amount of all costs (not including attorney fees) and expenses reasonably incurred by the aggrieved employee(s) in the proceeding. This amount shall be awarded in addition to any unpaid wages or other relief due under § 9.24(b) of this part.

(k) *Finality.* The decision of the Administrative Law Judge shall become the final order of the Secretary, unless a petition for review is timely filed with the Administrative Review Board as set forth in § 9.32(b)(2) of this part.

§ 9.35 Administrative Review Board proceedings.

(a) *Authority.*

(1) *General.* The Administrative Review Board has jurisdiction to hear and decide in its discretion appeals pursuant to § 9.31(b)(2) concerning questions of law and fact from determinations of the Administrator issued under § 9.31 of this part and from decisions of Administrative Law Judges issued under § 9.34 of this part. In considering the matters within the scope of its jurisdiction, the Board shall act as the authorized representative of the Secretary and shall act fully and finally on behalf of the Secretary concerning such matters.

(2) *Limit on scope of review.*

(i) The Board shall not have jurisdiction to pass on the validity of any provision of this part. The Board is

an appellate body and shall decide cases properly before it on the basis of substantial evidence contained in the entire record before it. The Board shall not receive new evidence into the record.

(ii) The Equal Access to Justice Act, as amended does not apply to proceedings under this part. Accordingly, for any proceeding under this part, the Administrative Review Board shall have no authority to award attorney fees and/or other litigation expenses pursuant to the provisions of the Equal Access to Justice Act for any proceeding under this part.

(b) *Decisions.* The Board's final decision shall be issued within 90 days of the receipt of the petition for review and shall be served upon all parties by mail to the last known address and on the Chief Administrative Law Judge (in cases involving an appeal from an Administrative Law Judge's decision).

(c) *Orders.* If the Board concludes that the contractor has violated this part, the final order shall order action to abate the violation, which may include hiring each affected employee in a position on the contract for which the employee is qualified, together with compensation (including lost wages), terms, conditions, and privileges of that employment. Where the Administrator has sought imposition of ineligibility sanctions, the Board shall also determine whether an order imposing ineligibility sanctions is appropriate.

(d) *Costs.* If a final order finding the successor contractor violated this part is issued, the Board may assess against the contractor a sum equal to the aggregate amount of all costs (not including attorney fees) and expenses reasonably incurred by the aggrieved employee(s) in the proceeding. This amount shall be awarded in addition to any unpaid wages or other relief due under § 9.24(b) of this part.

(e) *Finality.* The decision of the Administrative Review Board shall become the final order of the Secretary.

Appendix A to Part 9—Contract Clause

Nondisplacement of Qualified Workers

(a) Consistent with the efficient performance of this contract, the contractor and its subcontractors shall, except as otherwise provided herein, in good faith offer those employees (other than managerial and supervisory employees) employed under the predecessor contract whose employment will be terminated as a result of award of this contract or the expiration of the contract under which the employees were hired, a right of first refusal of employment under this contract in positions for which employees are qualified. The contractor and its subcontractors shall determine the number of employees necessary for efficient performance of this contract and may elect to employ fewer employees than the predecessor contractor employed in connection with performance of the work. Except as provided in paragraph (b) there shall be no employment opening under this contract, and the contractor and any subcontractors shall not offer employment under this contract, to any person prior to having complied fully with this obligation. The contractor and its subcontractors shall make an express offer of employment to each employee as provided herein and shall state the time within which the employee must accept such offer, but in no case shall the period within which the employee must accept the offer of employment be less than 10 days.

(b) Notwithstanding the obligation under paragraph (a) above, the contractor and any subcontractors (1) May employ under this contract any employee who has worked for the contractor or subcontractor for at least three months immediately preceding the commencement of this contract and who would otherwise face lay-off or discharge, (2) are not required to offer a right of first refusal to any employee(s) of the predecessor contractor who are not service employees within the meaning of the Service Contract Act of 1965, as amended, 41 U.S.C. 357(b), and (3) are not required to offer a right of first refusal to any employee(s) of the predecessor contractor whom the contractor or any of its subcontractors reasonably believes, based on the particular employee's past performance, has failed to perform suitably on the job.

(c) In accordance with Federal Acquisition Regulation 52.222–41(n), the contractor shall, not less than 10 days before completion of this contract, furnish the Contracting Officer a certified list of the names of all service employees working under this contract and its subcontracts during the last month of contract performance. The list shall also contain anniversary dates of employment of each service employee under this contract and its predecessor contracts either with the current or predecessor contractors or their subcontractors. The Contracting Officer will provide the list to the successor contractor, and the list shall be provided on request, to employees or their representatives.

(d) If it is determined, pursuant to regulations issued by the Secretary of Labor (Secretary), that the contractor or its subcontractors are not in compliance with the requirements of this clause or any regulation or order of the Secretary, appropriate sanctions may be imposed and remedies invoked against the contractor or its subcontractors, as provided in Executive Order 13495, the regulations, and relevant orders of the Secretary, or as otherwise provided by law.

(e) In every subcontract entered into in order to perform services under this contract, the contractor will include provisions that ensure that each subcontractor will honor the requirements of paragraphs (a) through (b) with respect to the employees of a predecessor subcontractor or subcontractors working under this contract, as well as of a predecessor contractor and its subcontractors. The subcontract shall also include provisions to ensure that the subcontractor will provide the contractor with the information about the employees of the subcontractor needed by the contractor to comply with paragraph (c), above. The contractor will take such action with respect to any such subcontract as may be directed by the Secretary as a means of enforcing such provisions, including the imposition of sanctions for noncompliance: Provided, however, that if the contractor, as a result of such direction, becomes involved in litigation with a subcontractor, or is threatened with such involvement, the contractor may request that the United States enter into such litigation to protect the interests of the United States.

(f) The Contracting Officer shall withhold or cause to be withheld from the prime contractor under this or any other Government contract with the same prime contractor such sums as an authorized official of the Department of Labor requests, upon a determination by the Administrator, the Administrative Law Judge, or the Administrative Review Board that there has been a failure to comply with the terms of this clause and that wages lost as a result of the violations are due to employees or that other monetary relief is appropriate. If the Contracting Officer or the Administrator, upon final order of the Secretary, finds that the contractor has failed to provide a list of the names of employees working under the contract, the Contracting Officer may in his or her discretion, or upon request by the Administrator, take such action as may be necessary to cause the suspension of the payment of contract funds until such time as the list is provided to the Contracting Officer.

(g) The contractor and subcontractor shall maintain the following records (regardless of format, e.g., paper or electronic, provided the records meet the requirements and purposes of this subpart and are fully accessible) of its compliance with this clause for not less than a period of three years from the date the records were created:

(1) Copies of any written offers of employment or a contemporaneous written record of any oral offers of employment, including the date, location, and attendance roster of any employee meeting(s) at which the offers were extended, a summary of each meeting, a copy of any written notice that may have been distributed, and the names of the employees from the predecessor contract to whom an offer was made.

(2) A copy of any record that forms the basis for any exclusion or exemption claimed under this part.

(3) A copy of the employee list provided to or received from the contracting agency.

(4) An entry on the pay records of the amount of any retroactive payment of wages or compensation under the supervision of the Administrator of the Wage and Hour Division to each employee, the period covered by such payment, and the date of payment, and a copy of any receipt form provided by or authorized by the Wage and Hour Division. The contractor shall also deliver a copy of the receipt to the employee and file the original, as evidence of payment by the contractor and receipt by the employee, with the Administrator or an authorized representative within 10 days after payment is made.

(h) The contractor shall cooperate in any review or investigation by the contracting agency or the Department of Labor into possible violations of the provisions of this clause and shall make records requested by such official(s) available for inspection, copying, or transcription upon request.

(i) Disputes concerning the requirements of this clause shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR part 9. Disputes within the meaning of this clause include disputes between or among any of the following: The contractor, the contracting agency, the U.S. Department of Labor, and the employees under the contract or its predecessor contract.

Appendix B to Part 9—Notice to Service Contract Employees

The contract for (insert type of service) services currently performed by (insert name of predecessor contractor) has been awarded to a successor contractor, (insert name of successor contractor). The successor contractor's first date of performance on the contract will be (insert first date of successor contractor's performance). If the work is to be performed at the same location, a successor contractor is generally required to offer employment to the employees who worked on the contract during the last 30 days of the predecessor performance, except in the following situations:

Employees who will not face layoff or discharge by the new contract award are not entitled to an offer of employment.

Managerial, supervisory, or non-service employees on the current contract are not entitled to an offer of employment.

The successor contractor may reduce the size of the current work force; therefore, only a portion of the existing work force may receive employment offers. However, the successor contractor must offer employment to the displaced employees if any openings occur during the first 90 days of performance on the successor contract.

The successor contractor may employ its current employee on the successor contract before offering employment to the predecessor contract's employees only if the successor contractor's current employee has worked for the successor contractor for at least three months immediately preceding the first date of performance on the successor contract and would otherwise face layoff or discharge if not employed under the new contract.

Where the successor contractor has reason to believe, based on credible information from a knowledgeable source, that an employee's job performance has been unsuitable, the employee is not entitled to an offer of employment on the successor contract.

An employee hired to work under a predecessor's Federal service contract and one or more nonfederal service contracts as part of a single job is not entitled to an offer of employment on the successor contract, provided that the employee was not deployed in a manner that was designed to avoid the purposes of this part.

Time limit to accept offer: If you are offered employment on the new contract, you will have at least 10 days to accept the offer.

Complaints: Any employee or authorized employee representative who believes that he or she is entitled to an offer of employment with the successor contractor and who has not received an offer, may file a complaint with (insert Contracting Officer or representative name, address and telephone number). Any complaint must be filed with the contracting agency within 120 days of the alleged violation. The Contracting Officer will inform the parties of their rights and obligations regarding the nondisplacement of employees and, forward a report to the U.S. Department of Labor, Wage and Hour Division within 30 days. The employee may also file the complaint directly with the Administrator, Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210, if the complainant has not been able timely to file the complaint with the Contracting Officer or received a copy of the information to be forwarded to the Wage and Hour Division within 30 days of the original filing. The complaint must be filed with the Wage and Hour Division within 180 days of the alleged violation.

For additional information: 1–866–4US–WAGE (1–866–487–9243) TTY: 1–877–889–5627, *http://www.wagehour.dol.gov.*

[FR Doc. 2010–5781 Filed 3–18–10; 8:45 am]

BILLING CODE 4510–27–P

Federal Register

Friday,
March 19, 2010

Part IV

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Chapter 1

Federal Acquisition Regulations; Final Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket FAR 2010–0076, Sequence 1]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–39; Introduction

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of rules.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2005–39. A companion document, the *Small Entity Compliance Guide* (SECG), follows this FAC. The FAC, including the SECG, is available via the Internet at *http://www.regulations.gov*.

DATES: For effective dates and comment dates, see separate documents, which follow.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears in the table below in relation to each FAR case. Please cite FAC 2005–39 and the specific FAR case numbers. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501–4755.

LIST OF RULES IN FAC 2005–39

Item	Subject	FAR case	Analyst
I	Extend Use of Simplified Acquisition Procedures for Certain Commercial Items	2009–035	Jackson.
II	Clarification of Submission of Cost or Pricing Data on Non-Commercial Modifications of Commercial Items.	2008–012	Chambers.
III	Use of Standard Form 26 - Award/Contract	2008–040	Jackson.
IV	Enhanced Competition for Task- and Delivery-Order Contracts-Section 843 of the Fiscal Year 2008 National Defense Authorization Act.	2008–006	Clark.
V	Trade Agreements—Costa Rica, Oman, and Peru	2008–036	Sakalos.
VI	Payments Under Fixed-Price Architect-Engineer Contracts	2008–015	Neurauter.
VII	Technical Amendment		

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these FAR cases, refer to the specific item number and subject set forth in the documents following these item summaries.

FAC 2005–39 amends the FAR as specified below:

Item I—Extend Use of Simplified Acquisition Procedures for Certain Commercial Items (FAR Case 2009–035)

This final rule amends the FAR to implement section 816 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2010. The rule extends for two more years the commercial items test program in FAR subpart 13.5. The program was to expire January 1, 2010.

Item II—Clarification of Submission of Cost or Pricing Data on Non-Commercial Modifications of Commercial Items (FAR Case 2008–012)

This final rule adopts, with minor changes, the interim rule published in the **Federal Register** at 74 FR 11826 on March 19, 2009. The interim rule amended the FAR to implement section 814 of the NDAA for FY 2008. Section 814 requires the harmonization of the threshold for cost or pricing data on non-commercial modifications of commercial items with the Truth in Negotiations Act (TINA) threshold for cost or pricing data. By linking the threshold for cost or pricing data on non-commercial modifications of commercial items with the TINA threshold at FAR 15.403–4, whenever the TINA threshold is adjusted the threshold for cost or pricing data on non-commercial modifications of commercial items will be automatically adjusted as well.

Item III—Use of Standard Form 26 - Award/Contract (FAR Case 2008–040)

This final rule modifies the instructions for use of the Standard Form 26, Award/Contract, at FAR subparts 15.5 and 53.2 to clarify that block 18 of the form should not be used to award a negotiated procurement. No change is made to existing policy or procedures.

Item IV—Enhanced Competition for Task- and Delivery-Order Contracts—Section 843 of the Fiscal Year 2008 National Defense Authorization Act (FAR Case 2008–006)

This final rule adopts, with changes, the interim rule published in the **Federal Register** at 73 FR 54008 on September 17, 2008. The interim rule amended FAR subpart 16.5 to implement section 843 of the NDAA for FY 2008. The provisions of section 843 include (1) Limitation on single award task- or delivery-order contracts greater than $100 million; (2) Enhanced competition for task and delivery orders in excess of $5 million; and (3) Restriction on protests in connection with issuance or proposed issuance of a task or delivery order except for a protest on orders on the grounds that the order increases the scope, period, or maximum value of the contract under which the order is issued, or a protest of an order valued in excess of $10 million. Several changes are made to the FAR as result of public comments on the interim rule. FAR 16.503 is amended to clarify that a requirements contract is awarded to one contractor. FAR 16.504(c)(1)(ii)(D)(*3*) is amended to clarify that the agency-head determination to award a single-award task- or delivery-order contract over $100 million does not apply to an architect-engineer task- or delivery-order contract awarded pursuant to FAR subpart 36.6. The Councils also revised FAR 16.504(c)(1)(ii)(D)(*3*) to state that the requirement for a determination for a single-award contract greater than $100 million is in addition to any applicable requirements of FAR subpart 6.3. This change is made to clarify that the determination for a single award task- or delivery-order contract greater than $100 million is required in addition to the Justification and Approval (J&A) required by FAR subpart 6.3 when a procurement will be

conducted as other than full and open competition.

Item V—Trade Agreements—Costa Rica, Oman, and Peru (FAR Case 2008–036)

The Councils have adopted as final, without change, an interim rule published in the **Federal Register** at 74 FR 28426 on June 15, 2009, amending the FAR to implement the Dominican Republic—Central America—United States Free Trade Agreement with respect to Costa Rica, the United States-Oman Free Trade Agreement, and the United States-Peru Trade Promotion Agreement.

This final rule allows contracting officers to purchase the goods and services of Costa Rica, Oman, and Peru without application of the Buy American Act if the acquisition is subject to the applicable trade agreements.

Item VI—Payments Under Fixed-Price Architect-Engineer Contracts (FAR Case 2008–015)

This rule amends FAR 52.232–10, Payments under Fixed-Price Architect-Engineer Contracts, to revise and clarify the retainage requirements. The contracting officer can withhold up to 10 percent of the payment due in any billing period when the contracting officer determines that such a withholding is necessary to protect the Government's interest and ensure satisfactory completion of the contract. However, withholding the entire 10 percent is not required, and no withholding is required if the contractor's performance has been satisfactory. The changes clarify that retainage is optional and any amounts retained should not be held over beyond the satisfactory completion of the instant contract.

Item VII—Technical Amendment

An editorial change has been made at FAR 14.202–4(a)(3).

Dated: March 15, 2010.

Al Matera,

Director, Acquisition Policy Division.

Federal Acquisition Circular

Federal Acquisition Circular (FAC) 2005-39 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2005-39 is effective March 19, 2010, except for Items III, IV, and VI, which are effective April 19, 2010.

Dated: March 12, 2010.

Linda W. Neilson,

Deputy Director, Defense Procurement and Acquisition Policy (Defense Acquisition Regulations System).

Dated: March 11, 2010.

Rodney P. Lantier,

Acting Senior Procurement Executive, Office of Acquisition Policy, U.S. General Services Administration.

Dated: March 8, 2010.

William P. McNally,

Assistant Administrator for Procurement, National Aeronautics and Space Administration.

[FR Doc. 2010–5984 Filed 3–18–10; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 13

[FAC 2005–39; FAR Case 2009–035; Item I; Docket 2010–0080, Sequence 1]

RIN 9000–AL52

Federal Acquisition Regulation; FAR Case 2009–035, Extend Use of Simplified Acquisition Procedures for Certain Commercial Items

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to revise subpart 13.5, "Test Program for Certain Commercial Items," to implement section 816 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2010 (Pub. L. 111–84). The rule extends the program for two more years. The program was to expire January 1, 2010.

DATES: Effective Date: March 19, 2010.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Mr. Michael O. Jackson, Procurement Analyst, at (202) 208–4949. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501–4755. Please cite FAC 2005–39, FAR case 2009–035.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends the FAR to revise section 13.500(d) to implement section 816 of the NDAA for FY 2010. Section 816 of the NDAA for FY 2010 strikes out "2010" in subsection (e) of section 4202 of the Clinger-Cohen Act of 1996 (Division D of Pub. L. 104–106, 10 U.S.C. 2304 note) as amended by section 822 of the NDAA for FY 2008 (Pub. L. 110—181) and inserts "2012." FAR subpart 13.5 authorizes as a test program, the use of simplified procedures for the acquisition of certain commercial items in amounts greater than the simplified acquisition threshold, but not exceeding $5.5 million, ($11 million for acquisitions described in FAR 13.500(e)) including options, if the contracting officer can reasonably expect that offers will include commercial items. FAR subpart 13.500(d) authorizes the contracting officer to issue solicitations under this subpart until January 1, 2010. This final rule extends this authority to January 1, 2012.

B. Decision to Issue a Final Rule

This case implements section 816 of the NDAA for FY 2010. It merely extends the end date of the Commercial Item Test Program from January 1, 2010, to January 1, 2012. Therefore, because there is no change in policy or procedure, the Councils determined to issue a final rule without comment.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule. This final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Pub. L. 98–577, and publication for public comments is not required.

The Councils will consider comments from small entities concerning the existing regulations in parts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAC 2005–39, FAR Case 2009–035) in correspondence.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management

and Budget under 44 U.S.C. chapter 35, *et seq.*

List of Subjects in 48 CFR Part 13

Government procurement.

Dated: March 15, 2010.

Al Matera,

Director, Acquisition Policy Division.

■ Therefore, DoD, GSA, and NASA amend 48 CFR part 13 as set forth below:

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

■ 1. The authority citation for 48 CFR part 13 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

13.500 [Amended]

■ 2. Amend section 13.500 by removing from paragraph (d) "January 1, 2010" and adding "January 1, 2012" in its place.

[FR Doc. 2010–5985 Filed 3–18–10; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 15

[FAC 2005–39; FAR Case 2008–012; Item II; Docket 2008–0001, Sequence 23]

RIN 9000–AL12

Federal Acquisition Regulation; FAR Case 2008–012, Clarification of Submission of Cost or Pricing Data on Non-Commercial Modifications of Commercial Items

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have adopted as final, with minor changes, an interim rule which amended the Federal Acquisition Regulation (FAR) to implement section 814 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2008. Section 814 required the harmonization of the thresholds for cost or pricing data. Specifically, section 814 required alignment of the threshold for cost or pricing data on non-commercial modifications of commercial items with the Truth In Negotiation Act (TINA) threshold for cost or pricing data.

DATES: *Effective Date*: March 19, 2010.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Chambers, Procurement Analyst, at (202) 501–3221 for clarification of content. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501–4755. Please cite FAC 2005–39, FAR case 2008–012.

SUPPLEMENTARY INFORMATION:

A. Background

DoD, GSA, and NASA published an interim rule in the **Federal Register** at 74 FR 11826 on March 19, 2009, to implement section 814 of the NDAA for FY 2008. Section 814 implemented two areas of clarification with regards to the submission of cost or pricing data on non-commercial modifications of commercial items.

The comment period closed on May 18, 2009, with one comment received. The respondent opined that the addition of the new FAR text "at the time of contract award" was unclear. The respondent indicated that a contract's initial price subsequently changes based upon modifications and inquired if the total price "at time of contract award" included subsequent modifications that changed the initial contract price. The respondent also highlighted the example of an indefinite delivery-indefinite quantity (IDIQ) contract where orders are issued and inquired whether "at the time of contract award" related to issuance of the IDIQ contract or individual orders placed under this IDIQ contract. The respondent also offered examples of possible revised language.

The Councils believe that, with minor changes, the language in the interim rule is appropriate. Section 814 of the NDAA for FY 2008 required the insertion of the language "at time of contract award" after the language "total price of contract", which is already contained in FAR 15.403–1. This language is being added to clarify at what point during the life of the contract that the cost or pricing threshold should be applied under FAR 15.403–1. The Councils believe that the language "at the time of contract award" clearly indicates that subsequent modifications, other than those which meet the triggering thresholds of TINA themselves, that change a contract's price are not factored into determining when the cost or pricing threshold should be applied under FAR 15.403–1. In the case of IDIQ contracts, it is commonly understood that it is the estimated total value of orders for the specified period at the time of contract award, as well as the individual value of any subsequent discrete orders, to which the TINA thresholds apply. Consequently, the final rule language reflects only minor editorial changes.

This is a significant regulatory action and therefore, was subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, since it is harmonizing FAR 15.403–1 with other parts of the FAR and should actually reduce the administrative burden on contractors by not requiring them to track two separate dollar thresholds for submitting cost or pricing data. It is also increasing this dollar threshold relative to the submittal of cost or pricing data in this situation and thus contractors will experience a reduced administrative burden since they no longer will be required to submit cost or pricing data on this lower threshold amount.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. chapter 35, *et seq.*

List of Subjects in 48 CFR Part 15

Government procurement.

Dated: March 15, 2010.

Al Matera,

Director, Acquisition Policy Division.

■ Accordingly, the interim rule published in the **Federal Register** at 74 FR 11826 on March 19, 2009, is adopted as a final rule with the following changes:

PART 15—CONTRACTING BY NEGOTIATION

■ 1. The authority citation for 48 CFR part 15 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

■ 2. Amend section 15.403–1 by revising paragraphs (c)(3)(iii)(B) and (c)(3)(iii)(C) to read as follows:

15.403–1 Prohibition on obtaining cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. 254b).

* * * * *

(c) * * *

(3) * * *

(iii) * * *

(B) For acquisitions funded by DoD, NASA, or the Coast Guard, such modifications of a commercial item are exempt from the requirement for submission of cost or pricing data provided the total price of all such modifications under a particular contract action does not exceed the greater of the threshold for obtaining cost or pricing data in 15.403–4 or 5 percent of the total price of the contract at the time of contract award.

(C) For acquisitions funded by DoD, NASA, or the Coast Guard, such modifications of a commercial item are not exempt from the requirement for submission of cost or pricing data on the basis of the exemption provided for at FAR 15.403–1(c)(3) if the total price of all such modifications under a particular contract action exceeds the greater of the threshold for obtaining cost or pricing data in 15.403–4 or 5 percent of the total price of the contract at the time of contract award.

* * * * *

[FR Doc. 2010–5986 Filed 3–18–10; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 15 and 53

[FAC 2005–39; FAR Case 2008–040; Item III; Docket 2010–0081, Sequence 1]

RIN 9000–AL48

Federal Acquisition Regulation; FAR Case 2008–040, Use of Standard Form 26 - Award/Contract

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to revise FAR parts 15 and 53 instructions for use of the Standard Form (SF) 26 to strengthen the prohibition against using block 18 of the form when awarding a negotiated procurement and emphasize that block 18 should only be checked when awarding a sealed bid contract. In addition, the final sentence of the current FAR 53.214 is being amended because the updated SF 26 was issued in April 2008, making the sentence unnecessary.

DATES: *Effective Date*: April 19, 2010.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Mr. Michael O. Jackson, Procurement Analyst, at (202) 208–4949. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501–4755. Please cite FAC 2005–39, FAR Case 2008–040.

SUPPLEMENTARY INFORMATION:

A. Background

This case was initiated to clarify an inconsistency in the use of the SF 26 by contracting officers. The SF 26 requires the contracting officer to complete block 17 for negotiated or sealed bid procurements or block 18 for sealed bid procurements, as applicable. Although block 18 of the form is intended for use only with sealed bid procurements, it is regularly (and improperly) being used with negotiated procurements. This has resulted in negotiated procurements being awarded unilaterally without proper documentation.

FAR 53.214(a) prescribes the SF 26 for use in contracting for supplies and services by sealed bidding (except for construction and architect-engineer services). The SF 26 is used to award sealed bid contracts after obtaining bids using a SF 33, Solicitation, Offer, and Award. FAR 14.408–1(d)(1) specifies that, if an offer made using a SF 33 leads to further changes, the resulting contract must be prepared as a bilateral document using the SF 26.

This case is intended to address those instances where contracting officers have mistakenly checked block 18 to award negotiated, not sealed bid, contracts. This error can create the potential for disputes in those situations where the Government's intent was not to accept the terms of the offer in its entirety, as the current wording of block 18 may imply.

The Councils believe that revisions to instructions for use of the form, at FAR subparts 15.5 and 53.2, along with improved training and emphasis on the proper use of the SF 26, will eliminate the issue. Thus, FAR 15.509 is being revised to add "Note however, if using the SF 26 for a negotiated procurement, block 18 is not to be used." FAR 53.214(a) is revised by deleting the no-longer-necessary phrase "Pending issuance of a new edition of the form, the reference in 'block 1' should be amended to read '15 CFR 700'" and adding "Block 18 may only be used for sealed-bid procurements." In addition, a sentence is added at FAR 53.215–1(a) to read "Block 18 may not be used for negotiated procurements." This change does not prohibit the use of the SF 26 for awarding negotiated procurements, it only prohibits the use of block 18 of the SF 26 when awarding negotiated procurements. The Councils have opened a separate FAR case to address the actual changes to the SF 26 form. FAR Case 2009–029 is a proposed rule on which the public will have the opportunity to comment.

Decision to Issue a Final Rule

This case does not change the current uses of the SF 26. It merely clarifies the existing instructions for use of the form. Therefore, because there is no change in policy or procedure, the Councils determined to issue a final rule without public comment.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6 of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule. This final rule does not constitute a significant FAR revision within the meaning of FAR 1.501 and Pub. L. 98–577, and publication for public comments is not required.

The Councils will consider comments from small entities concerning the existing regulations in parts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAC 2005–39, FAR Case 2008–040) in all correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. chapter 35, *et seq.*

List of Subjects in 48 CFR Parts 15 and 53

Government procurement.

Dated: March 15, 2010.

Al Matera,

Director, Acquisition Policy Division.

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 15 and 53 as set forth below:

■ 1. The authority citation for 48 CFR parts 15 and 53 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 15—CONTRACTING BY NEGOTIATION

15.509 [Amended]

■ 2. Amend section 15.509 by removing from the first sentence "appropriate." and adding "appropriate. Note however, if using the SF 26 for a negotiated procurement, block 18 is not to be used." in its place.

PART 53—FORMS

53.214 [Amended]

■ 3. Amend section 53.214 by removing from the second sentence in paragraph (a) the phrase "Pending issuance of a new edition of the form, the reference in "block 1" should be amended to read "15 CFR 700."" and adding "Block 18 may only be used for sealed-bid procurements." in its place.

53.215–1 [Amended]

■ 4. Amend section 53.215–1 by removing from paragraph (a) "15.509." and adding "15.509. Block 18 may not be used for negotiated procurements." in its place.

[FR Doc. 2010–5987 Filed 3–18–10; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 16

[FAC 2005–39; FAR Case 2008–006; Item IV; Docket 2008–0001, Sequence 25]

RIN 9000–AL05

Federal Acquisition Regulation; FAR Case 2008–006, Enhanced Competition for Task- and Delivery-Order Contracts—Section 843 of the Fiscal Year 2008 National Defense Authorization Act

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have adopted as final with changes the interim rule amending the Federal Acquisition Regulation (FAR) to implement Section 843, Enhanced Competition for Task and Delivery Order Contracts, of the National Defense Authorization Act (NDAA) for Fiscal Year 2008 (FY08) (Pub. L. 110–181). Section 843 of the FY08 NDAA stipulates several requirements regarding enhancing competition within Federal contracting.

DATES: *Effective Date*: April 19, 2010.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Mr. William Clark, Procurement Analyst, at (202) 219–1813. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501–4755. Please cite FAC 2005–39, FAR case 2008–006.

SUPPLEMENTARY INFORMATION:

A. Background

Section 843, Enhanced Competition for Task and Delivery Order Contracts, of the FY08 NDAA includes several requirements regarding enhancing competition within the Federal contracting framework. The provisions of section 843 include:

(1) Limitation on single-award task- and delivery-order contracts greater than $100 million;

(2) Enhanced competition for task and delivery orders in excess of $5 million; and

(3) Restriction on protests in connection with issuance or proposed issuance of a task- or delivery-order except for a protest on the grounds that the order increases the scope, period, or maximum value of the contract under which the order is issued, or a protest of an order valued in excess of $10 million.

The interim rule was published in the **Federal Register** at 73 FR 54008 on September 17, 2008. The majority of the amendments to the FAR were made at publication of the interim rule. The Councils believe that, as a result of the interim rule, contracting offices will need more time to: carefully consider single versus multiple awards for task- or delivery-order contracts valued in excess of $100 million; perform debriefings for orders over $5 million; and respond to and defend against additional protests for orders over $10 million. The public comments received resulted in several changes to the interim rule.

Requirements contracts. The Councils amended the language at FAR 16.503(a) to clarify that a requirements contract is awarded to one contractor. This change is made to dispel the implication at FAR 16.503(b)(2) that a requirements contract may be awarded to multiple sources.

IDIQ contracts. The Councils also added language at FAR 16.504(c)(1)(ii)(D)(*3*)(*i*) to read that the requirement for a determination for a single-award IDIQ contract greater than $100 million is in addition to any applicable requirements of FAR subpart 6.3. This change is made to clarify that the determination for a single-award task- or delivery-order contract greater than $100 million is required in addition to the justification and approval (J&A) required by FAR subpart 6.3 when a procurement will be conducted as other than full and open competition. The language in the interim rule appears to suggest that a J&A pursuant to FAR subpart 6.3 is required whenever you have a single award greater than $100 million, which is not true when the procurement provides for full and open competition. This change is not considered significant but merely a clarification of the interim rule.

Architect-engineer contracts. Lastly, the Councils added language at FAR 16.504(c)(1)(ii)(D)(*3*)(*ii*) to clarify that the agency-head determination does not apply to architect-engineer task- or delivery-order contracts awarded pursuant to FAR subpart 36.6.

Eight respondents submitted comments on the interim rule. The comments are summarized below, with the corresponding responses.

Comment 1. "Architect-Engineer Services Exception." FAR 16.500(d) states that the statutory multiple-award preference is not applicable to the procurement of architect-engineer (A-E) services when such services are procured in accordance with the procedures of FAR subpart 36.6. The FAR subpart 36.6 procedures will result in a single award to the most highly qualified firm and it seems moot to obtain the head of agency determination when procuring A-E services. The commenter requests revision of FAR 16.504(c)(1)(ii)(D)(*1*) to add procurement of an A-E contract pursuant to FAR subpart 36.3 as a fifth reason for an agency-head determination to award a single-award contract that exceeds $100 million.

Response: The Councils do not agree that a fifth reason should be added to FAR 16.504(c)(1)(ii)(D)(*1*), as the list of conditions is statutory. However, the Councils added language at FAR 16.504(c)(1)(ii)(D)(*3*)(*ii*) to clarify that

the requirement for an agency-head determination to award a single-award task- or delivery-order contract over $100 million does not apply to A-E task- or delivery-order contracts awarded in accordance with FAR subpart 36.6.

Comment 2. "Delegation of Determination." FAR 16.504(c)(1)(ii)(D)(*1*) requires the head of the agency to execute a written determination for an award to a single source for a task- or delivery-order contract in an amount estimated to exceed $100 million. The commenter suggests that requiring the head of the agency to make the determination, without allowing for any designee to perform the function, is too high a level of approval than is necessary.

Response: The statute does not prohibit the delegation of this authority. In accordance with FAR 1.108(b), delegation of authority, each authority is delegable unless specifically stated otherwise. Each agency can determine whether to establish an internal policy to delegate the head of agency authority.

Comment 3. "Competitive but only One Offer Received." One commenter expresses concern that solicitations, which were issued using competitive procedures where only one offer or one acceptable offer is received, will also have to obtain a determination by the head of the agency before award can be made. According to the commenter, if there is no allowance for a designee to the agency-head approval, the respondent recommends that the agency-head approval be required before issuing solicitations for which the Government intends to make a single award over $100 million.

Another commenter recommends another possible exception under FAR 16.504(c)(1)(ii)(D) would be when the competitive process, even though conducted allowing for multiple awards, results in only one offer or when a FAR part 15 style best value acquisition process results in only one offeror remaining in the competitive range after discussions or negotiations are concluded and/or when there is an indisputable best-value winner as the result of an effective competitive process.

Response: The law requires that no task- or delivery-order contract in an amount estimated to exceed $100 million (including all options) may be awarded to a single source unless there is a written determination by the head of the agency. The agency-head determination is required when the single-source contract estimated to exceed $100 million will be awarded under competitive or non-competitive procedures. As such, the Councils do not agree with the recommendation to add another possible exception under FAR 16.504(c)(1)(ii)(D) for when the competitive process results in only one offer or offeror. Further, the rule neither prohibits the delegation of the agency determination nor does it preclude the agency from making the determination before issuing the solicitation.

Comment 4. "Congressional Notification." According to one commenter, getting the agency-head approval early in the process (and dealing with associated congressional concerns early in the process) is highly preferable to going through the time and expense of soliciting offers, evaluating proposal(s), and then possibly having approval withheld. The commenter states that refusing to make award to a vendor who submits an acceptable proposal after it has put significant expense into preparing a proposal may open up the Government to litigation and additional bid and proposal costs, as well. Additionally, the commenter states that requiring congressional notification (see FAR 16.504(c)(l)(ii)(D)(*2*)) under such conditions seems to be excessive for a circumstance in which multiple awards were contemplated, but only one award can be made.

Response: It is the agency's responsibility to determine when to obtain the determination. Congressional notification is only required within 30 days after the determination when citing public interest due to exceptional circumstances as the reason for awarding a single-source task- or delivery-order contract estimated to exceed $100 million. Timely congressional notification should be included in agency approval procedures under these circumstances.

Comment 5. "Unusual and Compelling Urgency." In the event of a FAR subpart 6.3 exception for a single contract award over $100 million including an unusual and compelling urgency exception, the commenter expresses concern about the time required and the burden to get the head of agency determination.

Response: The agency-head determination for a single-award task- or delivery-order contract over $100 million is required by law. In instances where such a contract will be made using one of the exceptions to full and open competition at FAR subpart 6.3, both the applicable J&A and the agency-head determination are required. In certain situations, an agency may consider establishing procedures to process the J&A and the determination together.

Comment 6. "Agency-Head Approval before Solicitation Issuance." Furthermore, if the determination is not delegable, the commenter recommends that agency-head approval be required before issuing a solicitation for which the Government intends to make a single award over $100 million. The commenter states that early approval is preferable prior to issuing the solicitation, thus saving significant expense for bid and proposal costs and possible litigation if an award is not made from the solicitation because the head of agency does not approve a single-source award.

Response: The law requires that the head of the agency must make a determination before award. It is the agency's responsibility to determine at which stage prior to award this determination should be accomplished.

Comment 7. "Court of Federal Claims Override." One commenter states that "The rule should provide clear notice that the Government Accountability Office (GAO) has sole jurisdiction over any bid protest of task and delivery orders valued at more than $10 million under multiple award indefinite-delivery indefinite-quantity (IDIQ) contracts and that the bid protest limitations applicable to these orders extend to agency decisions to invoke exceptions under the Competition in Contract Act's (CICA) mandatory stay provisions (sometimes referred to as a 'CICA override') in connection with the award of a task- or delivery-order." The commenter expresses concern that, regardless of the section 843 provision giving the Comptroller General of the United States exclusive jurisdiction over orders in excess of $10 million, the Court of Federal Claims (COFC) may conclude that it has jurisdiction.

Response: The Councils do not have authority to circumscribe the jurisdiction of the COFC. The rule does provide a notice that protest of an order in excess of $10 million may only be filed with GAO in accordance with the procedures at FAR 33.104.

Comment 8. "Rule of Two for Small Business." Two commenters request a clarification of this rule against the recent GAO decision in Delex Systems, Inc. The commenters believe that the GAO decision is based on a misinterpretation of the FAR and fails to adequately consider that neither Congress nor the FAR Council provided any indication in the detailed task- and delivery-order rules and procedures that the rule of two for small business set-asides applies to task and delivery orders. The commenters request a revision to FAR 16.505 to state explicitly that awards of task and

delivery orders under multiple-award IDIQ contracts are not subject to the rule of two set out at FAR 19.502–2(b).

Response: The issue regarding the "Rule of Two" is considered to be outside the scope of this case.

Comment 9. "Part 16 Should Not Be Subject to Part 15 Standards." One commenter states that "The rule should state explicitly that task- and delivery-orders issued under IDIQ contracts are subject only to FAR 16.505 standards and procedures and not to FAR Part 15 standards." The commenter requests a revision to clarify that the ordering processes under FAR 16.505, as amended by the interim rule, are intended to be streamlined and subject only to the procedures in that section. Also, the commenter wants the FAR revised to explicitly state that evaluations must satisfy those standards set out in FAR 16.505 and that FAR part 15 standards do not apply. The commenter suggests that these clarifications will prevent the use of the bid protest process to conduct end runs around the clear regulatory intent of FAR subpart 16.5.

Response: The Councils do not agree. Where it is appropriate and avoids repetition, references to the applicable FAR part 15 are stated in FAR 16.505. Also, the Councils do not believe it is necessary to revise FAR 16.505 to explicitly state that FAR part 15 standards do not apply, as the statement at FAR 16.505(b)(1)(ii) that the competition requirements in FAR subpart 15.3 do not apply to the ordering process is sufficient.

Comment 10. "Greater Flexibility and Exceptions Needed for Single-Award IDIQ." Two commenters recommend that the rule's one-size-fits-all approach should be revised to provide greater flexibility for agencies to use single-award IDIQ contracts when appropriate. IDIQ contracts are used for system-of-system efforts, performance-based acquisitions, and other similar acquisitions because they provide flexibility to fund the contracts incrementally or on a per-order basis, as the performance term proceeds and/or to account for inclusion of progressively more detailed technical requirements in the prospective order's statement of work as the technology matures or the term progresses.

Response: The law provides the conditions for awarding a single-source task- or delivery-order contract in an amount estimated to exceed $100 million. FAR 16.504(c)(1)(ii)(D) implements these statutory conditions.

Comment 11. "Eliminate 6.3 Procedures - Sole Source Justification." Two commenters recommend that the interim rule should be amended to delete FAR 16.504(c)(1)(ii)(D)(*3*) because the reference to FAR subpart 6.3 does not explain why it is necessary in the rule.

Response: The Councils do not agree to delete FAR 16.504(c)(1)(ii)(D)(*3*). If a single-source task- or delivery-order contract estimated to exceed $100 million will be awarded using other than full and open competition, the contracting officer must comply with FAR subpart 6.3 and FAR 16.504(c)(1)(ii)(D). FAR 16.504(c)(1)(ii)(D)(*3*) is amended to read that the requirement for a determination for a single-award contract greater than $100 million is in addition to any applicable requirements of FAR subpart 6.3. This change is made to clarify that the determination for a single-award task- or-delivery order contract greater than $100 million is required in addition to the J&A required by FAR subpart 6.3 when a procurement will be conducted as other than full and open competition. The language in the interim rule could have been read to require that a J&A pursuant to FAR subpart 6.3 is needed whenever there is a single-award greater than $100 million, which is not true when the procurement provides for full and open competition.

Comment 12. "Eliminate Limitation on Single-Award Requirements Contract." One commenter states that the rule should be revised to eliminate the limitation on single-award requirements contracts because this restriction is not mandated by section 843 and is inconsistent with requirements contracts.

Response: The Councils do not agree that requirements contracts should be excluded from the rule. Section 843 of FY08 NDAA applies to task- or delivery-order contracts in an amount estimated to exceed $100 million (including all options). FAR 16.501–2(a) states: "Pursuant to 10 U.S.C. 2304d and section 303K of the Federal Property and Administrative Services Act of 1949, requirements contracts and indefinite-quantity contracts are also known as delivery order contracts or task order contracts." Per FAR 16.501–2(a), the Councils applied the section 843 provisions to requirements contracts.

Comment 13. "Use of Single-Award Approach when in Government's Best Interest." The commenter recommends the use of a single-award IDIQ whenever it would be in the Government's best interests. According to the commenter, there are situations in which, although a second contractor may be nominally capable of performing the task- and delivery-orders under the IDIQ contract, the Government determines that one contractor is superior both in technical merit and cost/price in all areas under the anticipated scope of work. In those situations, it does not make sense in terms of costs and efficiency to require the contracting officer to issue two contracts when there will be no actual competition for the task- and delivery-orders. The commenter states that the contracting officer may be forced to make multiple awards because the situation does not fit within any of the exceptions in FAR 16.504(c)(1)(ii)(D)(*1*).

Response: The condition at FAR 16.504(c)(1)(ii)(D)(*1*)(*iv*) allowing the head of the agency to award a single-source contract estimated to exceed $100 million because it is "in the public interest" due to exceptional circumstances equates to the "Government's best interests". Similar to the authority at FAR 6.302–7, public interest may be cited when none of the other conditions at FAR 16.504(c)(1)(ii)(D)(*1*) applies. Congress wants to be informed when this exception is used. The conditions in FAR 16.504(c)(1)(ii)(D)(*1*) do not prevent an agency from making a single award. If the agency cannot cite FAR 16.504(c)(1)(ii)(D)(*1*)(*iii*) where only one source is qualified and capable of performing the work at a reasonable price to the Government, then nothing prevents the Government from making the determination to award the contract pursuant to FAR 16.504 (c)(1)(ii)(D)(*1*)(*iv*), provided Congress is subsequently notified. However, the commenter is not describing a situation where the second contractor has an unreasonable price, but a situation where the second contractor has a price higher than the first contractor. Because the situation is not a firm-fixed-price situation (or FAR 16.504 (c)(1)(ii)(D)(*1*)(*ii*) would be used) the second contractor's prices on a particular order could be lower than the first contractor's prices; also the presence of the second contractor will encourage the first contractor to keep its prices lower.

Comment 14. "Clarify Requirements Clause." The commenter states that, without additional implementation language, it is assumed that without a determination under FAR 16.504(c)(1)(ii)(D), it will be a violation of FAR to issue requirements contracts over $100 million. The commenter further states that it is assumed that all contracts over $100 million will be multiple-award IDIQ contracts under FAR 16.504(c)(1)(ii)(D). If the assumptions are correct, the commenter requests additional clarifying language

in FAR 16.503 to state that requirements contracts are not authorized over $100 million unless a determination is granted. In addition, if the intent is to allow multiple-award "requirements" contracts, the commenter requests that an alternate to FAR 52.216–21 be added to the ruling that defines how a multiple-award requirements contract will be implemented.

Response: The Councils do not believe a change to FAR 52.216–21 is required as a result of this rule. The FAR does not preclude single-award task- or delivery-order requirements contracts over $100 million, it just requires a written determination by the head of the agency. FAR 16.503(b)(2) already states that requirements contracts are not authorized over $100 million unless a determination is granted. The Councils amended the language at FAR 16.503(a) to clarify that requirements contracts are awarded to one contractor. This change is made to dispel the implication at FAR 16.503(b)(2) that a multiple-award requirements contract may be awarded. See also response to Comment 12.

Comment 15. "Expand Coverage to all Indefinite-Delivery Contracts." The commenter states that task- or delivery-order contracts include all types of indefinite-delivery contracts (See FAR 16.501–1 and FAR 16.501–2(a)). Therefore, the commenter recommends the rule apply to all three types of indefinite-delivery contracts.

Response: FAR 16.501–1 defines a "delivery order contract" and "task order contract" as one that does not procure or specify a firm quantity of supplies or services, respectively. FAR 16.501–2(a) specifies that requirements and indefinite-quantity contracts are also known as task or delivery order contracts. IDIQ contracts are not included. Accordingly, the rule is applied only to requirements and indefinite-quantity contracts.

Comment 16. "Change Terminology." The commenter states that it appears the intent of the law is to require the determination to use a single source on an indefinite-delivery contract as part of the initial acquisition planning. To avoid confusion concerning when the determination is required, the reference to "task or delivery order contract" could be changed to either "indefinite delivery contract", or "basic indefinite delivery contract".

Response: The Councils do not concur. The rule implements section 843 of Pub. L. 110–181, which applies to task- or delivery-order contracts in an amount estimated to exceed $100 million (including all options). The changes to FAR 16.503 and 16.504 do not apply to the task- or delivery-orders issued under such contracts.

Comment 17. "Clarify Grammar as a Result of Use of Semicolons." The commenter requests that FAR 16.504(a)(1)(ii)(D)(*1*) be clarified by inserting either "and" or "or" after each semicolon. Several interpretations exist because of the semicolons. One contracting activity believes one of four exceptions must be met, while other contracting activities require some combination of the exceptions to be met.

Response: The listing of the subparagraphs at FAR 16.504(a)(1)(ii)(D)(*1*) uses a semicolon with an "or" before the last subparagraph, which is consistent with FAR drafting conventions. Either one or a combination of the items can be cited in the agency-head determination.

Comment 18. "Fair Opportunity Clarification." The commenter recommends inserting "the requirements in 16.505(b)(1)(ii), and" in 16.505(b)(1)(iii) between "shall include," and "at a minimum ...." to ensure that the user does not ignore the mandatory policy for orders exceeding $3,000.

Response: The requirements at FAR 16.505(b)(1)(iii) cover actions above $5 million. The procedures at 16.505(b)(1)(iii) build on the requirements at 16.505(b)(1)(ii) and are not mutually exclusive.

Comment 19. "Clarify Applicability to Cost-Type Contracts." The commenter asks whether FAR 16.504(c)(1)(ii)(D)(*1*)(*ii*) means that single-award cost-type task- or delivery-order contracts over $100 million are abolished.

Response: Cost-type single-award task- or delivery-order contracts over $100 million are not abolished by this rule, but must be supported by an agency-head determination in accordance with FAR 16.504(c)(1)(ii)(D)(*1*)(*i*), 16.504(c)(1)(ii)(D)(*1*)(*iii*), or 16.504(c)(1)(ii)(D)(*1*)(*iv*).

Comment 20. "Agency-Head Exception Process." One commenter states that this agency-head exception process is not needed because there is already an existing regulatory process for deciding on the efficacy of multiple awards and because this added process bears no relationship to any problem identified with task-order competitions. According to the commenter, the interim rule only adds to the confusion in agencies over the task-order competition process, including blurring the authority of the contracting officer as a gatekeeper to decide what acquisitions should not be multiple awards at the outset.

Response: Section 843 of the FY08 NDAA establishes the requirement for the head of the agency to make a written determination when awarding a single-source contract greater than $100 million. This rule implements the law. Individual agency regulations or procedures may delegate this authority. The law did not change the contracting officer's determination during acquisition planning as to whether multiple awards are appropriate. Therefore, the Councils did not make such a change in the rule.

Comment 21. "Use of Exception Terms." One commenter states that the interim rule is unclear because the existing exception terms of art are inconsistent with the new exceptions. According to the commenter, it is instructive that the exception factors listed in 16.504(c)(1)(ii)(B) for contracting officer planning purposes and those listed under 16.504(c)(1)(ii)(D) for head of the contracting activity (HCA) purposes at the award stage are not identical. In the interests of clarity, the Government should consolidate the terms of art used for exceptions at different stages of the acquisition and create a definitional section for consistency and to explain those terms of art.

Response: The Councils do not concur with the commenter's recommendation to "consolidate the terms of art" in FAR 16.504(c)(1)(ii)(B) and FAR 16.504(c)(1)(ii)(D). Each of the terms used in FAR 16.504(c)(1)(ii)(B) represents the unique character of the actions required by the contracting officer in determining whether multiple awards are appropriate based on criteria established in the regulatory implementation of the Federal Acquisition Streamlining Act (see 41 U.S.C. 253h(d)(3)(B) and 10 U.S.C. 2304a(d)(3)(B)). The terms used in FAR 16.504(c)(1)(ii)(D) list the criteria for the head of the agency to make a determination in accordance with section 843 of the FY08 NDAA. Congress could have used the terms in FAR 16.504(c)(1)(ii)(B) to mirror the terms in section 843, but it chose not to do so. Instead, the Congress tailored selected criteria in FAR 16.504(c)(1)(ii)(B) to include in section 843.

Comment 22. "Regulatory Flexibility Analysis." The interim rule states that a Regulatory Flexibility Analysis (RFA) "is unnecessary because the rule does not change any existing regulations affecting small businesses." One respondent disagrees with this assessment. According to the commenter, since it is reasonable to conclude that many small businesses

will be impacted by this rule, especially insofar as the bid protest and debriefing rights are concerned, it appears careless to ignore the requirements of the RFA. Among other things, an RFA requires an analysis of alternatives and a discussion of overlapping and duplicative rules. Given that there are already a number of rules governing the fair opportunity to compete for task- and delivery-orders on multiple-award contracts in the FAR and other agency FAR supplements, the commenter believes that "it would make sense to conduct due diligence on those existing regulations if only to eliminate those that may no longer be required and to shed light on the need for the prohibition of a single award of a task order contract over $100 million in the first place."

Response: The interim rule did not ignore the requirements of the Regulatory Flexibility Act (RFA). The Councils obtained review of the statements under the RFA by the Small Business Administration Office of Advocacy. The rule is not expected to have a significant economic impact on a substantial number of small entities. The rule encourages and enhances competition equally for both small and other than small businesses. Insofar as the bid protests are concerned, the GAO did not change its Bid Protest Regulations (See **Federal Register** at 73 FR 32427 published on June 9, 2008) as a result of section 843; the Councils have not modified the protest procedures in FAR part 33 to impact small businesses either way. The debriefing procedures cited to follow at FAR 15.506 for orders exceeding $5 million provide information to offerors so they may improve its future offers, which is a benefit for both small and large businesses. Further, the Councils sought comments from small businesses on the affected FAR part 16. Only this comment was received.

Comment 23. "Sunset Provision." One commenter believes that, because the single-award prohibition may not add continuing value to the acquisition process over time, a sunset provision that parallels the protest sunset (three years) should be inserted to account for the possibility that, in the future, either no single-award exceptions are being processed or, conversely, too many single-award exceptions are being processed. Factually and legally, that would indicate that the single-award prohibition is either unnecessary because none are being processed, or conversely, that it is too restrictive and/or being applied too broadly by agency personnel leading to a proliferation of agency-head determinations to make a single task-order contract award. In either case, the commenter believes that it would only serve to emphasize that prohibiting single awards does not address any of the goals of the interim rule and thus should be sunset.

Response: The Councils do not concur with adding such a sunset provision. The commenter's recommendation goes beyond the provisions as enacted by section 843 of the FY08 NDAA.

Comment 24. "Override." The commenter requests that the final rule clarify that a protest of a solicitation for, or award of, a task- or delivery-order timely filed in accordance with the Competition in Contracting Act, 31 U.S.C. 3551 *et seq.*; should trigger an automatic stay of performance.

Response: This rule implements section 843. Section 843 did not address "stay of performance" under the Competition in Contracting Act, 31 U.S.C. 3551 *et seq.*

Comment 25. "Monetary Threshold for Protests." The commenter states that "section 843 does not provide any express guidance on how the parties should value task or delivery orders when determining whether an order exceeds the threshold value for purposes of protest jurisdiction. This lack of clarity could lead to challenges to GAO's authority to hear a protest." The commenter requests that the final rule clarify how the monetary threshold for a task- or delivery-order protest will be calculated. The commenter offers that the Councils could consider clarifying the rule to indicate the $10 million threshold is based upon the offers received by the agency so that agencies cannot avoid protest jurisdiction by valuing a solicitation slightly under the statutory threshold and so that protest jurisdiction is not affected by adjustments made to offers during the course of the evaluation.

Response: The Councils believe GAO will handle issues concerning its jurisdiction.

Comment 26. "Section 843 Restricts Use of Single-Award IDIQ." The commenter states that, in anticipation of the issuance of the interim rules pursuant to guidance from the Office of the Secretary of Defense in May 2008, several Department of Defense commands had already stated informally (and anecdotally had begun to act on their belief) that section 843 (in the form of FAR 16.504) effectively prohibits them from concluding either during the planning process or at time of award that a single-award task- or delivery-order contract estimated over $100 million dollars would ever be justifiable, preemptively cutting off any thoughtful analysis of the facts and foreclosing any exceptions at the planning stages, in effect pushing the decisions upstream to the HCA at time of award where acquisition law and regulation may not be as well known as at the contracting officer level and where the timing of any such decision will become less of an acquisition decision and more of a political one.

Response: The contracting officer determination, at the acquisition-planning stage, on whether multiple awards are appropriate is required by statute. This determination is separate from the determination by the agency head to award a task- or delivery-order single contract over $100 million, which is required by a different statute. Each agency is responsible for ensuring it meets the requirements of both determinations when applicable. As such, questions or concerns regarding agency implementation of section 843 should be directed to that agency.

Comment 27. "Determination to Use Multiple-Award Contracts." This contract-type "gap" is recognized in the existing regulation, and the FAR currently has a regime where the contracting officer is required to examine the efficacy of multiple awards as part of a stepped planning process. There are several process points at which conditions or exceptions to multiple awards can be applied per the contracting officer's discretion.

Response: It is incumbent upon the contracting officer, as required by FAR 16.504, to determine the feasibility of establishing single- or multiple-award contracts. In the instance where a single-award task- or delivery-order contract over $100 million will be made, the requirements of FAR 16.504(c)(1)(ii)(D) must be addressed.

Comment 28. "Use of Mandatory Exceptions for Multiple-Award Contracts." This list of mandatory exceptions appears to cover just about any contingency affecting the requirements and, at one time, is both comprehensive and broad enough to allow a contracting officer great flexibility to judge the merits of making multiple awards. The commenter states that a contracting officer may determine that a class of acquisitions is not appropriate for multiple awards, but that exception appears to be rarely, if ever, used. In fact, according to the commenter, there is scant data on the use of any of the contracting officer multiple-award contract exception processes whatsoever, so it is difficult to determine whether the contracting officers actually perform such a decisional function. Conversely, though there has been no report that those authorities have been abused one way or

the other, the interim rule would render moot any planning-stage decision the contracting officer would make if the award were over $100 million.

Response: The acquisition planning team (*e.g.*, contracting officer, program office, customers) is tasked to define the exact strategy to support the acquisition requirement. The rule does not render moot the contracting officer's decision in the acquisition-planning process. The contracting officer is still required by FAR 16.504 to determine the feasibility of establishing single- or multiple-award contracts.

Comment 29. "Head of Agency Override of Contracting Officer Determination." According to one commenter, although the interim rule may be designed to facilitate a proper level of quality assurance over certain Government actions designed to increase competition for task orders, and is not reflective of any failure by the private sector in its transactional conduct, it is wholly possible and very likely that an agency head could veto a single IDIQ award at time of award, presumably long after a contracting officer may have determined that multiple awards are not in the Government's best interest and for reasons that the head of the agency may not be held accountable to explain. The commenter suggests that one way to deal with that lack of transparency would be to allow any contracting officer's written determination that a multiple-award contract is not appropriate made at the acquisition planning stages to have great presumptive weight in any internal agency deliberations for the agency-head exception process or require that the agency-head determination be published if contrary to the contracting officer's initial determination.

Response: The Councils do not agree that the written determination by the head of the agency should be published when it differs from the contracting officer's initial determination to award a single IDIQ contract. This is not required by section 843. Further, the purpose of the rule is to encourage competition and to make the highest levels of the agency aware of the use of a single-award task- or delivery-order contract greater than $100 million. If a contracting officer's initial determination to award a single IDIQ contract is later overturned, this decision would need to be substantiated and justified and would be completely in line with the rule's goal of encouraging competition and the use of multiple awards under IDIQ contracts valued over $100 million. Whether these determinations are releasable to the public/private sector is determined by the Freedom of Information Act. Lastly, the approval authority to award a single-award task- or delivery-order contract greater than $100 million rests with the head of the agency per FAR 16.504(c)(1)(ii)(D) and, to the extent the head of the agency considers the acquisition-planning determination on whether multiple awards are appropriate by the contracting officer is within his or her discretion; however, the law does not require such consideration. Contracting officers should be fully engaged or involved in the decision-making process.

This is a significant regulatory action and, therefore, was subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule enhances competition for small and large business, and the information that will be provided in debriefings on procurements over $5 million will benefit firms by enabling them to improve future offers. In addition, the Councils sought comments from small businesses on the affected FAR part 16 at the publication of the interim rule in the **Federal Register** at 73 FR 54008 on September 17, 2008. One comment was received and is discussed at Comment 22.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. chapter 35, *et seq.*

List of Subjects in 48 CFR Part 16

Government procurement.

Dated: March 15, 2010.

Al Matera,

Director, Acquisition Policy Division.

■ Accordingly, the interim rule published in the **Federal Register** at 73 FR 54008 on September 17, 2008, is adopted as a final rule with the following changes:

PART 16—TYPES OF CONTRACTS

■ 1. The authority citation for 48 CFR part 16 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

16.501–1 [Amended]

■ 2. Amend section 16.501–1 by adding "-" between the words "Delivery" and "order" in the definition of "Delivery order contract" and between the words "Task" and "order" in the definition of "Task order contract".

16.501–2 [Amended]

■ 3. Amend section 16.501–2 in the last sentence of paragraph (a) by adding "-" between the words "delivery" and "order" and between the words "task" and "order".

16.503 [Amended]

■ 4. Amend section 16.503 by removing from paragraph (a) introductory text "period" and adding "period (from one contractor)" in its place.

■ 5. Amend section 16.504 by revising paragraph (c)(1)(ii)(D)(*3*) to read as follows:

16.504 Indefinite-quantity contracts.

* * * * *

(c) * * *

(1) * * *

(ii) * * *

(D) * * *

(*3*) The requirement for a determination for a single-award contract greater than $100 million:

(*i*) Is in addition to any applicable requirements of Subpart 6.3.

(*ii*) Is not applicable for architect-engineer services awarded pursuant to Subpart 36.6.

* * * * *

[FR Doc. 2010–5989 Filed 3–18–10; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 25 and 52

[FAC 2005–39; FAR Case 2008–036; Item V; Docket 2009–019, Sequence 1]

RIN 9000–AL23

Federal Acquisition Regulation; FAR Case 2008–036, Trade Agreements—Costa Rica, Oman, and Peru

AGENCIES: Department of Defense (DoD), General Services Administration (GSA),

and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) have adopted as final, without change, an interim rule amending the Federal Acquisition Regulation (FAR) to implement the Dominican Republic—Central America—United States Free Trade Agreement with respect to Costa Rica, the United States-Oman Free Trade Agreement, and the United States-Peru Trade Promotion Agreement.

DATES: *Effective Date*: March 19, 2010.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Ms. Lori Sakalos, Procurement Analyst, at (202) 208–0498. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501–4755. Please cite FAC 2005–39, FAR case 2008–036.

SUPPLEMENTARY INFORMATION:

A. Background

The Councils published an interim rule in the **Federal Register** at 74 FR 28426 on June 15, 2009. No public comments were received in response to the interim rule.

The interim rule added Costa Rica, Oman, and Peru to the definition of "Free Trade Agreement country". The rule also deleted Costa Rica from the definition of "Caribbean Basin country" because, in accordance with section 201(a)(3) of Pub. L. 109–53, when the Dominican Republic—Central America—United States Free Trade Agreement (CAFTA—DR) agreement enters into force with respect to a country, that country is no longer designated as a beneficiary country for purposes of the Caribbean Basin Economic Recovery Act.

The excluded services for the Oman and Peru Free Trade Agreements (FTAs) are the same as for the Bahrain FTA, CAFTA-DR, Chile FTA, and North American Free Trade Agreement. Costa Rica has the same thresholds as the other CAFTA-DR countries.

This is a significant regulatory action and, therefore, was subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Department of Defense, General Services Administration, and National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because acquisitions that are set aside for small businesses are exempt from trade agreements. In addition, the Department of Defense only applies the trade agreements to the non-defense items listed at the Defense Federal Acquisition Regulation Supplement 225.401–70. No comments were received relating to impact on small business concerns.

C. Paperwork Reduction Act

The Paperwork Reduction Act does apply, and this rule is added to the certification and information collection requirements in the provisions at FAR 52.212–3, 52.225–4, 52.225–6, and 52.225–11 currently approved under Office of Management and Budget clearance 9000–0136 (Commercial Item Acquisition; FAR sections affected are part 12 and provisions 52.212–1 and 52.212–3), 9000–0130 (Buy America Act, Trade Agreements Act Certificate; FAR section affected is provision 52.225–4), 9000–0025 (Buy American Act, Trade Agreements Act Certificate; FAR section affected is provision 52.225–6), and 9000–0141 (Buy America Act—Construction; FAR sections affected are subpart 25.2 and provisions 52.225–9 and 52.225–11) respectively. The impacts of this change on information collection requirements are negligible. No comments were received on the burden or number of entities affected by this rulemaking.

List of Subjects in 48 CFR Parts 25 and 52

Government procurement.

Dated: March 15, 2010.

Al Matera,

Director, Acquisition Policy Division.

■ Interim Rule Adopted as Final Without Change

■ Accordingly, the interim rule amending 48 CFR parts 25 and 52, which was published in the **Federal Register** at 74 FR 28426 on June 15, 2009, is adopted as a final rule without change.

[FR Doc. 2010–5990 Filed 3–18–10; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

[FAC 2005–39; FAR Case 2008–015; Item VI; Docket 2009–0015, Sequence 1]

RIN 9000–AL26

Federal Acquisition Regulation; FAR Case 2008–015, Payments Under Fixed-Price Architect-Engineer Contracts

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on a final rule amending the Federal Acquisition Regulation (FAR) to revise the withholding of payment requirements under FAR 52.232–10. This FAR change was initiated by the Small Business Administration (SBA) Advocacy Office and is a part of the SBA, Office of Advocacy's Regulatory Review and Reform Initiative, or r3 initiative. The r3 program was established to help small businesses address the cumulative Federal regulatory burden.

DATES: *Effective Date*: April 19, 2010.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Ms. Suzanne Neurauter, Procurement Analyst, at 202–219–0310. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at (202) 501–4755. Please cite FAC 2005–39, FAR case 2008–015.

SUPPLEMENTARY INFORMATION:

A. Background

The FAR at 52.232–10, Payments Under Fixed-Price Architect-Engineer Contracts, currently requires contracting officers to withhold 10 percent of the amounts due on each voucher; however, payment can be made in full during any month in which the contracting officer determines the performance to be satisfactory. The Government retains the withheld amount until the contracting officer determines that the work has been satisfactorily completed. The contracting officer may release excess withheld amounts to the contractor when the contracting officer determines

that the work is substantially complete or when the contracting officer determines that the amount retained is in excess of the amount adequate for the protection of the Government's interests.

This final rule revises FAR 52.232–10 to permit contracting officers to use their judgment regarding the amount of payment withheld to apply under fixed-price architect-engineer (A-E) contracts (based on an assessment of the contractor's performance under the contract) so that the withheld amount will be applied at the level necessary to protect the Government's interests. This is in contrast to the current requirement that contracting officers withhold 10 percent on all payments. Thus, this final rule revises paragraph (b) of the contract clause at FAR 52.232–10 to state that contracting officers shall withhold up to 10 percent of the payment due only if the contracting officer determines that such a withholding is necessary to protect the Government's interest and ensure satisfactory completion of the contract. The amount of withholding shall be determined based upon the contractor's performance record. This final rule also makes several related editorial changes including one that clarifies that the contractor will be paid any unpaid balance due to include withheld amounts at the successful completion of the A-E services work.

Discussion and Analysis

A proposed rule was published in the **Federal Register** at 74 FR 20666 on May 5, 2009. The FAR Secretariat received eight (8) responses to the proposed rule from seven (7) respondents. These responses included a total of 34 comments on 13 issues. Each issue is discussed in the following sections.

1. Support for the proposed revision.

Four respondents wrote in support of the proposed rule. One respondent commended the Councils for following through on the change, which was initially undertaken as part of the SBA's r3 initiative, a tool for small business stakeholders to suggest needed reforms.

2. Clearly distinguish A-E contracts from construction contracts.

Two respondents recommended that the FAR clearly distinguish between A-E contracts and construction contracts, pointing out that A-E services are not construction services.

Response: The Councils thought this would be unnecessary, given that FAR part 36 addresses the two types of contracts separately, even assigning a separate subpart, subpart 36.6, for A-E contracts. Both A-E and construction are thoroughly, and separately, defined at FAR 2.101, in terms that do not overlap. No change to the FAR is needed.

3. Require contracting officers to release excess retainage once work is substantially complete.

Response: This change, requested by three respondents, has been made in paragraph (c) of the clause. The clause at FAR 52.232–10, Payments under Fixed-Price Architect-Engineer Contracts, requires (not merely "authorizes") payment by the Government of "the unpaid balance of any money due for work under the statement, including all withheld amounts" upon satisfactory completion and final acceptance of "all the work done by the Contractor under the 'Statement of Architect-Engineer Services.'" The "Statement of Architect-Engineer Services" is the statement of work for the instant A-E contract; it does not include any follow-on construction contract. The rule also deletes the second sentence of FAR 52.232–10(c), which allowed the Government to retain some monies due until "satisfactory completion and final acceptance of the construction work".

The matter of the Government's acceptance of the work is addressed at item 10 below.

4. Adopt retainage requirements similar to those for fixed-price contracts with the rest of the construction industry.

One respondent recommended that the Councils "adopt FAR requirements identical to those for fixed-price contracts made with the rest of the construction industry."

Response: The Councils note that other respondents rejected treating A-E services as a type of construction service. Further, the Councils believe that retainage for A-E contracts is now predicated on contracting officers determining if retainage is necessary to protect the Government's interests and ensure satisfactory completion of the contract. Any such retainage is to be released in full, not partially, upon satisfactory completion of the A-E statement of work.

5. Consider past performance in retainage decisions.

Three respondents asked that past performance (on previous contracts) be taken into consideration when negotiating whether retainage will be applied to a fixed-price A-E contract.

Response: The Councils partially concur. Past performance is taken into account in selecting the successful offeror and making the contract award. In effect, contracting officers are considering performance to date on the instant contract when deciding whether to retain and in assessing whether current performance is satisfactory.

6. Proposed rule removes a mandatory requirement designed to protect the Government's financial interests.

One respondent, a Government agency, disagreed with the proposed rule, stating that it removes a mandatory requirement designed to (a) protect the financial interest of the Government in a fixed-price contract, (b) apply a uniform withholding of payments to all contractors; and (c) provide an incentive for contractors to complete the contract obligation in a timely manner.

Response: Retainage was a mandatory 10 percent unless performance was satisfactory during that month. The rule continues to require retainage when determined necessary to protect the Government's interests and ensure satisfactory completion of the contract.

7. Proposed rule fails to provide statutory authority.

One respondent stated that the proposed rule fails to provide the statutory authority for this clause or for retainage on Federal A-E contracts.

Response: Title 40 of the United States Code, chapter 11, Selection of Architects and Engineers, is the statutory authority for FAR coverage on A-E contracts. The authority for retainage on A-E contracts is not statutory but is included in the FAR to ensure the Government's interests are protected until final delivery and acceptance of these types of services is made.

8. Proposed rule inappropriately uses the term "design work".

Two respondents believe that the proposed rule loosely and inappropriately uses the term "design work", while the retainage requirement is applied to all types of A-E contracts, not just those for design services. A third respondent states that all A-E services should be covered by the revised retainage rule.

Response: The Councils agree, noting that the definition of A-E services at FAR 2.101 includes other services such as surveying and mapping, consultations, and plans and specifications (see item 9 below). The final rule has deleted the term "design" in the two places it is used in FAR 52.232–10(c) of the proposed rule.

9. Specifically include "surveying, mapping, and geospatial".

One respondent requested that the term "surveying, mapping, and geospatial" be specifically included in the rule and in FAR 52.232–10.

Response: Any revisions to the definition of A-E services are outside the scope of this case. The Councils note that A-E services are defined at FAR 2.101.

10. Add requirements to ensure prompt and timely review and acceptance of deliverables from A-E contractors.

Four respondents commented upon the need for prompt and timely review and acceptance by the Government of deliverables under A-E contracts.

Response: The Councils take no position on this question because it is outside the scope of this case, which was limited to the question of retainage on A-E contracts. Other FAR clauses such as FAR 52.232–26, Prompt Payment for Fixed-Price Architect-Engineer Contracts, deal with these requirements.

11. Eliminate retainage altogether, except for cause, and require contracting officer to bear burden of proving that any withholding of fee is necessary.

Three respondents expressed opposition to the concept of mandatory retainage. One respondent opposed the use of any fee withholding requirement, and another respondent asked the Councils to clarify that retainage is now discretionary, not mandatory.

Response: The Councils agree that retainage remains an option, one that depends on the contractor's performance on the instant contract. If the contractor's performance is satisfactory, there need not be any retainage at all for the period. The revised paragraph (b) of FAR 52.232–10 states that contracting officers "shall require a withholding from amounts due under paragraph (a) of this clause of up to 10 percent only if the Contracting Officer determines that such a withholding is necessary to protect the Government's interest and ensure satisfactory completion of the contract." (Emphasis added). This means that, if performance is satisfactory for the period, then retainage could be zero. Also, some amount less than 10 percent could be retained.

The third respondent compared A-E retainage to the payments for fixed-price construction contracts and claimed that the burden of proof remains on the contracting officer to justify withholding a portion of a construction contractor's fee, while this is not the case for A-E contracts.

Response: The Councils disagree with respondent, because the revised FAR 52.232–10(b), quoted above, makes it clear that contracting officers must make a decision each performance period, based on the contractor's performance, whether to retain any amount and, if so, how much—up to 10 percent of the vouchered amount—to retain.

12. Fee withholding should be different for task orders under indefinite-delivery/indefinite-quantity (IDIQ) contracts.

Four respondents commented that IDIQ contracts should be treated differently. One respondent noted that some small A-E firms believe that the current regulation may not be consistent with IDIQ contracting practices. This comment is supported by four other comments received on this same point. One respondent claimed that retainage for individual task orders under an IDIQ contract is, at times, currently held until the entire IDIQ contract is complete.

Response: Retainage should be related to the contractor's performance on the individual task or delivery order and, in order to be compliant with the requirements of FAR 52.232–10, the contractor must be paid any unpaid balance upon satisfactory completion of the work under that contract, whether it is a task or delivery order or a stand-alone contract. However, this is a matter of educating contracting officers rather than changing policy; the policy is correct, but its execution needs improving.

13. Impact on small businesses.

One respondent disagreed with the proposed rule's finding that the proposed change would not have a significant impact on small firms.

Response: While the Councils agree that there were some cases during contract administration where the retainage in the mandatory amount of 10 percent was not justified, the changes made in this rule do not rise to the level of a significant impact on a substantial number of small entities.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule does not impose any additional requirements on small businesses. There are approximately 230,000 architect-engineer firms, many of which are small businesses. This rule actually eases the impact on such firms, but not to the point of having a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. chapter 35, *et seq.*

List of Subjects in 48 CFR Part 52

Government procurement.

Dated: March 15, 2010.

Al Matera,

Director, Acquisition Policy Division.

■ Therefore, DoD, GSA, and NASA amend 48 CFR part 52 as set forth below:

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 1. The authority citation for 48 CFR part 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

■ 2. Amend section 52.232–10 by revising the date of the clause and paragraphs (a), (b), and (c) to read as follows:

52.232–10 Payments under Fixed-Price Architect-Engineer Contracts.

* * * * *

PAYMENTS UNDER FIXED-PRICE ARCHITECT-ENGINEER CONTRACTS APR 2010.

(a) Estimates shall be made monthly of the amount and value of the work and services performed by the Contractor under this contract which meet the standards of quality established under this contract. The estimates, along with any supporting data required by the Contracting Officer, shall be prepared by the Contractor and submitted along with its voucher.

(b) After receipt of each substantiated voucher, the Government shall pay the voucher as approved by the Contracting Officer or authorized representative. The Contracting Officer shall require a withholding from amounts due under paragraph (a) of this clause of up to 10 percent only if the Contracting Officer determines that such a withholding is necessary to protect the Government's interest and ensure satisfactory completion of the contract. The amount withheld shall be determined based upon the Contractor's performance record under this contract. Whenever the Contracting Officer determines that the work is substantially complete and that the amount retained is in excess of the amount adequate for the protection of the Government, the Contracting Officer shall release the excess amount to the Contractor.

(c) Upon satisfactory completion by the Contractor and final acceptance by the Contracting Officer of all the work done by the Contractor under the "Statement of Architect-Engineer Services", the Contractor will be paid the unpaid balance of any

money due for work under the statement, including all withheld amounts.

* * * * *

[FR Doc. 2010–5991 Filed 3–18–10; 8:45 am]

BILLING CODE 6820–EP–S

List of Subjects in 48 CFR Part 14

Government procurement.

Dated: March 15, 2010.

Al Matera,

Director, Acquisition Policy Division.

■ Therefore, DoD, GSA, and NASA amend 48 CFR part 14 as set forth below:

PART 14—SEALED BIDDING

■ 1. The authority citation for 48 CFR part 14 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

14.202–4 [Amended]

■ 2. Amend section 14.202–4 by removing from paragraph (a)(3) "subdivision (e)(1)(ii) below" and adding "paragraph (d)(1)(ii) of this section" in its place.

[FR Doc. 2010–5992 Filed 3–18–10; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 14

[FAC 2005–39; Item VII; Docket FAR 2010–0078; Sequence 1]

Federal Acquisition Regulation; Technical Amendment

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This document makes an amendment to the Federal Acquisition Regulation in order to make an editorial change.

DATES: *Effective Date*: March 19, 2010.

FOR FURTHER INFORMATION CONTACT: The Regulatory Secretariat, 1800 F Street, NW., Room 4041, Washington, DC, 20405, (202) 501–4755, for information pertaining to status or publication schedules. Please cite FAC 2005–39, Technical Amendment.

SUPPLEMENTARY INFORMATION: This document makes an amendment to the Federal Acquisition Regulation in order to make an editorial change.

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket FAR 2010–0077, Sequence 1]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–39; Small Entity Compliance Guide

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of the Secretary of Defense, the Administrator of General Services and the Administrator of the National Aeronautics and Space Administration. This *Small Entity Compliance Guide* has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of rules appearing in Federal Acquisition Circular (FAC) 2005–39 which amend the Federal Acquisition Regulation (FAR). Interested parties may obtain further information regarding these rules by referring to FAC 2005–39 which precedes this document. These documents are also available via the Internet at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Hada Flowers, FAR Secretariat, (202) 208–7282. For clarification of content, contact the analyst whose name appears in the table below.

LIST OF RULES IN FAC 2005–39

Item	Subject	FAR case	Analyst
I	Extend Use of Simplified Acquisition Procedures for Certain Commercial Items	2009–035	Jackson.
II	Clarification of Submission of Cost or Pricing Data on Non-Commercial Modifications of Commercial Items.	2008–012	Chambers.
III	Use of Standard Form 26 - Award/Contract	2008–040	Jackson.
IV	Enhanced Competition for Task- and Delivery-Order Contracts-Section 843 of the Fiscal Year 2008 National Defense Authorization Act.	2008–006	Clark.
V	Trade Agreements—Costa Rica, Oman, and Peru	2008–036	Sakalos.
VI	Payments Under Fixed-Price Architect-Engineer Contracts	2008–015	Neurauter.
VII	Technical Amendment		

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these FAR cases, refer to the specific item number and subject set forth in the documents following these item summaries.

FAC 2005–39 amends the FAR as specified below:

Item I—Extend Use of Simplified Acquisition Procedures for Certain Commercial Items (FAR Case 2009–035)

This final rule amends the FAR to implement section 816 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2010. The rule extends for two more years the commercial items test program in FAR subpart 13.5. The program was to expire January 1, 2010.

Item II—Clarification of Submission of Cost or Pricing Data on Non-Commercial Modifications of Commercial Items (FAR Case 2008–012)

This final rule adopts, with minor changes, the interim rule published in the **Federal Register** at 74 FR 11826 on

March 19, 2009. The interim rule amended the FAR to implement section 814 of the NDAA for FY 2008. Section 814 requires the harmonization of the threshold for cost or pricing data on non-commercial modifications of commercial items with the Truth in Negotiations Act (TINA) threshold for cost or pricing data. By linking the threshold for cost or pricing data on non-commercial modifications of commercial items with the TINA threshold at FAR 15.403–4, whenever the TINA threshold is adjusted the threshold for cost or pricing data on non-commercial modifications of commercial items will be automatically adjusted as well.

Item III—Use of Standard Form 26 - Award/Contract (FAR Case 2008–040)

This final rule modifies the instructions for use of the Standard Form 26, Award/Contract, at FAR subparts 15.5 and 53.2 to clarify that block 18 of the form should not be used to award a negotiated procurement. No change is made to existing policy or procedures.

Item IV—Enhanced Competition for Task- and Delivery-Order Contracts—Section 843 of the Fiscal Year 2008 National Defense Authorization Act (FAR Case 2008–006)

This final rule adopts, with changes, the interim rule published in the **Federal Register** at 73 FR 54008 on September 17, 2008. The interim rule amended FAR subpart 16.5 to implement section 843 of the NDAA for FY 2008. The provisions of section 843 include (1) Limitation on single award task- or delivery-order contracts greater than $100 million; (2) Enhanced competition for task and delivery orders in excess of $5 million; and (3) Restriction on protests in connection with issuance or proposed issuance of a task or delivery order except for a protest on orders on the grounds that the order increases the scope, period, or maximum value of the contract under which the order is issued, or a protest of an order valued in excess of $10 million. Several changes are made to the FAR as result of public comments on the interim rule. FAR 16.503 is amended to clarify that a requirements contract is awarded to one contractor. FAR 16.504(c)(1)(ii)(D)(*3*) is amended to clarify that the agency-head determination to award a single-award task- or delivery-order contract over $100 million does not apply to an architect-engineer task- or delivery-order contract awarded pursuant to FAR subpart 36.6. The Councils also revised FAR 16.504(c)(1)(ii)(D)(*3*) to state that the requirement for a determination for a single-award contract greater than $100 million is in addition to any applicable requirements of FAR subpart 6.3. This change is made to clarify that the determination for a single award task- or delivery-order contract greater than $100 million is required in addition to the Justification and Approval (J&A) required by FAR subpart 6.3 when a procurement will be conducted as other than full and open competition.

Item V—Trade Agreements—Costa Rica, Oman, and Peru (FAR Case 2008–036)

The Councils have adopted as final, without change, an interim rule published in the **Federal Register** at 74 FR 28426 on June 15, 2009, amending the FAR to implement the Dominican Republic—Central America—United States Free Trade Agreement with respect to Costa Rica, the United States-Oman Free Trade Agreement, and the United States-Peru Trade Promotion Agreement.

This final rule allows contracting officers to purchase the goods and services of Costa Rica, Oman, and Peru without application of the Buy American Act if the acquisition is subject to the applicable trade agreements.

Item VI—Payments Under Fixed-Price Architect-Engineer Contracts (FAR Case 2008–015)

This rule amends FAR 52.232–10, Payments under Fixed-Price Architect-Engineer Contracts, to revise and clarify the retainage requirements. The contracting officer can withhold up to 10 percent of the payment due in any billing period when the contracting officer determines that such a withholding is necessary to protect the Government's interest and ensure satisfactory completion of the contract. However, withholding the entire 10 percent is not required, and no withholding is required if the contractor's performance has been satisfactory. The changes clarify that retainage is optional and any amounts retained should not be held over beyond the satisfactory completion of the instant contract.

Item VII—Technical Amendment

An editorial change has been made at FAR 14.202–4(a)(3).

Dated: March 15, 2010.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 2010–5993 Filed 3–18–10; 8:45 am]

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